REPORT OF

THE

STATE AUDITOR

Division of Criminal Justice

Performance Audit
July 2001

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July 5, 2001

Members of the Legislative Audit Committee:

This report contains the results of a performance audit of the Division of Criminal Justice within the Department of Public Safety. The audit was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. The report presents our findings, conclusions, and recommendations, and the responses of the Division of Criminal Justice, the Judicial Branch, and the Colorado Bureau of Investigation.

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OFFICE OF THE STATE AUDITOR **REPORT SUMMARY**

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State Auditor

Division of Criminal Justice
Performance Audit
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This performance audit of the Division of Criminal Justice was conducted under the authority of Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. The audit was conducted according to generally accepted auditing standards. The audit work; which included gathering information through interviews, reviewing documents, and analyzing data; was performed between November 2000 and May 2001.

The purpose of this audit was to review the efficiency and effectiveness of the Division's community corrections, victim services, and sex offender management programs. As part of our audit we also conducted procedures to determine the implementation status of selected recommendations from our 1993 Community-Based Corrections System Performance Audit and our 1994 Follow-Up Performance Audit of Victims' Services. We gratefully acknowledge the assistance and cooperation of staff at the Division, the Judicial Branch, and the Colorado Bureau of Investigation in completing this audit. The following summary provides highlights of the comments, recommendations, and responses contained in the report.

Overview

The Division of Criminal Justice is one of four divisions within the Department of Public Safety. The Division was created to improve the administration of Colorado's decentralized criminal justice system. The Division addresses its responsibility through a variety of functions including: program management, education, research, grants administration, and policy development and analysis. Organizationally, the Division is composed of the director's office and seven program offices. They include community corrections, victims programs, domestic violence and sex offender management, research and statistics, juvenile justice, drug control and system improvement, and community policing. The Division also staffs numerous boards related to various criminal justice programs.

In Fiscal Year 2000 the Division employed about 60 FTE and spent nearly $65 million in general, cash, and federal funds. About 40 percent of the Division's expenditures were related to federal grants.

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

Oversight of the Administrative Funding Allocated to Community Corrections Boards Should Be Enhanced

Offenders placed in Colorado's community corrections system are either sentenced directly by the courts or placed in the system after serving a sentence in the Department of Corrections. Each judicial district has a local community corrections board that screens offenders, contracts with local programs for services, and performs other administrative functions (e.g., reviewing bills from the programs). The Division estimates that during Fiscal Year 2002, approximately 4,000 offenders will be placed in the community corrections system at a cost to the State of approximately $38.7 million (general funds).

The Division of Criminal Justice is charged with overseeing the State's community corrections system. Its responsibilities include distributing funds to local community corrections boards, which then subcontract with programs. A portion of the funds that the State distributes to local community corrections boards is aimed at helping the boards cover certain administrative costs. We found several problems associated with the distribution and use of these funds. For example, the Division currently distributes administrative funds to the boards in the form of a one-time, advance payment at the beginning of the fiscal year. Distributing the funds in this manner reduces the amount of interest revenues earned by the General Fund. We also found problems with the ways that the boards were accounting for and spending their administrative dollars. For example, many boards commingle their administrative funds with other monies, making it impossible to ensure that the funds were used in an appropriate manner. We also observed that the boards do not always exhaust their administrative funding allocation by fiscal year-end. This has resulted in an accumulation of nearly $800,000 in excess administrative funding across the State. **Therefore, we recommend that the Division modify its current system for distributing administrative funds to the local community corrections boards from a annual, advance payment system to a monthly system. We also recommend that the Division establish mandatory requirements regarding the use and reporting of administrative funds. In addition, the Division should work with the local community corrections boards to determine the most effective method of utilizing accumulated administrative funding to benefit the community corrections system.**

The Division Should Strengthen its Review of Community Corrections Programs

The Division is required by statute to audit all community corrections programs on a three-year cycle. There are currently 28 residential community corrections programs, 1 boot camp program, 4 intensive rehabilitation treatment programs, and 21 nonresidential diversion programs within Colorado's community corrections system. The Division's audits check for compliance with adopted standard operating policies and procedures. We found that the Division is not meeting the statutory requirements regarding audit frequency. We also found that the Division routinely identifies low levels of compliance at the programs with important, public safety-related standards. For example,

one standard requires programs to monitor the offsite whereabouts of offenders residing in the program for fewer than 60 days. We reviewed nine audits conducted by the Division in 1999 and 2000 and found that the average level of compliance with this specific standard was 44 percent. We believe that the Division's failure to comply with statutory audit frequency requirements may be due to its overreliance on long, compliance-based reviews. In addition, our review showed that the Division needs to formalize various internal procedures related to the audit process. Developing formal policies and procedures will help ensure that audit reports are accurate and issued in a timely manner. **The Division should work with the local community corrections boards and programs to make various improvements to the current system for auditing community corrections programs. This should include reviewing statutes governing audit frequency to determine if changes are needed, formalizing internal procedures for conducting audits, and adding more non-traditional, qualitative approaches to its existing audit methodology.**

The Division Should Consider Contracting Directly With Local Community Corrections Programs

The Division currently contracts with local community corrections boards which then subcontract with public and private agencies to provide community corrections services. During the audit we identified several reasons why the Division should discontinue this practice and contract directly with the programs. For example, although the boards are statutorily responsible for monitoring the programs within their jurisdictions, we found that few boards actually provide any type of systematic program oversight. If the Division contracted directly with the programs, its oversight authority would be enhanced. We also observed that eliminating board involvement with certain administrative functions like billing and contract administration would result in more time being available for the boards to perform other, more important functions such as screening offenders. Direct contracting would also eliminate certain administrative costs at the board level. This, in turn, would allow the State to reduce the amount of administrative funding it allocates to the boards by an estimated $700,000 a year. **Therefore, we recommend that the Division work with the local community corrections boards and providers to minimize local boards' involvement with routine administrative functions, thereby allowing them to dedicate more time and resources to screening offenders.**

Local Programs Have Little Incentive to Improve Their Operations

The Division has several tools at its disposal to help ensure that community corrections programs operate at an acceptable level. For example, statutes allow the Division to recommend termination of contracts with programs found to have material weaknesses during the audit process. In addition, the Division's contracts with local boards state that noncompliance with standards may result in a reduction of provider compensation rates, implementation of a competitive bid process, or contract cancellation. As mentioned previously, Division staff routinely find material weaknesses in the local programs they audit. Many of these deficiencies have serious ramifications in terms of

compromising public safety and/or negatively affecting offender outcomes. Division staff further report serious, ongoing problems with two particular programs. Even in light of these issues, however, the State and the local boards continue to contract with the same providers year after year. To motivate improved performance at the local level, the Division needs to seek changes to the system for compensating providers, as well as make improvements in its contracts with local boards and programs. **We recommend that the Division work with the Joint Budget Committee and various other interested parties to incorporate more flexibility into the system now used to compensate local community corrections programs. In addition, the Division should revise its contracts with local boards and providers to include measurable performance expectations and a systematic process for monitoring and enforcing compliance with those expectations.**

Processes for Identifying Sexually Violent Predators Need Improvement

To comply with certain federal laws, in 1997 the General Assembly defined sexually violent predators in Section 18-3-414.5, C.R.S., as offenders convicted of one of five serious sexual assault crimes. Offenders sentenced under these statutory provisions can be required to undergo a specific type of risk assessment during the presentence investigation process. The risk assessment instrument used in this process was developed by the Division and the Sex Offender Management Board in 1998. During the audit we reviewed how the risk assessment was actually being used by local probation offices and found opportunities for improvement. For example, we found that local probation staff and contract evaluators do not always complete all portions of the risk assessment. In addition, more than half of the information collected and considered for scoring the assessments in our review sample was self-reported by offenders and not verified by evaluators or probation staff. We further observed that even though 20 offenders in our sample were found by evaluators and probation staff to be sexually violent predators, judges did not identify these individuals as such through an official court finding. These problems led us to question the efficacy of Colorado's system for identifying its most dangerous sex offenders. **We believe the Division and the Sex Offender Management Board should work with the Judicial Branch to improve the use of the Sexual Predator Risk Assessment Screening Instrument by prescribing specific policies and procedures for completing the instrument, developing a requirement for probation staff to verify the information used to complete the evaluation, and periodically reviewing a sample of completed instruments to ensure that established standards are being followed.**

Sex Offender Registries Contain Incomplete and Inaccurate Information

Colorado law requires any person convicted of, or released from Department of Corrections custody on or after July 1, 1991, for, a qualifying sex offense to register annually with local law enforcement officials. In addition to the sex offender registries maintained at the local level, the Colorado Bureau of Investigation (Bureau) is authorized by statute to maintain a central registry. The central registry consists of records on both adult and juvenile convicted sex offenders who have registered at least once with local law enforcement agencies or whose name has been input into the database by

Department of Corrections staff. Local law enforcement agencies are responsible for entering data into the central registry via their connection to the Colorado Crime Information Center (CCIC). During the time of our audit, the central registry contained approximately 8,600 records.

Upon reviewing a sample of sex offender registry data at both the state and local levels we found several problems. For example, even though statutes state that the Bureau's central registry is supposed to be a database of all sex offenders who are *required* to register, the registry is really a database of sex offenders who *have* duly registered at some point in time, or whose name has been input by the Department of Corrections pending their release from prison. Because the central registry does not have complete information on those offenders who are required to register, law enforcement officials have no accurate information regarding the number and identity of sex offenders who have failed to comply with the registration law.

We also found that sex offender registries maintained by local law enforcement agencies do not match the central registry maintained by the Bureau. Specifically, we reviewed four Denver Metro-Area registries and found that 36 percent of the local records did not match records found in the central registry. Mismatches may be the result of several factors, including offenders who have moved between jurisdictions but who failed to inform the appropriate local officials. State law allows citizens to obtain a list of the sex offenders living in their community from their local police department. Because of the matching problems we observed, however, we question the accuracy of this information. **Therefore, we are recommending that the Division work with the Colorado Bureau of Investigation, the Judicial Branch, and other interested parties to improve the completeness, accuracy, and accessibility of sex offender registration data. This should include working with the General Assembly to modify statutes so that a specific agency (e.g., the Colorado Bureau of Investigation) has ongoing responsibility for verifying that sex offenders have registered as required by law.**

The Methodology for Redistributing Unused Victim Compensation Funds Penalizes Districts With Vigorous Restitution Collections

Colorado's 22 judicial districts operate programs that directly compensate individuals for certain personal costs resulting from crimes. The funding for these local victim compensation programs comes from fines levied against persons who commit certain criminal and traffic offenses. Statewide collections totaled approximately $6.7 million in Fiscal Year 2000.

Statutes require districts to report the amount of funds they collect and award each year through their local victim compensation program. The State Court Administrator's Office, with assistance from Division staff, reviews these reports and calculates an annual distribution percentage for each district. State law further establishes a minimum annual distribution requirement of 60 percent of the total funds collected. If a district distributes less than this amount, it is required to transmit its excess undistributed funds to the State Treasurer for redistribution to those districts that allocated

75 percent or more of their funds. In Fiscal Year 2000, 5 districts were required to contribute money to the redistribution "pool" and 14 districts received additional funds totaling $230,000 from the process.

During the audit, we reviewed the formula used to calculate the annual redistribution and found that it penalizes districts that collect significant amounts of restitution for crime victims. Restitution and victim compensation awards play equally important roles in our criminal justice system in terms of assisting crime victims. Therefore, we believe that a district's efforts to collect restitution should not negatively affect the funding it has available for victim compensation awards. We also found that the redistribution process is unnecessarily time-consuming given the average fiscal benefit that a receiving derives from it ($16,430 in Fiscal Year 2000). **Therefore, we recommend that the Division work with the Judicial Branch to review the redistribution process for victim compensation funds to determine whether it is cost-beneficial. If the redistribution process is continued, we believe that restitution collections should not be used in the formula. Recommendations for statutory changes should be made to the General Assembly as needed.**

Several Previous Audit Recommendations Remain Unaddressed

As part of our current audit we reviewed the implementation status of selected recommendations made in our November 1993 audit of Community-Based Corrections System and our May 1994 audit of Victims' Services. We reviewed the status of eight of the recommendations contained in these reports. Of the recommendations we reviewed, the Division agreed to implement, at least in part, all the recommendations.

Overall, we found that the Division has fully implemented one of the eight recommendations. Four additional recommendations are currently in progress and two recommendations have not been implemented. In addition, one recommendation is no longer applicable. The status of these recommendations is outlined in more detail in Chapter 5. **Because of the lack of significant progress made on these prior audit recommendations, we are recommending that the Division institute a more formalized oversight and accountability process to ensure audit recommendations are addressed in a more timely and complete manner.**

Summary of Agency Responses to the Recommendations

The Division of Criminal Justice either fully or partially agrees with all of our recommendations. The Recommendation Locator (found on pages 7 through 9) provides an overview of the Division's responses to the recommendations and its estimated implementation schedule. Further, the Judicial Branch agrees with Recommendation Nos. 11, 12, and 15. The Colorado Bureau of Investigation agrees with Recommendation No. 13.

RECOMMENDATION LOCATOR

Rec. No.	Page No.	Recommendation Summary	Agency Addressed	Agency Response	Implementation Date
1	20	Increase interest revenues, eliminate overpayment of administrative funds, and ensure compliance with Fiscal Rules by distributing administrative funds to the local community corrections boards on a monthly basis.	Division of Criminal Justice	Partially Agree	July 2002
2	22	Determine the most effective method of utilizing accumulated administrative fund balances, and review the administrative funding needs of the local community corrections boards.	Division of Criminal Justice	Agree	July 2002
3	23	Work with the Governor's Community Corrections Advisory Council and the local boards to establish standards and guidelines covering the use, accounting, and reporting of administrative funds.	Division of Criminal Justice	Agree	July 2002
4	25	Modify the current system of distributing community corrections program funds to a monthly system.	Division of Criminal Justice	Partially Agree	January 2003 (if funded)
5	31	Improve the current system for auditing community corrections facilities to include periodic reviews of nonresidential programs, develop formal procedures covering all aspects of the audit process, and utilize a wider range of performance-based audit approaches.	Division of Criminal Justice	Agree	July 2002
6	34	Reduce the administrative cost of the community corrections system by minimizing local board involvement with certain administrative functions.	Division of Criminal Justice	Partially Agree	July 2002
7	39	Ensure the Phase 1 community corrections program more closely meets community corrections standards, and discontinue reimbursing the program for housing backlogged diversion offenders.	Division of Criminal Justice	Agree	July 2002

RECOMMENDATION LOCATOR

Rec. No.	Page No.	Recommendation Summary	Agency Addressed	Agency Response	Implementation Date
8	39	Periodically review all operating standards waivers granted to community corrections programs.	Division of Criminal Justice	Agree	July 2002
9	43	Work with the Governor's Community Corrections Advisory Council, the Joint Budget Committee, and others to incorporate more flexibility into the system for reimbursing community corrections providers, and expand the number of measurable performance expectations in contracts.	Division of Criminal Justice	Agree	July 2003
10	46	Improve data collection and reporting by establishing baseline measures of offender success, developing more efficient methods of reporting community corrections data, and modifying the performance measurement information included in the Department's annual budget request and other documents.	Division of Criminal Justice	Agree	July 2003
11	54	Work with the Sex Offender Management Board to improve the use of the Sexual Predator Risk Assessment Screening Instrument.	Division of Criminal Justice	Agree	July 2002
			Judicial Branch	Agree	July 2002
12	58	Conduct ongoing training for all persons involved with the assessment and sentencing of sex offenders.	Division of Criminal Justice	Agree	Ongoing
			Judicial Branch	Agree	Ongoing

RECOMMENDATION LOCATOR

Rec. No.	Page No.	Recommendation Summary	Agency Addressed	Agency Response	Implementation Date
13	65	Work with the Colorado Bureau of Investigation, the Judicial Branch, and others to improve the completeness, accuracy, and accessibility of sex offender registration data provided to citizens.	Division of Criminal Justice	Partially Agree	May 2003
			Colorado Bureau of Investigation	Agree	May 2003
14	68	Work with local law enforcement agencies to develop standard procedures and training protocols for the verification of sex offender registrants' addresses.	Division of Criminal Justice	Agree	December 2004
15	75	Work with the General Assembly and the Judicial Branch to review the redistribution formula for victim compensation funds to determine whether it is cost-beneficial.	Division of Criminal Justice	Agree	July 2002
			Judicial Branch	Agree	July 2002
16	79	Improve accountability over the use of local administrative funds associated with victim compensation and VALE programs.	Division of Criminal Justice	Agree	July 2002
17	83	Create a standard victim compensation application and post the application on the Division's Web site.	Division of Criminal Justice	Agree	July 2002
18	84	Establish a policy that allows individuals to apply to an alternative victim compensation board.	Division of Criminal Justice	Agree	July 2002
19	86	Institute improved oversight and accountability processes to ensure audit recommendations are addressed in both a timely and a complete manner.	Division of Criminal Justice	Agree	July 2001

Description of the Division of Criminal Justice

Overview

The Division of Criminal Justice, a division within the Department of Public Safety, was created to improve the administration of the State's decentralized criminal justice system. The Division is composed of seven offices that address this mandate through education, research, grants administration, coordinated program management, and policy development and analysis. In Fiscal Year 2000 the Division employed 60.5 FTE and spent approximately $64.8 million in total funding, including $36.3 million in general fund appropriations. The Division's offices include the following:

- The **Office of Community Corrections** provides funding to support community-based alternatives to prison for felony offenders. In Fiscal Year 2000 the Office allocated approximately $34 million in general funding to local community corrections boards, which then subcontracted with public and private agencies for program services. Program services include housing and treating approximately 2,300 offenders in community-based residential correctional facilities ("halfway houses") and providing nonresidential supervision and day reporting services for approximately 1,450 offenders.

- The **Office for Victims Programs** administers the federal Victims of Crime Act and the S.T.O.P. (Services/Training/Officers/Prosecutors) Violence Against Women Act grant programs. In Fiscal Year 2000 the Office received approximately $10.2 million in federal funds for these programs. The Office also administers the State Victims and Witnesses Assistance and Law Enforcement (VALE) grant program. Fiscal Year 2000 funding for this program totaled $1.2 million. In addition, the Office monitors compliance with State Victim Rights Act and develops standards and monitors local VALE and victim compensation programs.

- The **Office of Domestic Violence and Sex Offender Management** is responsible for the administration of two state-level boards: the Domestic Violence Offender Management Board and the Sex Offender Management Board. These boards create and implement standards and policies for managing domestic violence and sex offenders.

Our audit focused on the activities of these offices. The remaining Division offices were excluded from the audit scope:

- The **Office of Research and Statistics** is the State's criminal justice Statistical Analysis Center. The Office collects and disseminates crime-related data to the General Assembly, the Governor's Office, and various other agencies for planning and other purposes. The Office obtains research grants from federal and state sources to accomplish its duties.

- The **Office of Juvenile Justice** administers federal and state grants and contracts, provides training and technical assistance, and monitors various juvenile programs throughout the State.

- The **Colorado Regional Community Policing Institute** was created in 1997 under the auspices of a program funded by the U.S. Department of Justice. The Institute is designed to increase local participation in the implementation of community policing strategies.

- The **Office of Drug Control and System Improvement** manages four federal criminal justice grant programs with total Fiscal Year 2000 expenditures of $9.8 million.

Financial Overview

Over the period Fiscal Year 1998 through 2002, the Division's general fund appropriations increased by 37 percent, with an annual average increase of about 8 percent. This increase parallels recent funding increases across Colorado's criminal justice system. The following table shows the Division's funding sources for Fiscal Years 1999 through 2002:

Division of Criminal Justice Funding Sources
Fiscal Years 1999-2002

Fiscal Year	General	Cash	Federal	Total
1999	$33,666,211	$2,247,399	$21,175,876	**$57,089,486**
2000	$36,329,358	$2,743,746	$25,730,866	**$64,803,970**
2001	$41,346,418	$3,594,199	$22,927,050	**$67,867,667**
2002	$42,632,116	$3,530,590	$33,399,472	**$79,562,178**

Source: Division of Criminal Justice budget requests.

As the table shows, the Division receives a substantial amount of federal funding each year. The uses for this funding are quite varied. For example, in Fiscal Year 2000 the Division administered a total of 28 federal grant programs that provided approximately $25.8 million to about 800 local programs and service providers throughout Colorado. Grant recipients included law enforcement agencies, district attorneys' offices, and a variety of local nonprofit agencies.

Several Boards Assist the Division

The Division has several boards that assist it in meeting its goals. Five boards are appointed by the Governor. They include:

- Drug Control and System Improvement Program Advisory Board.
- Victims Compensation and Assistance Coordinating Committee.
- Victims Assistance and Law Enforcement Advisory Board.
- Community Corrections Advisory Council.
- Juvenile Justice and Delinquency Prevention Council.

Four additional boards are appointed at the department level. They are:

- Sex Offender Management Board.
- Domestic Violence Offender Management Board.
- Colorado Regional Community Policing Institute Board.
- S.T.O.P. Violence Against Women Advisory Board.

Four boards (i.e., Victims Compensation and Assistance Coordinating Committee, Victims Assistance and Law Enforcement Advisory Board, Community Corrections Advisory Council, and Sex Offender Management Board) were included in the scope of our audit and are discussed in greater detail throughout the report.

Significant Accomplishments

Our audit identified areas where the Division should be recognized for its achievements. For example, we found that recent prison population estimates produced by the Office of Research and Statistics have been highly accurate.

Specifically, upon reviewing the estimates prepared for Fiscal Years 1996 through 2000, we found that the Office's two-year projections were accurate within 1 percent. We also noted that the Division's Office of Community Corrections has added a new approach for monitoring local community corrections programs (i.e., the Correctional Program Assessment Inventory, or CPAI audit approach) that shows promise as an effective oversight device. In addition, we observed that suggestions resulting from the Office for Victims Programs' local VALE monitoring process have improved operations in these programs statewide. We commend the Division's employees for their efforts in these areas.

The following chapters identify findings and recommendations aimed at improving operations in the Division's community corrections, sex offender management, and victim services programs.

Community Corrections Funding and Oversight

Chapter 1

Background

Colorado's community corrections system began in 1974 with the passage of the Community Corrections Act. The Act was intended to provide the court system, the Department of Corrections, and the State Board of Parole with more flexibility and a broader range of correctional options for the offenders under their jurisdictions. A major aspect of Colorado's community corrections system is the authority of local boards to screen and reject any offender referred to a program located in their community. At the state level, the Department of Corrections and the Judicial Branch administered Colorado's community corrections system from 1974 to 1986. In an effort to stabilize and streamline state oversight of the system, the General Assembly moved administration of the community corrections system to the Division of Criminal Justice in 1986.

The Division does not run the community corrections programs itself; rather, it allocates funds to local community corrections boards that are appointed by the county commissioners. The State's 23 community corrections boards then contract with public agencies and private companies to provide program services to offenders. The Division distributes community corrections funds to the boards at the beginning of each quarter throughout the fiscal year. The programs are paid by the boards on a monthly basis after services have been rendered. The Division also has authority to contract directly with programs. At the present time, the Division contracts directly with one program located in Durango.

Program services consist of residential placements in halfway houses and non-residential supervision. There are currently 28 residential community corrections facilities in the State. Most of the programs (18 out of 28, or 64 percent) are located in the Denver Metro Area. Nine judicial districts do not have a facility located within their district boundaries, so they have established agreements with programs in other districts to accept their offenders. In addition to traditional residential programs, the community corrections system includes a boot camp program, 4 intensive

rehabilitation treatment programs, 21 nonresidential diversion programs, and 5 day reporting centers.

Offenders who enter the community corrections system are either diverted or transferred from the State's prisons and include:

- **Diversion** offenders are placed in a community corrections program through a direct sentence from the court. State law allows judges to place offenders with fewer than two prior felony convictions on probation or sentence them to community corrections. These offenders are under the jurisdiction of the Judicial Branch. Diversion offenders represent 2,551, or 69 percent, of the total contracted spaces within the community corrections system in Fiscal Year 2001.

- **Transition** offenders are inmates serving a prison sentence who transfer from a secure prison setting to a residential facility prior to their release. The purpose of a community corrections placement for these offenders is to establish employment, begin contacts with family, and develop community support systems within a structured setting. These offenders are under the supervision of the Department of Corrections. Transition offenders represent 1,103, or 30 percent, of the total contracted spaces within the community corrections system in Fiscal Year 2001.

- **Parolees** are offenders who are placed in a residential facility as a condition of their parole. In addition, parolees are sometimes placed in a community corrections facility because they violated aspects of their parole agreement. Parolees represent only 60, or 1 percent, of the total contracted spaces within the community corrections system in Fiscal Year 2001.

Funding Overview

The Division's Office of Community Corrections was appropriated $38.7 million in general funds for Fiscal Year 2002 to pay local boards and programs for offender placements within the community corrections system. In addition, the Office received approximately $1.1 million in cash funds from the Drug Offender Surcharge Fund. These funds are used to supplement treatment costs for offenders who are unable to cover the entire cost of these services. Most of the Division's appropriation is used to pay programs for the offenders they manage. Payments are made on a per diem basis. The current residential per diem rate is $37.72 (Fiscal Year 2002).

The number of offenders placed into community corrections has been increasing at an average annual rate of just under 7 percent since Fiscal Year 1997. The Division

estimates that 4,039 offenders will be placed in the community corrections system during Fiscal Year 2002.

During the audit we identified ways for the Division to increase interest revenues to the General Fund as well as numerous cost savings opportunities. Specifically, using Fiscal Year 2000 fiscal information, we identified operational changes that would increase annual interest revenue to the General Fund by at least $225,000. Further, we developed several additional recommendations that, if implemented, could save the State more than $1.6 million.

Community Corrections Boards Receive Funding to Pay for Screening and Other Administrative Costs

As noted previously, the Division contracts with local community corrections boards and programs for the administration of the system. Statutes allow the Division to authorize up to 5 percent of the amount of a district's community corrections appropriation to be spent by its board for administration. Specifically, the boards can use their administrative funding to support general activities, including:

- Screening any offender referred for placement in a community corrections program under the jurisdiction of the board.

- Entering into contracts with the State, other units of local government, or any community corrections program to provide supervision of and services for community corrections offenders.

- Monitoring community corrections programs within their jurisdiction in coordination with state and local agencies. This includes determining program compliance with recommendations made in audit reports prepared by the Division.

Community corrections boards vary in size and form; and all boards do not undertake the same duties and functions. For example, some boards do not have a program within their jurisdiction; therefore, limited program oversight is needed. Also, one board has opted not to handle the billings for community corrections offenders referred to its district; therefore, the Division handles billing responsibilities for this board. Another board has elected to forgo screening offender referrals and relies upon programs to make these decisions.

Even though the statute states that the Division may authorize *up to* 5 percent of a district's appropriation to support administrative costs, the Division typically provides the maximum 5 percent administrative allocation to each board. The

Division distributes the administrative funds to the boards in the form of a one-time advance payment, which it makes at the beginning of the fiscal year. Statewide administrative funds totaled almost $1.8 million in Fiscal Year 2001.

Modifying the Process for Distributing Administrative Funds Will Increase Interest Revenues

During our audit we reviewed the administrative payments made by the Division over the last five years and found three problems. The first concerns the Division's authority to distribute funding as it currently does. The Division received contract waiver authority from the State Controller's Office in February 1999 that allowed it to enter into five-year contracts with the boards and programs contingent upon availability of appropriations. At that time, the State Controller's Office also allowed the Division to make advance quarterly payments of the per diem payments to the boards. However, the Division's waiver application did not specifically include a request to make advance annual payments of administrative funds to the boards. The State Controller's Office is required to approve all instances where a state agency makes advance payments. Staff at the State Controller's Office told us that the Division may be in violation of State Fiscal Rules by making these payments in advance.

We also found that the Division could increase interest revenues to the General Fund if it distributed administrative payments on a different basis. If administrative funds were distributed on a monthly basis, the State could have received nearly $50,000 in additional interest revenues in Fiscal Year 2001. This calculation uses the Treasury Investment Pool's annual interest rate that was in effect at the time (i.e., the rate was 5.65 percent for Fiscal Year 2001). The following table shows forgone interest revenues from making administrative payments in a lump sum at the beginning of the fiscal year, rather than on a monthly basis:

Forgone Interest Revenues to the General Fund Due to Lump Sum Advance Administrative Payment Fiscal Years 1997 - 2001	
Fiscal Year	**Forgone Interest Revenues**
1997	$29,720
1998	$39,119
1999	$39,687
2000	$45,147
2001	$46,561
Source: OSA analysis of Division of Criminal Justice data.	

We contacted each of the State's 22 judicial districts to collect information regarding the advance annual payment of administrative funds. Specifically, we surveyed staff to determine if changing the way these funds were allocated would have a detrimental effect. Staff at 19 of the 22 districts (86 percent) reported that they did not need to have their administrative funds distributed at the beginning of the fiscal year. Staff stated that they just needed to know what their estimated allocation would be for planning and budgeting purposes.

Administrative Allocation Should Be Based on Actual Dollars Used

Our third issue is related to the actual amount of recent administrative allocations. The Division's contract with the boards and programs requires that administrative allocations be based upon the total *original* appropriation of community corrections dollars for a particular district, not the *actual* dollars that district spends throughout the year. Statutes do not make the distinction between actual or original allocations. As noted previously, however, statutes limit the administrative allocation to 5 percent of the community corrections funding that a district is appropriated during a fiscal year. We found that actual expenditures do not always equal the amount of community corrections dollars originally appropriated to a district, because many factors (e.g., sentencing practices and the number of eligible transition offenders) affect how many community corrections referrals a board can accept during the fiscal year. Even though the Division adjusts community corrections allocations (i.e., per diem payments) throughout the year on the basis of actual usage, administrative funding is calculated at the beginning of the fiscal year using an estimated number. Because the entire administrative allocation is distributed before actual usage figures

are available, there is no opportunity for the Division to make adjustments to the administrative funding allocation. This can result in the Division's distributing more or less than 5 percent of the total actual community corrections dollars spent in some districts. The following table shows the difference in the administrative funds distributed by the Division at the beginning of the fiscal year and the amount we calculated that should have been distributed based on actual usage:

Variances in Administrative Funds Allocations Due to Advance Payment Methodology Fiscal Years 1997 - 2000

Fiscal Year	Administrative Funds Allocated by Division	Correct Allocation as Determined by OSA	Difference
1997	$1,032,738	$1,053,888	-$21,150
1998	$1,355,022	$1,318,797	+$36,225
1999	$1,427,923	$1,472,501	-$44,578
2000	$1,638,244	$1,570,173	+$68,071

Source: OSA analysis of Division of Criminal Justice data.

As the table shows, the Division distributed nearly $70,000 more in administrative funds to the boards in Fiscal Year 2000 than it should have.

Because of these issues, we believe that the Division should modify its current process for distributing administrative funds. If the Division maintains the current system for distributing administrative funds, however, it needs to obtain specific advance payment authority from the State Controller's Office to ensure it complies with State Fiscal Rules.

Recommendation No. 1:

The Division of Criminal Justice should increase interest revenues to the State, eliminate the possibility of overpayments, and ensure compliance with State Fiscal Rules by changing its system for distributing administrative funds to local community corrections boards. Specifically, the Division should discontinue its annual, advance payment system and replace it with a monthly system.

Division of Criminal Justice Response:

Partially agree. Effectively immediately the Division will replace the annual advance payment system with a quarterly disbursement system. This is in compliance with the current contract waiver, as approved by the Office of the State Controller. The Division also believes that actual expenditures should form the basis for requesting these administrative monies. Accordingly, effective January 1, 2002, the Division will implement such a reporting system.

Implementation of monthly reimbursements would only be obtainable with additional personnel. (See response to Recommendation No.4.)

Accumulated Administrative Funds Should Be Utilized

The Division's contract with local boards requires the boards to keep financial records documenting the receipt and expenditure of all administrative funds. In addition, the contract requires boards to summarize information on their administrative expenditures and provide the Division with a report within 90 days of fiscal year-end. Prior to Fiscal Year 1999 the Division had not required and did not receive information from the boards showing how much of this allocation was used each year and for what purposes. Since Fiscal Year 1999 the Division has received reports from the boards showing this information.

We reviewed these reports for Fiscal Year 2000 and found that community corrections boards do not always exhaust all of their administrative funding by fiscal year-end. Our review showed that for Fiscal Year 2000, 14 of 23 local community corrections boards reported that they spent fewer administrative dollars than they were allocated at the beginning of the fiscal year (i.e., boards were allocated a total $1,638,244 for Fiscal Year 2000 and spent only $1,483,917—a difference of $154,327). The Division has never asked the boards for an explanation of how these funds were being used or if they were simply being accumulated.

We contacted staff at all 23 boards to determine the amount of accumulated administrative balances. On the basis of the information we collected, we estimate that 16 boards will have accumulated administrative funds balances at the end of Fiscal Year 2001 totaling approximately $791,000. This amount includes administrative funds from prior years' distributions. We also found that some boards

have invested this money in certificates of deposit with local banks, while others have allowed their county government to manage the money.

We believe that these accumulated funds should be used to benefit the community corrections system. The Division should work with the boards to determine effective and appropriate uses for the money. Furthermore, the accumulated balances should be taken into account when determining the administrative funds allocations for Fiscal Year 2002. In addition, the Division should perform a review of the administrative funding needs of the boards to determine whether the 5 percent administrative allocation is truly warranted. The fact that boards have accumulated balances of this magnitude may point to the need to adjust allocation percentages in the future.

Recommendation No. 2:

The Division of Criminal Justice should work with the local community corrections boards to determine the most effective method of utilizing accumulated administrative funds to benefit the community corrections system. The Division should also take accumulated balances into account when making future allocation decisions. In addition, the Division should perform a review of the administrative funding needs of the boards to determine whether future administrative funding percentages need to be adjusted.

Division of Criminal Justice Response:

Agree. The Division of Criminal Justice will meet with the local community corrections boards beginning in August 2001 to discuss the process of spending accumulated administrative funds. The initial announcement will occur at the next quarterly meeting of the Colorado Association of Community Corrections Boards the second week of August 2001. Following that meeting, letters will be sent to each community corrections board requesting their assistance in accomplishing this task. The DCJ will host a meeting in late fall of 2001 and we will request that each board send one representative to this discussion forum. In addition, the Division will explore changes in the allocation decisions considering accumulated funds. A review of administrative funding allocations will be conducted during Fiscal Year 2002 and any recommendation or changes can be incorporated into the contract when it is revised for Fiscal Year 2003.

Improved Oversight of Administrative Funds Is Needed

We found that the administrative funds reports submitted by the boards for Fiscal Years 1999 and 2000 vary greatly in terms of format and detail. Report formats ranged from audited financial statements prepared by a certified public accountant to a handwritten ledger. The differences in reporting formats made district-to-district comparisons difficult. Upon reviewing the reports, we also noted some questionable items. These included expenses that do not appear to support the administration of the district's community corrections program. For example:

- One board purchased computers for administrative staff who spend less than 5 percent of their time working on community corrections-related activities.

- One board transferred its year-end administrative fund balance to the county's general fund.

Our review of the administrative expense reports also showed that four boards commingle their administrative funds with funds reserved for other purposes. This makes it especially difficult to analyze board-level expenses and determine the actual costs of administering a community corrections program.

The Division has not established any guidelines governing the use of the administrative funds. In an effort to improve accountability, we believe the Division should work with the local community corrections boards to establish standards and guidelines for the use of these funds. These should include cost accounting standards, guidelines regarding appropriate uses for the funds, and standardized reporting expectations.

Recommendation No. 3:

The Division of Criminal Justice should work with the Governor's Community Corrections Advisory Council and local community corrections boards to establish mandatory requirements regarding the use of administrative funds. These should include consistent cost accounting standards, segregation requirements, guidance regarding appropriate expenditures, and standardized reporting formats.

Division of Criminal Justice Response:

Agree. The Division will work with and advise the Governor's Community Corrections Advisory Council and the community corrections boards of the progress in establishing requirements concerning the use of administrative funds. The Division will modify a form used by grant programs to establish a standardized reporting format for the boards to report administrative fund expenditures. During the course of the meetings with the boards on the utilization of accumulated funds, the Division will be able to determine the various uses of the funds by the boards and establish measures for improved accountability. The Division assumes that the community corrections boards, as governmental entities, will be able to comply with general cost accounting standards which require segregated cost centers for each funding source to allow ease in tracking the expenses.

Changes in the Distribution of Program Funds Can Result in Increased Revenue

As noted previously, the Division makes advance quarterly distributions of the per diem payments to boards. During the audit we reviewed the distributions made by the Division for the past five fiscal years and found that the State is forgoing substantial interest revenues by distributing these funds on a quarterly basis. Specifically, we found that an additional $182,600 in interest could have been earned during Fiscal Year 2000 if these funds were paid out on a monthly basis. This calculation uses the annual Treasury Investment Pool interest rate that was in effect at the time (i.e., 5.95 percent for Fiscal Year 2000). The following table shows the amount of interest that could have been earned for the period Fiscal Years 1997 through 2001:

Forgone Interest Revenues to the General Fund Due to Quarterly Advance Per Diem Payments Fiscal Years 1997 - 2001	
Fiscal Year	**Forgone Interest Revenues**
1997	$90,056
1998	$148,835
1999	$117,858
2000	$182,603
2001	$182,446 (est.)
Source: OSA analysis of Division of Criminal Justice data.	

As noted previously, the Division adjusts its quarterly distributions on the basis of actual usage, once these figures become available. For Fiscal Years 1999 and 2000 the Division needed to adjust the majority of the final distributions it made to the boards. This activity is very time-consuming and results in administrative staff's dedicating up to two months' time making adjustments. In addition, in previous years, some boards were required to return funds to the Division at year-end because their advance payments exceeded their total actual expenditures. Specifically, during Fiscal Years 1997 through 2000, 11 boards returned more than $300,000 to the State each year (on average). This caused more work for staff at both the state and local levels. We believe that modifying the distribution process from a quarterly to a monthly system should require minimal additional FTE, since the time the Division saves from not having to continually adjust distributions should offset any additional time needed to perform the distributions on a monthly basis.

Recommendation No. 4:

The Division of Criminal Justice should modify its current process for distributing community corrections program funds to the boards from a quarterly advance system to a monthly system.

Division of Criminal Justice Response:

Partially agree. The Division agrees that the current system for distributing funds is not maximizing state resources. In order to attain the significant

savings that would result from additional interest income, the Division will seek to implement monthly distributions, if additional resources are obtained. It must be emphasized that this modification will require a great deal of extra time. The Division estimates that the change could be accomplished with .5 FTE at a cost of $21,504, resulting in an overall cost savings of $160,469. The Division agrees to work with the Joint Budget Committee to accomplish this goal.

The Division's Audit Process Should Be Improved

Statutes give local community corrections boards the responsibility for overseeing programs under their jurisdictions. Specifically, Section 17-27-103, C.R.S., gives the boards the authority to establish and enforce standards for operation of programs within their boundaries. In addition, statute requires boards, in coordination with state and local agencies, to monitor the community corrections programs and oversee program compliance with state and local standards. Further, boards are required to determine whether programs have complied with recommendations made in audit reports. We found that only a few boards perform program oversight functions, and these activities are sporadic, at best.

The Division also has oversight responsibilities with regard to community corrections programs. Section 17-27-108, C.R.S., authorizes the Division to establish standards for the operation of local community corrections programs. The standards prescribe minimum levels of offender supervision and services, health and safety requirements, and other measures to ensure quality service provision. These standards were first developed in 1988 by the Governor's Community Corrections Advisory Council. The Council is created by Executive Order of the Governor and includes 13 members. The standards were originally developed to establish:

- Minimum expectations for all programs.
- Some measures by which to analyze program quality.

The current standards were revised in 1992 by the Council in coordination with local community corrections boards, community corrections program operators, referring agencies, and the Division. There are currently 100 program standards and measures that range from offender whereabouts verification to personnel requirements.

Statutes Require the Division to Audit Community Corrections Facilities

The aforementioned statute also requires the Division to conduct audits of community corrections facilities to determine levels of compliance with the standards. The audits are required to be completed every three years unless waived by the Executive Director of the Department of Public Safety. The Division is required to provide written audit reports to audited programs that note any findings of noncompliance with contractual obligations as well as material findings. Statutes define a material finding to include:

- Public safety issues including, but not limited to, offender monitoring and rehabilitation.
- Health and life safety issues.
- Internal control system issues.

We identified several concerns regarding the Division's current audit process. These issues are discussed in more depth in the following section.

The Division Is Not Meeting Statutory Frequency for Audits

The Division is not meeting the statutory requirement for all programs to be audited at least once every three years. The Division reports that 17 programs were audited from 1995 through 1997; however, we found that the Division does not have copies of these audit reports, nor does it have records showing the audits were actually conducted. Division staff reported that a computer containing electronic information on several of these audits was stolen before final copies of the audit reports could be produced. We could not confirm that the remaining audits were actually conducted because the Division's files did not contain final copies of the associated audit reports.

Overall, we could substantiate that only nine full-scale audits were conducted during the time period 1996 to 2000. The Division's records further show that five programs have not been audited for at least ten years. Therefore, the average time span between audits for all residential community corrections programs has been 5.7 years since 1990—nearly twice the legislative requirement. If the Division is unable to comply with the statutory frequency for audits, it should either seek changes to the statute or obtain formal waivers from the Executive Director, as required by statute.

We also found that the Division and the Governor's Community Corrections Advisory Council issued standards covering the operation of nonresidential facilities in 1991, but the Division has never audited any of these programs. There are currently 21 non-residential programs in the State that serve approximately 1,200 diversion offenders at a cost of approximately $2.3 million annually. To ensure that nonresidential programs are meeting standards and operating in an efficient and effective manner, the Division should incorporate reviews of these programs into its regular audit cycle.

Division Audits Indicate Improvement Opportunities at Programs

As stated previously, the Division completed nine full-scale audits on residential placement facilities from June 1999 through October 2000. As part of the audit process, Division staff visit the programs to interview staff and offenders and collect current data on a sample of offender case files. Auditors also check for compliance with personnel requirements, facility structure expectations, offender supervision standards, and offender treatment guidelines. The Division's audit reports note compliance levels with specific standards. For example, standard 4.051 requires the program to perform random, weekly verifications of the offsite whereabouts of offenders who have lived at the facility for fewer than 60 days. To measure compliance with this standard, the Division would review records and then report a percentage compliance rate with the standard. Not all standards are reviewed during an audit. Generally, in 1999 and 2000 the Division reviewed compliance with about two-thirds of the developed standards at each of the programs it audited.

We reviewed each of these audits and found that compliance with important standards is low. The following table indicates the compliance level with certain material standards at the nine programs:

Levels of Compliance With Community Corrections Program Standards As Reported by Recent Division Audits		
Standard	**Requirement**	**Average Compliance Level**
4.043	Interim urinalysis testing shall be conducted randomly on each offender at least twice per month.	70%
4.051	The offsite whereabouts of offenders residing at the facility for fewer than 60 days shall be verified once every seven-day period.	44%
4.052	After 60 days, off-site whereabouts shall be randomly monitored at least twice per month.	61%
6.030	The procedure to assess incoming offenders for criminal risks and criminogenic needs shall be completed within ten days of admission.	59%
6.051	Case managers will perform a documented review of all offender supervision plans once per month and revise it if indicated by case developments.	55%
Source: OSA analysis of Division of Criminal Justice data.		

Maintaining public safety is an important aspect of the community corrections system. This is especially important because offenders are allowed to leave these facilities on a daily basis. Low compliance with public safety standards can have dangerous effects on the community. We could not determine whether compliance levels had improved since these audits were completed because the Division does not routinely follow up on its audit findings. The Division does not have policies outlining its procedures for conducting follow-up audits or requiring recommendations to be implemented within a certain time frame. In addition, the Division does not have any written policies or procedures that guide its audit process. Such policies could include work paper standards and documentation requirements, as well as standard methods for clearing and presenting audit findings. Formal policies and procedures are needed in this area because of turnover concerns. Further, the lack of prescribed documentation standards may have compounded the problems resulting from the Division's stolen computer.

Staff at the Districts Express Concern Regarding the Current Audit Process

In addition to problems identified by the Division during the audit process, the staff of community corrections boards around the State have expressed concerns about the current audit process. The results of a survey that the Division administered to staff in the judicial districts in 1999 indicated that the audit process and the lack of a consistent audit schedule have caused problems within the community corrections system. Specifically, board staff noted that incomplete, unfinished, and lengthy audits have caused disruption at the programs. We found evidence to support the concerns of the districts. For example, our review showed that during 1999 and 2000 the Division produced final audit reports an average of seven months after staff completed fieldwork. This includes two final audit reports that were produced 11 months after the Division visited the program. Lengthy delays in releasing audit reports lessens their effectiveness. The Division currently has no formal expectations governing the timely release of audit reports.

The Audit Process Should Measure and Help Improve Program Effectiveness

We believe that the Division's failure to comply with statutory audit frequency requirements may be due to its current overreliance on long, compliance-based reviews. Other states have developed processes to measure the effectiveness of community corrections programs that do not rely on traditional audit approaches. For example, Oregon has created a limited number of outcome measures that it reviews in conjunction with each community corrections program. These are basic measures that address the effectiveness of a community corrections program. This process has been streamlined to include routine, automated data collection so the state can produce annual reports on program outcomes. The results of the outcome measures are compared with baseline data which results in a program's either exceeding or failing to meet the baseline level. If the program does not resolve its noncompliance issues, the state may suspend any portion of the program's funding. This type of evaluation could also be used by the Division as a trigger to conduct a full-scale standards audit at those programs that fail to meet baseline expectations.

Varying the audit approach itself (i.e., using an audit methodology other than the traditional standards compliance approach) also has merit. The Division has used the Correctional Program Assessment Inventory (CPAI) to review a limited number of programs. The CPAI is used to ascertain how closely a program meets known principles of effective correctional treatment. As we discuss further in Chapter 5,

this review process has promise and should be formally added to the Division's regular review cycle.

Recommendation No. 5:

The Division of Criminal Justice should work with the local community corrections boards and programs to improve the current system for auditing community corrections facilities. This should include:

- Incorporating reviews of nonresidential programs into the regular audit cycle.
- Reviewing the statutes governing the frequency of the audit process to determine if changes are needed.
- Developing formal procedures for conducting follow-up audits to ensure recommendations are addressed in a timely manner.
- Formalizing internal procedures for conducting audit work (e.g., establishing work paper standards and requirements to ensure audits are adequately documented).
- Establishing formal expectations for the timely release of audit reports.
- Adding more nontraditional approaches to its audit methodology (e.g., baseline performance reviews and CPAI reviews).

Division of Criminal Justice Response:

Agree. The Division agrees that it is important to measure performance of all programs. In order to come into statutory compliance, an audit schedule has already been established to assure statutory compliance by the end of Fiscal Year 2002.

The Division also commits to undertake a statutory review to determine whether the type, nature, and frequency of the current scheme is the most effective. If it is determined that changes are needed, the Division will seek the assistance of the General Assembly.

Division staff is currently working with the Community Corrections Advisory Council to develop policy regarding formalized follow-up procedures and expectations for the timely release of audit reports. Likewise, internal

processes and workpaper standards are being carefully examined and improved to ensure adequate documentation.

In order to expand the Division's audit beyond residential programs, to include nonresidential programs, intensive residential programs, day reporting centers, and other special programs, and also to conduct consistent follow-up audits, the Division would require at least 3 additional FTE. The Office of Community Corrections at the Division currently has 5.35 FTE with one FTE dedicated to full time auditing. The other two members of the audit team have substantial responsibilities in addition to the fieldwork of the audits and are not full time auditors. The Office of the State Auditor has made recommendations for the Division's expanded audit responsibilities including financial auditing. None of the staff of the Office of Community Corrections is a CPA with adequate training to fully audit the finances of a facility during the scope of an audit. In order to fully and effectively comply with these recommendations, the Division would require one additional performance auditor; one CPA, or equivalent, for financial auditing; and one or more additional general professional staff to assist with the paperwork. The Division's Office of Community Corrections also struggles with a limited operating budget. Although the staff attempts to limit costs in every way possible, onsite auditing requires significant travel resources. A full program audit involves at least three staff and a minimum of one week. Follow-up audits, while not as comprehensive as a full audit, still require two staff and two days.

Finally, the Division agrees that improved audit methodologies will be further explored. The CPAI review tool is a relatively new methodology implemented by DCJ staff within the last two years. Community Corrections staff utilize this tool as an agency performance measurement tool, but will explore its use as an additional audit tool, as well. Already, the Division is attempting to incorporate CPAI reviews into the compliance audits.

The Division Should Consider Contracting Directly With Programs

The low compliance levels found in the audits conducted by the Division indicate that many boards are not systematically overseeing compliance with the state standards. The public safety ramifications of this situation are particularly troubling due to the open nature of community corrections programs. Board staff across the State reported that because the community corrections boards are made up of

volunteers, it is difficult to place additional regulatory requirements on them. For example, board members in one district attempt to review one standard per quarter at each program within their jurisdiction. Even though this is the objective of the board, the review does not always occur and is not formalized or structured. In addition, some boards believe that the regulatory responsibility for community corrections programs resides with the Division.

We agree that oversight responsibilities are best placed at the state level rather than with local boards because of their volunteer nature. Another change may help the Division's efforts in this area. Specifically, we believe that if the State directly contracted with local programs instead of going through the boards, its authority to require programmatic improvements would be enhanced. Another benefit that would accrue from direct contracting is that the State could decrease the dollars it allocates to local boards for their administrative costs. The Division's current contract with the local boards states that 2 percent of the funding is to be used to pay for expenses incurred from contracting with programs and handling associated billing functions. For Fiscal Year 2001 this represents approximately $710,000 of the total $1.78 million administrative allocation. Removing the boards from this process could allow the State to save a portion of these funds. Contracting directly with the programs may result in increased costs to the Division because some additional administrative duties would be required. We could not quantify these costs at this time but we believe they would be minimal.

Further, as the system now operates, the value the boards add to the billing process is questionable. Currently the Division reviews each bill the boards receive from the programs to check for accuracy and completeness. Staff at the Division routinely find billing errors, even though the boards have already reviewed and approved these documents. These problems could be eliminated by direct contracting. Removing the administrative and billing functions of the board would allow local staff to dedicate more time to screening offenders, which is a far more important responsibility.

The Boards Should Continue to Control Certain Aspects of the System

Although we believe that the boards could be removed from certain aspects of the administration of the community corrections system, there are some functions they should retain. The General Assembly intended to ensure that local governments have the authority to control community corrections programs within their jurisdictions. The ability to screen and reject offenders that are referred to a community corrections program is a key aspect of this local control. Another important aspect of local control is the statutory authority of boards to select the community corrections

service providers for their jurisdiction. Board involvement in this activity is crucial and should be retained. Retaining board participation in the provider selection process, however, does not necessitate keeping the boards involved in the routine administrative functions associated with executing contracts.

We recognize that contracting directly with the programs presents a fundamental change in the way that the community corrections system now operates. For the reasons contained in this chapter, however, we believe that there is a more effective and efficient process for administering the community corrections system in Colorado while still maintaining essential aspects of local control. Statute already provides the Division with the authority to execute contracts with the programs for community corrections services, and in one case, the Division has used this authority. Therefore, we recommend that the Division work with the local community corrections boards and community corrections providers to determine the most efficient manner of modifying the contracting process to place the contracting, billing, and oversight responsibilities with the Division.

Recommendation No. 6:

The Division of Criminal Justice should reduce the administrative cost of the community corrections system by working with the local community corrections boards and providers to minimize local involvement with certain administrative functions, thereby allowing the local boards and programs to dedicate more time to screening offenders.

Division of Criminal Justice Response:

Partially agree. The Division agrees that the primary responsibility of the local community corrections boards is the screening of offenders for placement in their communities. The Division firmly believes that the boards are doing a good job with the screening process. The Division will certainly commit to discussions with local boards concerning maximizing the use of administrative funds.

Improving Community Corrections Programs and Offender Outcomes

Chapter 2

Overview

This chapter provides several recommendations aimed at improving community corrections programs and the outcomes of the offenders they serve. Topics covered include waivers that the Division has granted to certain programs regarding their compliance with general operating standards, contracting issues, and performance measurement and reporting.

The Division Has Granted Denver's Phase 1 Program Several Waivers

The Denver Sheriff's Department operates a program that receives community corrections funding from the Division. The Phase 1 program is the State's second largest community corrections program, with a capacity of 263 beds. The Phase 1 program is located in the same complex as the Denver County Jail in northeast Denver. It serves a variety of populations, including transition and diversion offenders, as well as offenders who have regressed during their placement in the community corrections system. The Denver Sheriff's Department states that the mission of the Phase 1 program is to aid offender rehabilitation by assisting offenders in obtaining regular employment, identifying specific counseling needs, monitoring offenders in the community to enhance public safety, and preparing offenders for residential placements. This mission statement is similar to the mission statements of other residential community corrections programs. In Fiscal Year 2000 the Division reimbursed Denver County over $1 million for offenders placed in the Phase 1 program.

Although this program receives community corrections dollars from the State, Phase1 has been granted several waivers from complying with certain operating standards with which all other community corrections programs must comply. As the result of an audit the Division conducted in August 1993, Phase 1 was granted nine waivers to specific operating standards. The Division granted the waiver requests on the basis that Phase 1

is a transitional program (i.e., it is not a conventional community placement program per se, rather it is a holding point for offenders destined for other community corrections programs). As such, officials from Denver County asked that Phase 1 not be subject to certain operating requirements, since offenders were not there for long periods of time. Specifically, upon applying for the waivers, the Denver Sheriff's Department reported that community corrections offenders were placed in Phase 1 for four to six weeks prior to their transfer to a conventional community corrections program. Phase 1 received waivers for the following standards:

- Establishing a supervision/treatment plan for each offender placed in the facility within 14 days of his or her admission.

- Reviewing each case file at least one time per month to determine offender progress toward meeting his or her supervision/treatment plan and revising the plan if needed.

- Developing a financial management plan for each offender that prioritizes the offender's financial obligations.

As a result of these waivers, offenders receive far fewer reintegration and rehabilitation services at Phase 1 than they would receive in a traditional community corrections setting. The negative ramifications of this situation, along with other issues we observed during our review, are explained in more detail below.

Offenders Routinely Stay at Phase 1 for Longer Than Four to Six Weeks

During the audit we reviewed bills submitted to the Division from Denver's community corrections board and found that the length of stay for offenders placed in Phase 1 is routinely longer than four to six weeks. The bills covered the period June 2000 through April 2001. Out of 83 transition offenders placed in Phase 1 during this period, we identified 27 offenders (33 percent) who spent more than 113 days (i.e., about 16 weeks) in the facility, including one offender who spent more than eight months at Phase 1. These stays are much longer than the four- to six-week stays reported by the Denver Sheriff's Department in order to attain the waivers. The average length of stay in all other community corrections facilities for transition offenders was 158 days (i.e., a little less than 23 weeks) in Fiscal Year 1998 (the last year for which data were available). If offenders are spending a large portion of their sentence in a setting that provides few reintegration

or rehabilitation services, their chance for successfully reentering society is lessened. This, in turn, has a negative effect on public safety.

We also found that some transition offenders are ultimately released into the community directly from the Phase 1 program without actually being transferred to a traditional halfway house. Fourteen of the eighty-three offenders (17 percent) housed at Phase 1 during our review time frame were eventually placed on parole or intensive supervision parole without being transferred to a halfway house. In addition, one offender was released without any subsequent supervision at all after spending two months at Phase 1. As mentioned previously, community corrections is intended to assist offenders leaving prison by providing them with treatment and services that will help them successfully reenter society. If offenders are not receiving this type of assistance, their chances for successful reintegration are lessened.

Escape Rates at Phase 1 Exceed the Statewide Average

The Denver Sheriff's Department also cites that Phase 1's secure setting is another advantage to this unique program. As mentioned previously, the Phase 1 program is on the grounds of the Denver County Jail. In reality, however, statistics show that the Phase 1 program may be less secure than a traditional community corrections program. Specifically, we found that transition offenders housed at the Phase 1 program have a higher escape rate than the statewide average. Fifteen of the eighty-three transition offenders housed at Phase 1 during our review time frame (18 percent) escaped after entering the program. These escapees include two offenders who had spent approximately five months in the facility. The Division reported that the statewide escape rate for transition offenders was 11 percent in Fiscal Year 1998 (last year for which data were available).

As reported previously, the standards adopted for community corrections programs include various public safety-related requirements. One standard requires programs to periodically verify the whereabouts of offenders while they are away from the facility. The Division's 1993 audit of the Phase 1 program included a finding that the program did not utilize a regular system for monitoring offenders in the community. Phase 1 rejected the recommendation that would have required it to implement a policy and procedure to ensure improved offender monitoring. During our current audit we visited Phase 1 and found that the facility still could not document that it verifies the whereabouts of offenders while they are off-site—a situation which may have contributed to the higher-than-average escape rate mentioned previously. Although we believe that programs should be allowed

some flexibility in the way they operate, that flexibility should not be granted in exchange for reduced expectations regarding public safety. Therefore, unless Phase 1 can be modified to operate more like a regular community corrections program, the State should discontinue providing community corrections funding for it.

The County Should Pay for the Costs of Housing Backlogged Diversion Offenders

One additional concern came to our attention as a result of our review. Like many other community corrections programs, the Phase 1 program houses diversion offenders. Because there is a waiting list for certain types of community placements in Denver, diversion offenders coming from the 2nd Judicial District are routinely held in Phase 1 until they can be placed in a traditional halfway house or another type of community-based program. During the period Fiscal Year 1998 through April 30, 2001, the Division paid almost $1.6 million to house diversion offenders at Phase 1. We are concerned about this practice because, in other judicial districts, the county sheriff would house backlogged diversion offenders in the jail facility until space became available at a community corrections program. These expenses would be paid by the county, not the State.

We contacted nine judicial districts and found that the diversion offenders are regularly held in the county jail while awaiting a space in a community corrections program. In fact, as of May 2001, there were approximately 163 diversion offenders in these nine districts waiting for space in a community corrections program. None of these districts bill the State for the costs associated with housing their backlogged diversion offenders. We question the propriety of the Division's and the county's practices in this area given that the Phase 1 program does not provide the services normally found at a traditional community corrections program. The Division should immediately discontinue its practice of paying for the cost of housing backlogged diversion offenders at the Phase 1 program unless it can demonstrate that these offenders are getting services similar to those provided at a regular community corrections program.

All Waivers Should Be Periodically Reviewed to Ensure Their Continued Desirability

We believe that the current situation at Phase 1 came about (at least in part) because the Division has not reviewed the waivers it granted the program since they were first approved in 1993. Further, the Division has not conducted regular audits at the program to determine whether it is operating as expected. Because of the negative consequences

that can result from programs operating under less stringent standards, the Division should develop a procedure to periodically review (e.g., annually) all operating standards waivers that it has granted to any community corrections program. This review should determine whether maintaining the waivers is in the best interest of the State—both in terms of ensuring public safety and promoting offender rehabilitation and reintegration into the community.

Recommendation No. 7:

The Division of Criminal Justice should work with the Denver Sheriff's Department and representatives of the Phase 1 program to:

- Modify program operations to more closely meet the standard operating expectations set forth for other community corrections programs.
- Discontinue funding for the program if the recommended modifications cannot be made in a timely manner.
- Discontinue its practice of reimbursing the Phase 1 program for the cost of housing backlogged diversion offenders.

Division of Criminal Justice Response:

Agree. The Division will work with the staff of the Phase 1 program to modify the program's structure to more closely resemble a community corrections program. Furthermore, unless modifications can be accomplished in a timely manner, we agree that funding should be discontinued. The Division agrees that the Phase 1 program should not be reimbursed for the cost of housing backlogged diversion offenders.

Recommendation No. 8:

The Division of Criminal Justice should periodically (e.g., annually) review all operating standards waivers granted to any community corrections program to ensure that public safety and offender reintegration/rehabilitation are not being compromised.

Division of Criminal Justice Response:

Agree. For the past two years, the Division has been working with the Community Corrections Advisory Council, the community corrections boards, and programs to revise the community corrections standards. The standards are being prepared for final review by the boards and the programs, prior to approval by the Advisory Council and the Division. As the standards are sent out for review, the Division will notify all programs that current waivers are being transferred to a "temporary" status and that each program will be required to reapply for waivers based on the revised standards. The Division will subsequently require annual review and approval of any standards waivers.

The Division Routinely Identifies Performance Problems at Local Programs

As discussed in Chapter 1, Division staff routinely find material weaknesses in the local community corrections programs they audit. Many of these deficiencies have serious ramifications in terms of compromising public safety and/or negatively affecting offender outcomes. For example, programs that do not follow whereabouts verification standards are increasing the risk of offender escapes. Division staff also report serious, ongoing problems with two particular programs. Even in light of these issues, however, the State and local boards continue to contract with the same providers year after year. In fact, Division staff told us that they have never recommended terminating a contract with a local program on the basis of poor performance.

The Division has several tools at its disposal to help ensure that programs operate at an acceptable level. For example, statutes (Section 17-27-108 (2)(b)(III), C.R.S.) allow the Division to recommend termination of contracts with programs found to have material weaknesses during the audit process. Material findings are defined as those related to public safety, health and life safety, internal control systems, fiduciary duties and responsibilities, and statutory compliance. Contract provisions also provide the State with options and remedies for substandard performance. For example, the Division's standard contract states that noncompliance with standards may result in a reduction of provider compensation rates, cessation of offender placements in the program, implementation of a competitive bid process to consider alternative providers, or cancellation of the contract. Division staff have never taken any of these actions.

Local Programs Have Little Incentive to Improve Their Operations

Although the use of sanctions and other types of disincentives can be effective in motivating programs to improve their performance, the use of certain types of incentives can also bring about this result. Currently local community corrections programs have few, if any, financial incentives to perform at a certain level. Providers receive a flat fee for each offender they serve regardless of how well that offender does in the program. We believe that the absence of real incentives for programs to strive for high-quality service delivery, coupled with the Division's lack of regular sanctioning use, has created an environment where it is difficult to motivate excellence.

In our 1993 Performance Audit of the Community-Based Corrections System, we made two recommendations related to the issue of improving provider performance. At that time, we had similar concerns about the State and local boards continuing their contractual relationships with providers that had been identified as substandard. One recommendation asked the Division to improve the information it collected on the performance of programs and the second recommendation asked the Division to work with the Joint Budget Committee to develop methods for compensating providers that rewarded positive outcomes, program specialization, and other factors. The Division has made only modest progress in implementing either of these recommendations (see Chapter 5 for further discussion on the implementation status of these recommendations). As such, we are making a new recommendation aimed at improving provider performance, which is explained below.

Additional Flexibility Is Needed to Ensure High-Quality Performance

The Division needs to make modifications in at least two key areas if it is to motivate improved performance at the provider level:

- **Work with the Joint Budget Committee, the Governor's Community Corrections Advisory Council, and others to establish a performance-based compensation system for local providers.** Because of the way funding is currently structured for the community corrections program (i.e., a flat per diem rate), the Division has no flexibility in compensating providers for exemplary performance. All providers receive the same reimbursement rate regardless of whether they perform well or perform poorly. Higher-than-normal reimbursement rates are now being paid to some community corrections providers (e.g., boot

camp) on the basis of program specialization. The Governor's Community Corrections Advisory Council has also been looking into the possibility of establishing differential per diem rates for programs serving special offender populations. We encourage these efforts and believe that more should be done in this area. For example, we would also recommend that the Division work with appropriate parties (e.g., local community corrections boards and providers and the Joint Budget Committee) to facilitate contractual and funding changes that would allow it to compensate providers on the basis of performance. Moving to a performance-based compensation system would necessitate legislative involvement because of the way funding is currently structured (i.e., flat per diem for each offender served).

Although a performance-based compensation system could be structured in any number of ways, one method might be to establish a hybrid approach that maintains part of the current funding system while adding certain new performance-based components. For example, under a hybrid system the Division could continue to pay providers a base per diem rate for the offenders they serve. At year-end, and upon the achievement of certain negotiated performance goals (e.g., keeping offender escapes below a certain threshold, increasing the number of successful program terminations), the program would be eligible to receive a bonus within a preestablished dollar range. Funding for performance bonuses could be centrally appropriated to the Division, which would weigh actual program performance against established goals, and then allocate bonus funding accordingly. We would suggest that the Division first pilot this system, or another arrangement that encourages providers to achieve higher levels of performance, with one or two local boards or programs to ensure it has the desired effect. We also encourage the Division to work with other state agencies that have experimented with performance contracting (i.e., Department of Health Care Policy and Financing) to obtain a greater understanding of what works in this area and what does not.

- **Revise contracts with local boards and programs to incorporate specific performance elements and then consistently apply sanctions in cases where performance falls below prescribed expectations.** Although an incentive system like the one described above may be preferable, it may also take some time to implement, given the need for legislative involvement. As such, we are recommending that the Division take certain actions aimed at improving provider performance now. All of these actions are already within the Division's control. The State's *Contract Management Guide* instructs state agencies to include measurable performance expectations in their contracts—a component that

is missing in the Division's existing contracts with local boards and providers. Clearly delineating a reasonable set of measurable performance goals up front will help the State and its contractors avoid guesswork and disagreements when it comes to gauging performance. The Division should work with local boards and providers to revise the standard contract to include measurable performance expectations and then track performance accordingly. In addition, although statutes and the Division's standard contract include a variety of remedies for substandard performance, the Division rarely invokes any of them. The Division should consistently use these remedies, and develop more if needed, to ensure provider performance meets expectations.

Recommendation No. 9:

The Division of Criminal Justice should improve the performance of local community corrections programs by:

- Working with the Governor's Community Corrections Advisory Council, the Joint Budget Committee, and other interested parties to incorporate more flexibility into the system used to compensate community corrections providers.

- Revising its system for contracting with local boards and providers to incorporate measurable performance expectations and a systematic process for monitoring and enforcing compliance with those expectations.

Division of Criminal Justice Response:

Agree. The Division agrees to work with the Joint Budget Committee and the Community Corrections Advisory Council to request more flexibility in the use of the dollars within the community corrections line items in the Long Bill. Ideally, the Division would like to use graduated per diem payments based on services provided and explore the use of incentive payments based on specific performance measures.

Community corrections contracts place measurement requirements on the boards. The Division will identify appropriate standardized performance measures that can be applied to each program and tested based on specific criteria, such as a “score card” of compliance, perhaps based on criteria in the CPAI. These measures would be included in the contracts and boards would then be held accountable for monitoring compliance with those measures. This reporting requirement will

necessitate collaboration with the boards to ensure that the boards in areas without programs are treated equitably. Offenders from those districts are sent to an "out of district" community corrections program over which the board has no control. Community corrections boards would also have an investment in assuring compliance since, in the future, their administrative funds will be based on actual expenditures.

Performance Measurement and Reporting Needs Improvement

At the time of our 1993 performance audit, we found several weaknesses in the Division's methods for collecting information on both the success of offenders served by community corrections programs and the performance of the programs themselves. These problems continue. Five key issues include:

- **The Division has no systematic process to collect and report data on the long-term success of offenders.** One of the Division's performance objectives, as reported in its annual budget request, is to reduce the recidivism rates of adult offenders. Recidivism, although controversial and expensive to track, is a key measure of the success of any corrections program. Consequently, it is important for the Division to develop a method to track recidivism data on offenders served by the community corrections system. Currently, however, the Division does not collect or report any data that could be used to determine whether its objective of reducing recidivism rates is being met. The Division recently completed an analysis of the recidivism rates of all offenders who successfully terminated from a community corrections program in Fiscal Year 1998. The study found that 31 percent of these offenders had new felony or misdemeanor charges filed against them within 24 months of successful program termination. We recommend that the Division use the data gathered from this study to establish a baseline performance target for the aforementioned objective. The Division should then develop a method for periodically collecting and reporting appropriate data so that it can determine whether the objective is being achieved.

- **The process for submitting community corrections client information forms is cumbersome and inefficient.** The Division's contracts with local programs and boards include a requirement for providers to submit a community corrections client information form each time a residential offender terminates from their program. These forms contain a variety of data on individual offenders (e.g.,

demographics, termination status). Data from these forms are subsequently compiled into an Annual Statistical Report entitled *Community Corrections in Colorado*. Our audit work showed that the process for submitting these forms is inefficient. Specifically, program staff must fill out the forms by hand and then mail them to the Division via their local community corrections board. The Division then accumulates the forms, which are eventually sent to the Pueblo Data Entry Center for processing. Once this is accomplished, the Division must "clean" the resulting data to eliminate errors. Errors result from both the data entry process and from mistakes that providers make when filling out the forms. This time- and labor-intensive process has resulted in lengthy delays in publishing the Division's Annual Statistical Report. Specifically, as of May 2001 the most recent Annual Statistical Report published by the Division was for offenders who terminated from a community corrections program in Fiscal Year 1998. Long delays in publishing the Annual Statistical Report negatively impact the usefulness of the data it contains.

Internet-based reporting and analysis software is now available to eliminate the inefficient process for submitting and processing community corrections client information forms. The Division should work with the Department's information technology staff and local providers and boards to research and implement electronic solutions to this problem.

- **The Annual Statistical Report contains a great deal of data that could be used to measure both program and offender success over time, but the report's format currently prevents such analysis.** As mentioned previously, the Annual Statistical Report contains useful data on a variety of subjects. As the name implies, however, the report mainly focuses on data collected during one discrete fiscal year and, consequently, presents few multi-year comparisons. Increasing the amount of trend data presented in the report could improve its usefulness as a performance measurement device. In addition, the report also does not currently establish performance targets. For example, the report presents data on the number of offender escapes in a particular year but does not establish a goal in this area (such as reducing offender escapes by X percent annually). By establishing performance targets in certain areas, the Division could turn what is now just a data collection and reporting device into a comprehensive performance measurement tool.

- **The performance information contained in the Department's budget request needs considerable improvement.** The budget request currently contains 3 objectives and 14 performance measures related to the Division's Office

of Community Corrections. Overall, this information provides little insight into the value added by the community corrections program. For example, current performance measures include such factors as "preparing contracts with local community corrections boards at five-year intervals" and "establishing and reviewing standards for residential and nonresidential offenders." The budget request also includes several "measures" that are merely restatements of the number of offenders served by the system. We also noted that 6 of the 14 existing performance measures (43 percent) had no actual data associated with them for either Fiscal Year 1999 or Fiscal Year 2000. The Division should review the performance measurement information it now reports in its budget request to ensure it demonstrates the benefits accruing from the State's community corrections system. This review should be repeated periodically to ensure this information continues to add value.

- **The performance information reported on restitution collected from community corrections offenders is inaccurate and misleading.** One of the Division's performance objectives is to improve the payment of restitution owed to crime victims. Payment of restitution plays an important role in holding offenders accountable for their actions; therefore, it is important for the Division to collect and report accurate data on this aspect of offender behavior. The Division reported that offenders paid over $1 million in restitution in Fiscal Year 1998 (the most recent data available). We found that this figure is inaccurate because it also includes collections of court-assessed fees and fines, not just restitution collections. The Division requires programs to report a variety of fiscal information about the offenders they serve (e.g., earnings and payment of state and federal taxes, subsistence, and restitution). This information is collected on each offender upon his or her termination from a program via the Division's community corrections client information form. The Division should work with the boards and programs to revise the reporting categories on the community corrections client information form so that restitution payments are reported separately from payments of court-ordered fees and fines. Restitution-related information could be further improved if the Division and/or the boards and programs obtained and reported data showing how much restitution was assessed against each offender served within the community corrections system, not just how much restitution each offender paid. Comparing restitution collected against restitution assessed would provide a more complete picture of offender efforts in this area.

Recommendation No. 10:

The Division of Criminal Justice should improve its ability to collect and report data that demonstrate results within the community corrections system by:

- Establishing a baseline measure of long-term offender success (e.g., recidivism) and then developing a method to periodically collect and report data on that measure.

- Working with the Department's information technology staff and local providers and boards to develop and implement more efficient methods of reporting community corrections client information.
- Improving the usefulness of the Annual Statistical Report as a performance measurement device.

- Reviewing and modifying the performance measurement information reported in the Department's annual budget request on a periodic basis to ensure it continues to add value.

- Working with the local community corrections boards and programs to improve the accuracy and completeness of information reported on restitution paid and owed by offenders within the system.

Division of Criminal Justice Response:

Agree. In Fiscal Year 2001 the Division's Office of Research and Statistics conducted a recidivism study of community corrections offenders. This study can easily serve as a 'baseline' measure. The Division's ideal would be a full study every three years with limited random sample studies to be conducted in the interim years.

The Division's client termination database continues to be a valuable tool, but over the years, it has become a drain on staff and resources. The Division has explored placing the format online or in an electronic format; however, this required significant resources and the operating budget could not support additional expenses. By making this information available to the Division's staff through an electronic format, incorrect information would be minimized and it is possible that statistical information could be updated and available on a quarterly basis. This information would then be available when preparing the annual budget,

and the Annual Statistical Report would be more timely and could be used in program performance measurement.

The Division has always supported offender accountability and reparation of the community and victims. The current data collection form requests the amount of restitution paid by the offender while in residential community corrections. Restitution payments are verified by the Division during the audit process. Recently while auditing, the staff found that it is virtually impossible to verify actual restitution to a victim because of a change in the format of the court mittimus. Based on information available on the mittimus, restitution in this context includes court fees, probation fees, prosecutor fees, drug offender and sex offender surcharges, and victim restitution. Victim restitution may be only a small percentage of the actual amount owed and is rarely collected in total while the offender is in residential placement. The Division assumes that the actual amount of restitution owed would be available on each offender from the court clerk, but we would still not have a true picture of the amount paid by the offender over time since a residential placement is limited to approximately six months. The Division will work with the State Court Administrator's office to modify the court mittimus documentation to specify actual distribution of fees.

Sex Offender Registration and Management

Chapter 3

Background

State and federal lawmakers have focused on the identification, management, and containment of convicted sex offenders in recent years. In 1994 the U.S. Congress passed the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. The Wetterling Act and its amendments (including one commonly known as "Megan's Law") sets forth minimum standards for state sex offender registration programs, including general requirements for states to:

- Register certain sex offenders for at least ten years.
- Take registration information from offenders and inform them of registration obligations when they are released from a secure setting.
- Require registrants to update address information when they move.
- Verify registration information periodically.
- Release registration information, as necessary, for public safety.

The Wetterling Act has been amended several times since its passage, including a 1996 amendment that requires states to impose lifetime registration on particularly dangerous offenders.

In the 1992 Legislative Session, the Colorado General Assembly adopted a "no-cure" policy for convicted sex offenders. In that same year, the General Assembly created the Division's Sex Offender Management Board (SOMB). The Board is charged with establishing standards for the assessment, evaluation, treatment, and behavioral monitoring of sex offenders within the State. The 21-member board is also required to work with the State's Judicial Branch, the Departments of Corrections and Public Safety, and others to:

- Design standardized treatment programs for sex offenders.

- Develop and prescribe standards for evaluating and identifying sex offenders, including the creation of a risk assessment screening instrument to determine the likelihood that a sex offender will reoffend.

- Define criteria to determine whether grounds exist for making a sex offender subject to community notification laws.

- Establish protocols and procedures for carrying out community notification activities.

- Develop a system for implementing standards and guidelines for tracking offenders who are subject to evaluation, identification, and treatment.

- Staff a technical assistance team within the Division to provide help to law enforcement agencies in carrying out their community notification responsibilities. This team also provides communities with general information concerning sex offender treatment, management, and supervision.

In addition, Section 16-11.7-103, C.R.S., directs the SOMB to develop a plan for allocating sex offender surcharge cash funds among various state agencies. A surcharge is imposed on offenders convicted of certain sex crimes. During Fiscal Year 2000 approximately $275,000 was paid into the sex offender surcharge fund. As of May 31, 2001, the fund balance in the sex offender surcharge fund was $396,297. Among other uses, surcharge monies have been used to support development of the sex offender management standards.

During the 2001 Legislative Session, a bill was passed to continue the operation of the SOMB through 2010 (Senate Bill 01-117). This legislation further directed the Board to research and analyze the effectiveness of established procedures and programs for evaluating, identifying, and treating the State's sex offender population. The Division is required to report its findings to the General Assembly by December 1, 2003.

It should be noted that many state and local agencies within Colorado have responsibilities related to sex offender management, not just the Division of Criminal Justice. For example, as we discuss later in this chapter, local law enforcement agencies, the Colorado Bureau of Investigation, and the Judicial Branch all have specific duties and responsibilities related to sex offenders.

Statutes Require the Identification of Sexually Violent Predators

To comply with the federal requirements discussed previously, Colorado lawmakers defined sexually violent predators in Section 18-3-414.5, C.R.S. Specifically, to be designated a sexually violent predator, an offender must first be convicted of at least one of the following crimes:

- Sexual assault in the first degree
- Sexual assault in the second degree
- Unlawful sexual contact or sexual assault in the third degree (felony only)
- Sexual assault on a child
- Sexual assault on a child by a person in a position of trust

If an offender is convicted of any of these five crimes, the sentencing court orders the offender to undergo a pre-sentence investigation and assessment to determine his or her predatory risk. On the basis of this assessment, the court is required to make specific findings of fact on record and enter an order concerning whether the offender is a sexually violent predator. If the offender is found to be such, he or she is required to register with local law enforcement agencies on a quarterly basis for the rest of his or her life. Laws further direct the State Board of Parole to review assessments and make sexually violent predator findings for offenders being considered for parole release. To date, the State Board of Parole has not been required to make any determinations of this nature since no qualifying offenders have been scheduled for release.

The Division's Office of Research and Statistics developed the risk assessment instrument that is used to help determine whether an offender is a sexually violent predator. The instrument is scored using a ten-item risk scale that was developed and approved by the SOMB in December 1998. Among the factors included in the assessment are the offender's criminal history, education, employment, and specific details about the sex offense. The Office of Research and Statistics validated the instrument by applying it to 494 convicted offenders and found it to be reliable in predicting reoffense risk. The SOMB recommended that offenders scoring four or above on the instrument be considered sexually violent predators pursuant to state law. The Division's validation study found that offenders who score from zero to three points on the risk scale have

approximately a 50 percent chance of noncompliance with treatment or supervision within 30 months, while offenders scoring four or higher have a 66 percent chance. Treatment and supervision failures are linked to recidivism.

Evaluators and Local Officials Sometimes Leave Risk Assessments Incomplete

We reviewed the risk assessment instrument developed by the Division and found that opportunities exist for improving its use. Currently probation staff complete the portion of the instrument regarding specific crime information. The assessment instrument is then forwarded to an SOMB-approved provider who conducts a psycho-sexual evaluation and makes a final determination regarding the offender's predatory risk prior to his or her sentencing. We reviewed a sample of 14 case files for sex offenders who were under supervision as of March 2001 in one judicial district to obtain information about how the risk assessment is actually used. We also compared information on the risk assessment with other file documentation (e.g., police reports, victim reports, polygraph records, education records, and other reported information) to determine the reliability of the information shown on the assessment. We found that:

- Three qualifying offenders (i.e., offenders convicted of one of the five statutory offenses noted previously) were not evaluated using the risk assessment instrument. According to probation office staff, one offender was not assessed because he was sentenced prior to the time when staff first received training on the use of the instrument. The assessments for the two remaining offenders could not be located. Therefore, it is unclear whether an assessment was ever conducted on these offenders.

- Five qualifying offenders had risk assessments that were incomplete. Probation staff told us that they do not review assessments once they are returned by the outside evaluator to determine completeness. Division staff also report that outside evaluators have expressed confusion about certain factors included in the assessment instrument, but nothing has been done to formally address these concerns.

- More than half of the information collected and considered for scoring these assessments was self-reported by offenders. The SOMB's guidelines for pre-sentence investigations clearly state that the purpose of the investigation is to provide the court with *verified* and relevant information upon which to base sentencing decisions. The guidelines further caution evaluators to be cognizant of

the fact that an offender's self-report has been demonstrated by research to be the least reliable source of information for evaluation purposes. Although assessment instruments often rely, at least in part, upon self-reported information, some of this information could be easily verified by probation staff through a file review. Probation staff told us, however, that they do not routinely conduct this type of verification procedure.

We further analyzed risk assessments conducted on 77 offenders convicted of one or more qualifying sexually violent predator crimes during the period August 1999 through November 2000. We found that 40 of these offenders' risk assessments were incomplete (52 percent). Evaluators found 28 of these 77 offenders (36 percent) to be sexually violent predators, and this information was subsequently conveyed to the sentencing court. As shown in the following table, however, only 8 of these 28 offenders (29 percent) were formally found to be sexually violent predators and sentenced as such by the State's courts:

Comparison of Sexually Violent Predator Determinations by Evaluators and Courts

Judicial District	Evaluator Findings	Court Findings
1	6	1
2	2	1
4	9	1
6	2	2
9	1	0
14	3	2
18	3	1
19	1	0
21	1	0
Total	**28**	**8**

Source: OSA analysis of Division of Criminal Justice and Judicial Branch data.

Of the 20 offenders who were not deemed to be sexually violent predators by a formal court finding:

- One offender received a score of eight on the risk assessment, the highest score ever received on the instrument to date.

- One offender had already served 17 years in DOC for raping a 14-year-old girl. This was his second conviction for a sexual offense.

It is unclear why Colorado's courts did not formally deem a greater percentage of these high-risk offenders to be sexually violent predators. The law allows for discretion in this area; however, given the details of some of these cases, the findings of the courts are perplexing. This situation, coupled with the problems noted above regarding incomplete evaluations, led us to question the efficacy of Colorado's process for identifying its most dangerous sex offenders. Because sexually violent predators are subject to significantly more stringent supervision and registration requirements, it is important for our criminal justice system to do everything it can to accurately identify and properly sentence these individuals.

The Division and the SOMB should work together to reevaluate the existing risk assessment instrument to ensure it is being properly administered. The Division should also prescribe specific policies and procedures for completing the instrument and develop a requirement for probation staff and/or evaluators to verify the accuracy of information used to complete the evaluation (to the best of their ability). Further, the Division should periodically review a sample of completed instruments to ensure that established standards are being followed.

We also believe that the Division and the SOMB should conduct ongoing training for probation staff, evaluators, judges, and other interested parties to ensure that all persons involved with the assessment and sentencing of sex offenders are knowledgeable about the risk assessment process and associated statutory responsibilities.

Recommendation No. 11:

The Division of Criminal Justice and Sex Offender Management Board should work with the Judicial Branch to improve the use of the Sexual Predator Risk Assessment Screening Instrument. This should include:

C Prescribing specific policies and procedures for completing the instrument.

- Developing a requirement for probation staff to verify the accuracy of the information used to complete the evaluation.

- Periodically reviewing a sample of completed instruments to ensure that established standards are being followed.

Division of Criminal Justice Response:

Agree. The Division agrees with the need to improve the use of the Sexual Predator Risk Assessment Screening Instrument. Some of the bulleted portions of the recommendation have already been accomplished and some can be accomplished by implementing minor changes.

The Office of Research and Statistics and the SOMB have distributed policies and procedures for completing the instrument in the following ways:

- Policies and procedures for completing the instrument were designed during the instrument's development process and refined during a statewide test implementation prior to the publication of the document.

- A statewide video conference training regarding the policies and procedures for completing the instrument was provided at no cost for attendees from all of the local judicial district probation offices, Department of Corrections staff and all SOMB approved evaluators prior to the initial implementation of the use of the instrument in June of 1999.

- The Sexually Violent Predator Risk Assessment Screening Instrument Handbook was published in September 1999. It includes the legislative mandates requiring the development of the instrument, an overview of the research used to create the instrument and comprehensive instructions on how to complete and utilize the instrument. The instructions include the requirement for probation to send appropriate data and documents with the instrument when it is referred to an evaluator and the requirement for evaluators to locate appropriate data to complete the instrument when it is not provided by probation. This handbook was distributed to all SOMB members and constituents, all chief judges and probation in all judicial districts, to all SOMB approved evaluators and to all Department of Corrections staff who may complete assessments for the Parole Board in the future. It is available from the SOMB on an ongoing basis for training or informational purposes.

- The SOMB published a 40-minute training video regarding the appropriate completion of the instrument in September 1999. It was distributed to probation offices in all judicial districts, to all SOMB-approved evaluators and to appropriate Department of Corrections staff to ensure ongoing training would be available for existing and new staff. Additional copies are available through the SOMB upon request for training purposes.

- Training regarding the instrument is available through SOMB or Office of Research and Statistics staff upon request and is included regularly in training for evaluators and probation staff regarding sex offender issues.

With the development of the instrument, the Division and the SOMB recognized the need for policies and procedures regarding the completion of the instrument and for training to disseminate them. This recommendation was substantially completed, although ongoing training and availability of materials continues.

The 2001 Legislature passed House Bill 01-1229, which changes the way the Sexually Violent Predator (SVP) assessments are initiated. Under the old system, the court was required to make a separate order initiating the SVP assessment at the time the presentence investigation was ordered. The new legislation requires the SVP assessment be completed automatically as a part of the presentence investigation for any offender who is convicted of a qualifying crime. This should ensure that more of the required assessments are completed, as it eliminates an additional step for the court.

The Sexual Predator Risk Assessment Handbook, developed by the Office of Research and Statistics and the SOMB, is the place where requirements for the completion of the instrument are located. The SOMB and the Office of Research and Statistics can work together to review and strengthen existing language requiring documentation. The Handbook currently requires that probation forward appropriate data to the evaluator and document in writing when the required documentation is not available and the reasons for its lack of availability (p. 15). Some items are intended to be self-reported by the offender, so cannot be externally substantiated. If a review of the document determines a need to add stronger language directing probation to verify informational accuracy, it can be added, and an amended Handbook can be published and distributed. The target date for completion of this portion of the recommendation, if a new Handbook is published, is July 30, 2002.

The Division's Office of Research and Statistics currently collects copies of completed instruments from around the State for the ongoing validation of the instrument. SOMB staff will work with the Office of Research and Statistics staff to develop a procedure in which the completed forms are sent to the SOMB staff for periodic review. A policy will be developed that allows the reviewed information to be given to evaluators and probation staff as feedback regarding the completeness and accuracy of their use of the instrument. This information can also be included in the re-application approval process for evaluators or given to probation supervisors if identified problems are not corrected. This policy will be developed and implemented by July 30, 2002.

Judicial Branch Response:

Agree. At present, the Branch has three representatives on the Sex Offender Management Board: a district court judge, a juvenile magistrate, and the supervisor of the research and planning unit at the Office of Probation Services. Judicial has always worked in collaboration with the Board on policy development, implementation, and training. With current Judicial representation on the Board, we will continue the collaborative approach to the development of policies, procedures, and training around issues of sex offender evaluation, assessment, sentencing, and training.

Although concurring with the recommendation of the State Auditor's Office, the Judicial Branch offers the following information regarding the analysis.

The statute governing the completion of the Sexually Violent Predator Risk Assessment (SVP Assessment), enacted during the 1999 Legislative Session, requires that probation and the evaluator complete the SVP assessment at the same time the presentence investigation (PSI) is completed. The statute required that the PSI and the SVP assessment both be ordered. This resulted in a bifurcated process, in that in most instances if the PSI was ordered and the SVP assessment was not, only the PSI was completed. The audit report includes a table that compares evaluator findings and court findings for 28 offenders. This table is a little misleading in that only 15 of the cases were court ordered to receive a SVP assessment. Some of the departments had agreed to complete the assessment on all offenders who met the offense criteria so that the Division of Criminal Justice could collect that information for continuing research purposes. Other departments opted to do the SVP assessment only on those cases that were court-ordered, as required by statute at the time, to be assessed. Of the 15 cases court ordered to have the SVP assessment, 60 percent were found to be SVPs

by the court, 26 percent were not found to be a SVP, and 14 percent were pending sentencing. One of the two pending cases was sentenced to ten years to life on probation and the other case was sentenced to six years in community corrections. Neither case was found by the court to be a SVP. Because of the statutory requirement for two court orders in this process (one for the PSI and one for the SVP assessment), the Office of Probation Services recommended to the Sex Offender Legislative Committee that legislation be drafted that would require the SVP assessment to be completed "automatically" with the order for the PSI. This legislation was passed through House Bill 01-1229 and became effective July 1, 2001. This statutory change will ensure that the SVP assessment is completed on all qualifying cases.

It is important to note that if an offender, for whatever reason, was not assessed at the time of the PSI and was subsequently sentenced to the Department of Corrections, statute requires that the offender receive the SVP assessment prior to parole. The Parole Board is charged with making the determination as to whether or not the offender should be classified as a sexually violent offender prior to his or her release from prison. All but one of the offenders found to be sexually violent predators by the evaluator, including the offender who scored an eight on the assessment, were sentenced to the Department of Corrections for lengthy periods. The court is less likely to order the SVP assessment knowing that it will be done prior to parole being granted.

Recommendation No. 12:

The Division and the Sex Offender Management Board should work with the Judicial Branch to conduct ongoing training for all persons involved with the assessment and sentencing of sex offenders to ensure they are knowledgeable in the risk assessment process and associated statutory responsibilities.

Division of Criminal Justice Response:

Agree. The SOMB will continue to work on the development of collaborative training regarding the use of this instrument. Mandatory training for both probation and SOMB approved evaluators occurs on an ongoing basis. Training for judges will continue to be offered on a voluntary basis. Results of the periodic review of the use of the instrument and the evaluation required by the General Assembly in 2003 will also be used to further develop and refine the training in the use of the instrument. Because training materials have already been developed and training is offered on an ongoing basis, the implementation date is ongoing.

The SOMB currently works closely with the Office of Probation Services in the Judicial Branch to prepare and coordinate training regarding sex offender risk assessment, management, and associated responsibilities. In the last year they have jointly conducted two, two-day statewide trainings in sex offender management, one by videoconference with seven sites statewide and a full-day training for judges. Additionally, they have jointly offered to do en banc lunch trainings for judges and probation in local districts. Two of these trainings have been completed since March and a third is scheduled for September.

The Office of Probation Services requires 80 hours of specialized training that includes risk assessment for probation officers who supervise sex offenders. The SOMB requires 80 initial hours of training for approved treatment providers and evaluators and an additional 40 hours of training every three years in sex offender management. The SOMB has made training its highest priority for adult sex offender management in the next year.

Judicial Branch Response:

Agree. See response to Recommendation No. 11.

Sex Offenders Are Required to Register With Local Law Enforcement Agencies

Colorado's sex offender registration statute was originally enacted in the 1991 Legislative Session. The statute requires any person convicted of, or released from Department of Corrections custody on or after July 1, 1991, for, a qualifying sex offense to register annually with local law enforcement. The General Assembly broadened the statute in 1994, adding to the range of sex crimes for which registration is required.

The State's sex offender central registry is maintained by the Colorado Bureau of Investigation (the Bureau). Registrant data are entered into the central registry and updated by local law enforcement agencies and Department of Corrections staff through the Colorado Crime Information Center (CCIC). The central registry consists of records on both adult and juvenile convicted sex offenders who have registered at least once with a local law enforcement agency or whose name has been input into the database by Department of Corrections staff. Statute requires sex offenders to re-register annually on their birthday. Registration laws also require that when sex offenders move between

jurisdictions, they must contact both the police agency where they are currently registered and the corresponding agency in the new jurisdiction. An offender who fails to register is flagged by the CCIC system and electronically reported to the respective law enforcement agency. On May 1, 2001, the Bureau began providing daily notices to police agencies via CCIC of all offenders who are out of compliance with the registration law.

Statute Allows Public Access to Sex Offender Registration Data

In addition to requiring sex offenders to register, statutes also allow the general public limited access to sex offender registry information. Citizens who seek a list of registered sex offenders must go to the local police department, pay a nominal fee in some cases, provide identification, and demonstrate that they either reside in the jurisdiction or need the information for other reasons (e.g., working in the jurisdiction).

Statute requires that information released to qualifying individuals include, at a minimum, basic registrant identification, a photograph (if available), and a history of the convictions associated with the offender's registration requirement. Police agencies are also required to inform citizens that local registry information includes only offenders who are in compliance with the registration law and that the crime of conviction may not accurately reflect the level of risk associated with a particular offender. The general public does not have access to the information contained in the Bureau's central registry.

During the 2001 Legislative Session, the General Assembly passed House Bill 01-1155, which expands the sex offender registration information available to citizens. The law will allow citizens increased access to other jurisdictions' sex offender registries. For example, if a citizen were considering moving to another municipality and wanted sex offender registry information for that jurisdiction, the respective law enforcement agency would contact the Bureau for a list of sex offenders in that particular area and could provide that information to the citizen. The bill also increases the amount of information available to the public on sex offenders through the Internet. At the time of our audit, Colorado posted very little sex offender registration information on the Internet. In fact, as of June 2001, information on only one sex offender was available through this access point (i.e., a sexually violent predator who is no longer in Department of Corrections' custody). House Bill 01-1155 will expand the data available on the Internet to include persons who were convicted as adults of two or more felony offenses involving unlawful sexual behavior or crimes of violence and adult felony offenders who fail to register.

The General Assembly Recently Increased Penalties for Failure to Register

During the 2001 Legislative Session, lawmakers also passed legislation (Senate Bill 01-210) that will increase and broaden criminal penalties for noncompliance with the registration law. The General Assembly stated that imposing a significant penalty for failure to register is likely to result in greater compliance with sex offender registration requirements and a more effective mechanism for early intervention with a sex offender before additional crimes are committed.

As part of our audit, we reviewed various information obtained from the Division and local law enforcement agencies regarding this issue. We found that most law enforcement agencies would rather seek out delinquent registrants in an effort to bring them into compliance than issue warrants for their arrest. For example, one police department reported that an average of 10-12 offenders are out of compliance in its jurisdiction each month, but most are brought into compliance through the efforts of officers who identify and locate these persons.

Our review also found that offenders who fail to register are rarely charged and even less frequently convicted of this offense in Colorado courts. The Judicial Branch reports that from January 1996 through the end of March 2001, there were 101 failure-to-register cases filed on adult sex offenders in the State. These cases included 26 offenders who were arrested for a second registration-related offense. Of these 101 cases, only 30 were eventually found guilty and sentenced for failure to register.

Sex Offender Central Registry Data Are Not Complete

As stated previously, the Colorado Bureau of Investigation is responsible for maintaining a central registry of sex offenders. We found that the Bureau's central registry contains information on only those offenders who have duly registered as sex offenders and offenders identified by the Department of Corrections as being subject to registration. The registry does not include information on all offenders who are subject to registration under Colorado law. As a result, the Bureau could not provide us with information regarding the number and identity of sex offenders who are subject to registration requirements but who have actually failed to register.

Colorado Bureau of Investigation staff report that the registry averaged about 8,600 records since the beginning of Calendar Year 2001. The number of offenders required to

register is higher than this figure, but at this time we cannot determine what that figure actually is. This is because no agency has reviewed or analyzed current registration data and compared it against sentencing data to identify how many offender records should be contained in Colorado's central registry. For example, the Department of Corrections has maintained a list of nearly 1,000 convicted sex offenders that have been released from prison since 1991. These sex offenders were required to register with local law enforcement; however, the Department has not determined how many of these sex offenders have actually registered. Statutes do not specifically require the Department of Corrections or any other criminal justice agency to verify if individuals subject to registration have actually registered. The law requires only that these agencies inform sex offenders of their duty to register with local law enforcement. As a result, there is no way to determine how many sex offenders have failed to register and who these individuals are.

The Division needs to work with the SOMB, the Colorado Bureau of Investigation, and the Judicial Branch to perform a review of sentencing records from the period July 1991 to the present to identify all offenders subject to registration. Once this review is complete, this list should be compared against actual registration data to identify offenders who are out of compliance with registration requirements. The results of this comparison should then be shared with the appropriate criminal justice agencies so that offenders can be brought into compliance or suitably prosecuted.

Local Registries Do Not Match the Central Registry

We also contacted four Denver Metro-Area law enforcement agencies to obtain and review information about local sex offender registries. Local registries should form the basis for most of the data contained in the central registry, since the bulk of registration activity originates at the local level. We then submitted these data to the Bureau, which compared the information against central registry data to identify:

- **The number of local registrants currently under probation or parole supervision.** We found that about 8 percent (103 out of 1,354) of the sex offender population in our sample was under supervision by a probation or parole department at the time of our research. This indicates that the majority (93 percent) of sex offenders living in these communities were not being actively supervised. It is important to note that not all sex offenders are required to be supervised.

- **The number of cases where local registry information did not match the information contained in the central registry.** A mismatch may indicate an

offender who has moved from a jurisdiction without first "de-registering" or other types of outdated information. The following table shows that over a third of the local sex offender registration records we obtained did not match data contained in the central registry:

Comparison of Selected Local Sex Offender Registry Data With Central Registry Data

City	Local Registry	Number of Mismatched Records	Percentage
Denver	1,048	327	31%
Lakewood	220	130	59%
Wheat Ridge	70	17	24%
Edgewater	16	13	81%
Total	**1,354**	**487**	**36%**

Source: OSA analysis.

Bureau staff suggested that some of the mismatches may represent offenders who have been reincarcerated, while others may represent offenders who have moved out of state or to another jurisdiction within Colorado but their record has not been updated. To determine if this was the case, we further reviewed Denver's mismatches and found that 57 of these offenders had been reincarcerated and an additional 11 offenders were parolees currently under supervision but who had failed to register or "de-register" with their local policy agency as required. Other mismatches may be the result of data input errors or the failure of local law enforcement officials to update Bureau records as they update their own.

It is important for both local- and state-level registry information to be as accurate as possible. Currently citizens cannot be sure that the registration information they are receiving on sex offenders who live in their communities is correct. Further, without

accurate registration data, law enforcement officials cannot identify for possible prosecution those offenders who are out of compliance with registration requirements. The Division should work with the SOMB, the Colorado Bureau of Investigation, and other interested parties to improve processes for communicating and verifying registration information.

Internet Registries Help Other States Track Sex Offenders

We also reviewed other states' sex offender registration laws and found that at least 27 states, including Colorado, currently post some sex offender registry information on the Internet. We further contacted 21 of these states to determine how their Internet registries were designed. Data collected from these states can be found in Appendix A.

The parameters of each state's sex offender registry will vary depending upon the registration and disclosure laws that are in effect. The registry data that are placed on the Internet will also vary depending upon individual state policies. That aside, we found that the public visits Internet sex offender registries frequently. For example, Arizona tracked over 250,000 visits to its Internet registry in one year. Our review also showed the following:

- All of the Internet registries we reviewed, except Colorado, can be queried by numerous methods, including offender name, zip code, city, or county. At the time of our audit, query capability for Colorado's Internet registry was unnecessary because it contained only one record.

- All sites we reviewed included a disclaimer and advisement of legal sanctions for vigilantism.

- Michigan was the only state that did not post photographs of sex offenders on its Internet site. Michigan's registry consists of a listing, by query, that includes registrants' physical description, name, address, and crime of conviction.

- Many states determine whom to place on their Internet registry using risk assessment information instead of limiting registry data on the basis of an offender's conviction for a certain crime. This approach provides states with more flexibility and may help ensure that the most dangerous offenders are included in the registry, regardless of the specific crime they committed.

Officials in some states, including Arizona and Texas, suggested that the Internet registry provides for increased community involvement because citizens frequently report when a

registrant moves in or out of a neighborhood. Texas officials further reported that the Internet registry facilitates their community notification efforts.

Colorado is the only state in our survey to limit Internet posting to specific adult offenders convicted of even more specific crimes. As noted previously, however, this situation is changing.

An Accurate, Up-to-Date Internet-Based Sex Offender Registry Has Many Benefits

Our audit work showed that it is unlikely that Colorado citizens now receive comprehensive, accurate, and timely information on the sex offenders living in their communities through the current system of local registries. A searchable public database, such as an Internet registry, could serve as a cost-effective means for providing this information. Some states put 100 percent of their sex offender registration data on the Internet. Colorado, however, has been very conservative in this area and, until the most recent legislative session, required almost no sex offender registration information to be posted on the Internet. Although posting all sex offender registration information on the Internet would maximize public access, it also has some drawbacks (e.g., concerns about individual privacy rights, vigilantism, victim identification, and accuracy). We found that there have been court cases brought by sex offenders in other states regarding individual privacy; however, most states have succeeded in maintaining their Internet registries. We also found limited anecdotal evidence of vigilantism toward sex offenders registered on the Internet.

Regardless of how Colorado proceeds with its Internet registry, we believe sex offenders should still be required to register locally; however, keeping local registries only adds complexity to the system and, therefore, increases the possibility for error. Further, most citizens are probably unaware of the existence of their local registry and/or how to access it. We believe that centralizing all sex offender registry information at the Colorado Bureau of Investigation would be cost-neutral because local law enforcement officials are currently required by statute to submit sex offender registration data they collect to the Bureau for compilation in the central registry.

Recommendation No. 13:

The Division of Criminal Justice and Sex Offender Management Board should work with the Colorado Bureau of Investigation, the Judicial Branch and other interested parties to

improve the completeness, accuracy, and accessibility of sex offender registration data. This should include the following:

- Performing a review of sentencing records from the period July 1991 to the present to identify all offenders subject to registration.

- Comparing sentencing records against actual registration data to identify all cases of noncompliance. Once these cases have been identified, this information should be shared with the appropriate criminal justice agencies so that all noncompliance situations can be successfully resolved or identified for possible prosecution.

- Working with the General Assembly to modify statutes so that a specific agency (e.g., the Bureau) has ongoing responsibility for verifying that sex offenders have registered as required.

- Improving the processes for communicating and verifying registration information throughout the system.

- Centralizing all sex offender registry data within the Colorado Bureau of Investigation.

Division of Criminal Justice Response:

Partially agree. The Division and the SOMB clearly agree with the general recommendation to improve the accuracy, completeness, and accessibility of the sex offender registration data. To address this recommendation, the SOMB would require formal statutory authority and resources sufficient to complete the required work. The SOMB would be the appropriate body to collaborate with the other involved agencies to address the needs of the registry if both statutory authority and resources were made available in each of the following identified cases.

The recommendation to review all data regarding sex offenders required to register since 1991, while allowing the State to ensure that there is a clear and complete record of required registrants, is clearly resource-intensive, especially since many early records are not available electronically. If resources continue to be limited, it would be best to try to identify currently required registrants, to develop plans for ensuring that all who are currently required to register are so noted on the registry, even if they are not in compliance, and to work back to earlier requirements as additional resources become available.

The recommendation to identify and resolve all cases of noncompliance is similar in that it is resource-intensive if all historical cases are tracked and included. Additionally, it requires the cooperation of both local law enforcement and prosecutors. The Colorado Bureau of Investigation is currently working to develop policies for providing notice to local agencies of currently out-of-compliance offenders, so that local agencies can do more directed follow-up and verification. Training for prosecutors regarding the relationship between lack of compliance with registration and other supervision requirements and recidivism, as well as the importance of criminal justice sanctions in containing sex offender risk, must be included in order to effectively carry out this recommendation. SOMB staff members are available to work with the Colorado District Attorneys Council to develop and implement this training.

The Division, the SOMB, and the Bureau will work with the General Assembly to ensure that statutes reflect clear responsibility for verification of sex offender registration.

It is the Division's understanding that Colorado's sex offender registry will continue to be centralized at the Colorado Bureau of Investigation pursuant to Section 18-3-412.5, C.R.S.

Colorado Bureau of Investigation Response:

Agree. The Colorado Bureau of Investigation (Bureau) agrees with the recommendation. The Bureau is currently working to implement the legislation passed during the 2001 session that addresses sex offender registration issues.

Pursuant to House Bill 01-1155 the Bureau has provided notification to local law enforcement agencies to review and verify existing sex offender registry information and update all information. The Bureau is also in the process of developing procedures to verify sex offender registration information.

The Bureau plans to proceed with a statewide stakeholder group to develop processes necessary to ensure quality of the registration process.

The Bureau will work with the General Assembly, local law enforcement, the Colorado District Attorneys Council, the State Judicial Branch, the Department

of Corrections, the Division of Criminal Justice's Sex Offender Management Board, and the Colorado Integrated Criminal Justice Information System to improve the exchange of information to ensure the completeness, accuracy, and accessibility of the sex offender registration data.

The Bureau will continue to collaborate with all elements of state and local governments to clarify responsibility for the registration and verification of sex offenders and the posting on the Internet in accordance with statute.

Address Verification Procedures Are Necessary to Ensure Public Safety

During our review of registry information, we also reviewed local law enforcement's methods for verifying registrants' addresses, as required under the Wetterling Act. By contacting the same four local jurisdictions, we found that:

- Two jurisdictions (Denver and Edgewater) have not adopted methods to verify sex offender addresses. These jurisdictions do require sex offenders to re-register in person each year, which could be considered a form of verification.

- One jurisdiction (Wheat Ridge) uses its police officers to conduct annual "sweeps" to verify the addresses of registered sex offenders.

- One jurisdiction (Lakewood) mails non-forwardable letters to all registered sex offenders as a reminder that they must re-register on or before their birthday. If the registrant does not respond, the offender is determined to be out of compliance and put on a separate list for follow-up. From this list, law enforcement officials contact the registrant's last known residence to make a determination of the offender's whereabouts. If possible, the offender is brought into the agency to register.

Although federal law requires states to verify registrants' addresses at least one time per year, the particular approach used is a matter of state discretion under the Wetterling Act. The independent verification processes used by Wheat Ridge and Lakewood meet or exceed the intent of the federal act. Denver and Edgewater; while technically in compliance with the federal act, could clearly enhance their verification procedures.

Verifying sex offenders' addresses on a periodic basis is important for several reasons. Verification procedures help identify offenders who are out of compliance with registration

requirements and they also serve as an important cross-check of the information that offenders present when they do register. In addition, federal law allows the U.S. Bureau of Justice to reduce states' Byrne grant funding by 10 percent if they do not comply with this provision of the Wetterling Act. A 10 percent reduction in Colorado's 2000 Byrne grant funding would be significant—approximately $736,000. In order to ensure the continued receipt of these funds and enhance public safety, we believe the Division should work with the Sex Offender Management Board to establish standard address verification procedures and then train local law enforcement officials in their use. Procedures should allow for local discretion while still ensuring compliance with the federal Wetterling Act.

Recommendation No. 14:

The Division of Criminal Justice and the Sex Offender Management Board should work with local law enforcement agencies to develop standard procedures and training protocols regarding verification of sex offender registrants' addresses.

Division of Criminal Justice Response:

Agree. The SOMB has a history of working with local law enforcement and with the chiefs and sheriffs associations to develop policies regarding sex offender community notification. The SOMB is willing to work with these agencies, given a statutory mandate to do so and the appropriate staffing resources. The SOMB has substantial experience in developing statewide standards and policy which requires the convening of a stakeholder workgroup to gather input, the development and statewide dissemination of a draft document, holding public hearings for comment and final revision, publication, and statewide dissemination of the completed standards and protocols.

The training developed regarding these procedures and protocols could easily be included in the SOMB's ongoing team training for local law enforcement around the State regarding sexually violent predator community notification requirements. Adding this component of training to the current team would not require additional resources. If the statutory authority and resources for developing the policies were provided, they could be developed and initially distributed within 18 months of the passage of legislation requiring the SOMB to complete this task. Training, of course, would be ongoing and involve ongoing collaboration with the Colorado Bureau of Investigation.

Victims Programs

Chapter 4

Background

Colorado is one of only two states (Arizona) nationwide that operate a decentralized victim compensation and assistance system. Each of Colorado's 22 judicial districts has the authority to assess victim needs and address those needs at the local level. In addition, law enforcement organizations throughout the State maintain specialized Victims Assistance Units to respond on-site to crime victims and to keep victims informed of their rights, compensation possibilities, and other available resources. District attorneys' offices and law enforcement agencies also provide notification services and other forms of assistance to crime victims.

The Division's Office for Victims Programs is established to support the provision of victim services in Colorado, specifically, by:

- Administering approximately $5 million in federal funds for Victims of Crime Act (VOCA) assistance grants.
- Allocating federal VOCA victim compensation funds to Colorado's 22 judicial districts.
- Administering federal grants for the S.T.O.P. Violence Against Women Act (VAWA).
- Distributing the state VALE grants for victims services.
- Providing training and technical assistance statewide.
- Providing staff support to advisory boards that review and make recommendations for federal and state grant funding, including the State VALE Board, the Victims Compensation and Assistance Coordinating Committee (VCACC), and VAWA Board.
- Working with VCACC to develop standards for the administration and operation of local victim compensation and VALE programs.

- Monitoring local victim compensation and VALE programs for compliance with established standards.

- Reviewing and resolving victims' complaints regarding noncompliance with state constitutional and statutory victims rights requirements.

The following section provides more detail about the VALE and victim compensation programs, which were the focus of our audit procedures regarding the Division's victims programs.

VALE Programs Assist Victims

In 1984 the General Assembly approved legislation to establish the Assistance to Victims and Witnesses to Crime and Law Enforcement (VALE) Act. The Act provides for a decentralized grant administration structure in each of the State's 22 judicial districts. Districts maintain independent local VALE programs with administrative responsibilities shared between the district attorney and judicial district's administrator. Each district's Chief Judge appoints a five-member volunteer board to review grant applications and make decisions regarding the use of the district's VALE funds. Local VALE programs accept applications for grant funding from local victims services providers and law enforcement agencies.

The Act also created a state-level VALE program. State VALE funds are distinguished from other victims assistance funds by their priority use for implementation of the Victim Rights Amendment to the Colorado Constitution and for statewide or multi-jurisdictional victim service programs. State VALE grants are evaluated by a seven-member, governor-appointed board that also advises the Division on program matters. Funding from the state VALE program also covers administrative costs for the Division's Office for Victims Programs.

Both state and local VALE programs are funded from the same source (i.e., a surcharge on criminal and traffic offenses collected at the district level). Statewide collections totaled approximately $9.9 million in Calendar Year 2000. Of this total, 10 percent was made available to district attorneys' offices for the administration of their VALE program and to support the cost of preparing victim impact statements. Thirteen percent of the remaining amount was remitted to the State Treasurer to fund the state VALE program and 77 percent was used to fund the local programs.

Victims of Crime Can Receive Compensation

Victim compensation funds reimburse individuals directly for eligible personal costs resulting from crimes. Each district maintains an independent program with responsibility for program and financial management shared between the district attorney and district court administrator. District-level victim compensation claims are reviewed by a three-member volunteer board appointed by the district attorney.

Local victim compensation programs are funded primarily by fines levied against persons who commit criminal and traffic offenses. Statewide collections totaled approximately $6.7 million in Fiscal Year 2000. Local programs also receive some additional funding from the State's federal VOCA grant.

Statutes Require an Annual Redistribution of Unused Victim Compensation Funds

Under Colorado law, judicial districts are required to report the amount of funds they collect and award each year to victims through their local victim compensation program. The State Court Administrator's Office, with assistance from Division staff, reviews these reports and calculates an annual distribution percentage for each district. Section 24-4.1-123, C.R.S., establishes a minimum annual distribution requirement, as explained below:

> The State Court Administrator shall notify the court administrator of any judicial district that has distributed to victims less than 60 percent of the total moneys collected in the previous fiscal year that an amount equal to the difference between 60 percent of the total moneys collected in the fund in the previous fiscal year and the amount actually distributed to victims for such fiscal year shall be transmitted to the State Treasurer and credited to the State Crime Victim Compensation Fund.

On the basis of this requirement, excess undistributed funds are redistributed among the judicial districts that allocated 75 percent or more of their victim compensation funds in the previous fiscal year. In Fiscal Year 2000, 5 districts were required to contribute money to the redistribution "pool" and 14 received additional funds from the process. A total of $230,000 was redistributed in Fiscal Year 2000 with recipient districts receiving an average of $16,430 each.

The Redistribution Formula Penalizes Districts With Vigorous Restitution Collection Efforts

Our review of the methodology used to calculate the annual redistribution shows that it penalizes districts that collect significant amounts of restitution for crime victims. This is because the methodology requires districts to offset their total payments to victims with the amount of restitution they collect. The redistribution formula in place at the time of the audit is shown below:

$$\frac{\text{Payments to Victims} \;\$\; \text{Total State Recoveries (e.g., restitution, refunds)}}{\text{Total State Revenues}} \sim \text{Overall Distribution Percentage}$$

We analyzed Fiscal Year 2000 victim compensation collections and distributions for all 22 judicial districts and found cases where districts collecting significant amounts of restitution would have been penalized under the redistribution formula that existed at the time of the audit. For example, the 5th Judicial District collected over $130,000 in revenues and distributed $67,000 in victim compensation awards in Fiscal Year 2000. Because it also recovered about $67,000 in restitution from offenders, however, its overall distribution percentage under the aforementioned formula equaled zero. This would result in the district's being asked to contribute 60 percent of its victim compensation revenues for redistribution among those districts that had overall distribution percentages of 75 percent or more. Conversely, the 22nd Judicial District collected about $60,000 in revenues and distributed about $46,000 in victim compensation awards in Fiscal Year 2000. This district, however, collected no restitution at all. Therefore, its overall distribution percentage was 75 percent under the formula, which means that not only would the district be exempt from contributing to the redistribution "pool," but it would actually receive additional funds from the process.

Our discussions with staff at both the State Court Administrator's Office and the Division led them to change the way they calculated the redistribution for Fiscal Year 2000. Specifically, staff changed the formula to consider restitution as another form of state revenue instead of considering it as an offset to victim payments. Although this change lessens the effect that restitution collections have within the formula, we question whether restitution should be considered within the calculation at all.

Although the intent of the redistribution formula is not clearly noted in statute, historically, there has been general agreement that it is intended to ensure victims can be compensated fairly even if they live in districts that collect relatively less funding for this purpose. As shown above, however, including restitution collections within the redistribution formula results in some unintended consequences. Victim compensation awards and restitution play equally important roles in our criminal justice system in terms of assisting crime victims. Because of this, we believe that a district's efforts to collect restitution should not negatively affect the funding it has available for victim compensation awards.

The Redistribution Process Is Time-Consuming

We also found that the redistribution process is unnecessarily time-consuming given the average fiscal benefit that a receiving district derives from it. Numerous staff hours at the Division of Criminal Justice, the Judicial Branch, and local agencies are needed to reconcile fiscal information and administer the redistribution process. Further, as stated previously, in Fiscal Year 2000 a total of only $230,000 from five districts was redistributed. Fourteen districts received redistributed funds totaling an average of $16,430. This amount seems low given the effort required at both the state and local levels to track, report, and eventually redistribute these funds.

Consequently, we question the benefit derived from the redistribution process as a whole. In addition to saving time and effort at both the state and local levels, abolishing the redistribution process would also eliminate the problem noted previously regarding restitution collections. To eliminate the process, however, legislative action would be necessary. The Division should work with the Judicial Branch, the General Assembly, and other interested parties to review existing statutes (i.e., Section 24-4.1-123, C.R.S.) to determine whether the redistribution process is having the desired effect on statewide funding for local victim compensation programs.

Recommendation No. 15:

The Division of Criminal Justice should work with the Judicial Branch to review the redistribution process for victim compensation funds to determine whether it is cost-beneficial. If the redistribution is continued, we believe that restitution collections should not be used in the formula. Recommendations for statutory changes should be made to the General Assembly as needed.

Division of Criminal Justice Response:

Agree. The Division of Criminal Justice will work with the State Judicial Branch and the local compensation coordinators to review the process for redistribution of victim compensation funds to determine if it is cost-beneficial. If after the review it is determined that redistribution of victim compensation funds should continue, the Division will work with the State Judicial Branch to examine the use of restitution in the formula. Since this issue was raised during the audit process, the Judicial Branch has already made some alterations to the formula for Fiscal Year 2000. Specifically, restitution is now included on the revenue side of the equation rather than being subtracted from the amount paid to victims. This change increased the percentage paid to victims for several districts. If it is determined that restitution should not be included in the formula at all, the Division will make recommendations for a statutory change to the General Assembly.

Judicial Branch Response

Agree. The Judicial Branch will work with the Division of Criminal Justice to review the redistribution process.

Judicial Districts Use a Percentage of Victim Compensation and VALE Funds for Administration

Section 24-4.1-117(5), C.R.S., allows district attorneys' offices to use up to 10 percent of the district's annual victim compensation collections to help pay for program administration. In addition, court administrators are allowed to use up to an additional 2.5 percent of collections to offset their administrative costs. State law (Section 24-4.2-103(4), C.R.S.) also allows district attorneys' offices to use up to 10 percent of their district's VALE funds for program administration and for the preparation of victim impact statements. Colorado's Victim Rights Act requires the State to notify victims of their right to present a statement regarding the impact of an offender's crime before sentencing.

We reviewed the administrative costs associated with both local victims compensation and VALE programs and found several problems, which are explained below.

Administrative Percentages for Victim Compensation Programs May Be Excessive

During our review we obtained data from the State Court Administrator's Office showing the month-end fund balances for local district attorneys' and court administrators administrative funds for the victim compensation program. At the time of our audit, these data were available for only the first six months of Fiscal Year 2001. Overall, data showed the following:

- The average total month-end administrative fund balance for district attorneys' offices was $411,068 statewide, with a range of $382,925 to $451,215. Variable spending practices at the district level may account for the high month-end balances we found during the review period.

- The average total month-end administrative fund balance for court administrators was $521,109, with a range of $477,984 to $547,476. During our six-month review time frame, the total month-end balance for these accounts grew each month, never decreasing below the starting July balance.

These large balances led us to question whether the funding currently allocated to district attorneys' offices and court administrators for the administration of local victim compensation programs is excessive.

Costs to Handle a Victim Compensation Claim and to Prepare a Victim Impact Statement Vary Dramatically

We also reviewed reported administrative costs relative to the dollar amount and number of victim compensation claims handled by each district during Fiscal Year 2000. We obtained administrative cost information from reviewing the fiscal data that the Division receives from districts regarding the use of their annual administrative allocation. Division staff reported that these data may not include all of the administrative costs actually incurred by the local programs. In the absence of more complete data, we used the information available. Given this caveat, we found that the average reported cost to handle a claim varies significantly statewide. Specifically, the reported cost for administering a claim in Fiscal Year 2000 (whether approved or denied by the local victim compensation board) ranged from $15 to $256 per district, with an average cost of $110. It should be noted that the lowest cost per application (i.e., $15) occurred in the 1st Judicial District (Jefferson and Gilpin counties). Data from this district may be skewed as a result of

higher-than-normal application activity. The next lowest cost per application was $38 in the 16th Judicial District (located in southeastern Colorado). We further observed that the reported administrative cost associated with *awarding* a victim compensation claim ranged from a little over 2 cents to about 63 cents for each dollar awarded, with an average of 13 cents statewide in Fiscal Year 2000. Although the statewide average costs may appear reasonable, costs toward the high end of these ranges may represent a problem.

We found a similar variability with regard to the cost to prepare victim impact statements within the local VALE programs statewide. In Calendar Year 2000 the 17th Judicial District (Adams County) reported that approximately $4,600 of its total VALE-related administrative expenses of $89,400 (5 percent) were used to prepare victim impact statements. Costs to prepare victim impact statements in the 21st Judicial District (Mesa County), however, were significantly higher as a percentage of overall costs (i.e., approximately $9,700 out of a total of $55,000, or 18 percent). Due to missing data, we were unable to compare the costs to prepare victim impact statements across the State. Again, however, the variability in reported costs in these districts led us to conclude that a problem may exist.

Administrative Funding Issues Are Long-Standing

In a 1994 Performance Audit of the Office for Victims Programs, we recommended that the Division develop procedures to monitor and report on the administrative funding needs of individual victim compensation and VALE programs. The Division and the Colorado District Attorneys Council both agreed to implement this recommendation. During our current audit, we conducted procedures to determine the status of this recommendation and found it was not fully implemented. Although the Division now requires districts to submit annual reports detailing administrative fund expenses for their victim compensation and VALE programs, staff do not perform extensive analysis of these reports. Further, information regarding the administrative expenses related to local victim compensation programs is not routinely communicated to the Victims Compensation and Assistance Coordinating Committee for its review.

Variable Expense Tracking and Reporting at the Local Level May Explain Costs Differences

The absence of consistent expense tracking and reporting standards is likely responsible, at least in part, for the variances we observed with regard to administrative costs. However, significant cost variances may also signal the need for some districts to institute more efficient claims-handling or victim impact statement preparation processes.

Insufficient guidance may also be the reason why month-end administrative fund balances are high (i.e., districts may not be correctly identifying all the costs associated with operating their programs). Alternatively, high administrative fund balances may indicate that the statutory funding percentages for these programs need to be reduced.

Statutes do not provide specific guidance regarding the types of costs considered to be reasonable in administering a local victim compensation or VALE program. The Division has developed some guidance in the victim compensation program area, but there is no requirement for districts to follow this guidance. Regulations require only that the district attorney and the court administrator develop an agreement regarding the use of administrative funds.

In the area of VALE programs, the only guidance that currently exists regarding administrative funds is a 1999 legal opinion from the Colorado District Attorneys Council. This opinion broadly established what the Council believed to be allowable administrative expenses (e.g., the cost of postage, stationery, envelopes, and the printing of forms necessary to produce victim impact statements). Because the reports submitted by the districts vary in content and format, we were unable to determine if districts were deviating from these guidelines. The Division has not established any additional guidance regarding the use of VALE administrative funds.

The Division and the Victims Compensation and Assistance Coordinating Committee should work together to develop standardized expense tracking and reporting approaches, including guidelines that clearly define reasonable administrative expenses. The Division should also periodically analyze administrative cost information to identify problem areas, such as inconsistent expenses and excessive balances. This type of analysis should also be used to determine whether changes are needed in the statutes, such as a reduction in the current administrative funding percentages for these programs. If changes are needed, the Division should work with the General Assembly, local programs, and other interested parties to facilitate this process.

Recommendation No. 16:

The Division of Criminal Justice should work with the Victims Compensation and Assistance Coordinating Committee to improve accountability over the use of administrative funds associated with victim compensation and local VALE programs by:

- Developing standardized expense tracking and reporting guidelines. These guidelines should also clearly define what constitutes a reasonable administrative expense.
- Periodically analyzing administrative cost information and presenting the results to the Victims Compensation and Assistance Coordinating Committee.

- Working with the General Assembly and others to determine if the administrative percentage allowed to the judicial districts is appropriate.

Division of Criminal Justice Response:

Agree. Guidelines currently exist for the use and accountability of administrative funds. For victim compensation the *General Guide to Appropriate Expenditures for Administration of Crime Victim Compensation Programs*, developed jointly with the Colorado District Attorneys Council, the Division of Criminal Justice and the State Judicial Branch, along with the victim compensation statute Section 24-4.1-117 (5), C.R.S., provide significant guidance on how to use these funds. For local Victim Assistance and Law Enforcement Funds (VALE), state statute Section 24-4.2-103 (4), C.R.S., and the 1999 legal opinion from the Colorado District Attorneys Council provide significant guidance on how to use local VALE administrative funds. This request for a legal opinion was sought from the District Attorneys Council upon the advice of the Attorney General. The Division will work with the Coordinating Committee and the local compensation coordinators and local VALE coordinators to review current procedures and will develop a standardized expense tracking tool which will help further guide districts on what constitutes a reasonable administrative expense.

The Division of Criminal Justice currently monitors and analyzes administrative cost information through the use of the *Standards for the Administration of Crime Victim Compensation Programs* and the *Standards for the Administration of Victim Assistance and Law Enforcement (VALE) Programs.* In addition, per Section 24-4.2-108 (2), C.R.S., the Coordinating Committee currently receives an annual report detailing all financial and programmatic aspects of local VALE funds along with a detailed report of the local VALE administrative funds. While state statute does not require a similar report be done for victim compensation, the Division agrees this type of report and analysis is appropriate and is currently being compiled. The first such report for victim compensation information should be completed by August 31, 2001. The Division of Criminal Justice agrees to improve communication with the Victims Compensation and Assistance Coordinating Committee with regard to the use of administrative expenses.

The Division will work the Victims Compensation and Assistance Coordinating Committee and the local compensation and VALE coordinators to analyze the administrative percentage allowed to the districts to determine if it is appropriate.

Victim Compensation Application Forms Vary Among Districts

Each of Colorado's 22 judicial districts currently has a unique victim compensation application form that individuals must fill out and submit to the local district attorney's office in order to be considered for an award. The Division's standards allow the districts to develop their own individualized applications but require applications to include specific components. In addition to victim information, all applications must include the following elements:

- Date and type of crime.
- Agency to which the crime was reported.
- Itemized documentation of compensable expenses.
- Disclosure of insurance coverage.
- Written authorization for release of information from service providers.
- Statement regarding a victim's ability to request an appeal of the board's decision and information regarding specifics of the appeal process.
- Statement regarding a victim's statutory right to have the board's decisions reviewed by the district court upon denial of an appeal.

We reviewed each district's victim compensation application form to measure compliance with the Division's standards and found:

- 14 of the 22 applications (64 percent) did not include all of the Division's required elements.
- Only eight of the applications included a statement that informs victims of their statutory right to have the board's decision reviewed by the district court upon denial of an appeal.

We also found that some application requirements cause victims unnecessary inconvenience. For instance, two districts require a notarized signature of the applicant on their claim forms.

A Standardized Victim Compensation Application Should Be Developed

Although Colorado's victim compensation system is designed to allow for local control, the lack of standardization within the victim compensation application process has several negative effects. For example, Section 24-4.1-303 (10), C.R.S., requires law enforcement agencies to provide victim compensation information to individuals at the first point of contact. Because some law enforcement agencies have jurisdictions that cross judicial district boundaries, officers must carry multiple applications and must be familiar with the particulars of multiple application processes. This creates situations where officers are more likely to make mistakes in getting victims the correct application and/or directing them toward the appropriate agency to make a claim. This, in turn, could negatively impact a victim's ability to access services in a timely manner. A standardized application form would eliminate this problem. Adopting a standardized application form would also be an easy way to ensure that victims receive consistent and comprehensive information no matter where they live in the State. It would also eliminate the need for the Division to monitor application-related requirements at the local level.

We found other states that have standardized their victim compensation application on a statewide basis. For example, even though victim compensation services are decentralized in Arizona, this state uses a standardized victim compensation application in all counties. The application is also posted on the Arizona Criminal Justice Commission's Web site to provide easy access from anywhere in the State. This is an action that Colorado could also take if it had a single standard application form.

According to Division staff, Colorado's local victim compensation program coordinators have agreed to create a standard application that will be placed on the Internet and used *in addition* to the existing district-level applications. Although we agree that a standardized application is needed and commend the Division's efforts in this area, we believe that the Division and the Victims Compensation and Assistance Coordinating Committee should be working toward the adoption of a *single*, standardized application that replaces the local applications, not toward the development of an additional application. Having to fill out two forms will only further inconvenience victims seeking compensation and add delays to the awards process.

Recommendation No. 17:

The Division of Criminal Justice should work with local victim compensation programs and the Victims Compensation and Assistance Coordinating Committee to create a standard application for all victim compensation programs that sufficiently addresses established standards. The Division should further post the application on the Office for Victim Programs Web site.

Division of Criminal Justice Response:

Agree. The Division of Criminal Justice will work with the Victim Compensation and Assistance Coordinating Committee and the local victim compensation coordinators to resolve variations in district applications by creating a standard victim compensation application. The Division, along with the local compensation administrators, has already developed a standard application for the Division's Web site to be used by Colorado victims of crime living outside the State and those within the State who have access to a computer. The Division will use this existing application as a starting point for the creation of a standard application and will ensure that it addresses established standards.

Alternative Application Processes Should Be Available

During our review Division staff told us that victims in some rural areas may be underserved because of privacy concerns. Specifically, staff reported that some victims may not apply for compensation through their local board because they feel uncomfortable disclosing the detailed information needed for application to board members or others who may personally know them. Division staff suggested that there is an informal practice already in use in some areas of the State that may alleviate these concerns. Some boards allow a board in an adjoining district to review compensation applications in cases where victims have privacy concerns. We believe the Division could improve victim services by working with the local victim compensation programs and the Victims Compensation and Assistance Coordinating Committee to establish a policy that would formally allow this practice on a statewide basis.

Recommendation No. 18:

The Division of Criminal Justice should work with the local victim compensation programs and the Victims Compensation and Assistance Coordinating Committee to improve access to victim compensation services by establishing a policy that allows individuals to apply to an alternative board in certain cases.

Division of Criminal Justice Response:

Agree. Although the Division knows of no reported instance where a victim either did not file a claim or expressed hesitancy to do so, the Division agrees that this could be an obstacle for victims in filing for compensation. The Division is aware that many local compensation programs currently have an informal policy in place that allows for claims to be transferred to other jurisdictions for decision-making purposes when conflict of interest issues arise. The Division will work with the Victim Compensation and Assistance Coordinating Committee and the local compensation administrators to establish a policy that will allow victims to apply to alternative boards when necessary.

Evaluation of Actions Taken on Prior Performance Audits

Chapter 5

Overview

As part of our current audit we reviewed the implementation status of selected recommendations made in two prior performance audits (i.e., the November 1993 Community-Based Corrections System Performance Audit and the May 1994 Victims' Services Follow-Up Performance Audit). We reviewed the status of eight recommendations contained in these reports. The Division either fully or partially agreed to implement all of the recommendations we selected for review. Specific information regarding the implementation status of each of the recommendations included in our follow-up review is shown after the following section.

Improved Oversight Is Needed to Ensure Audit Recommendations Are Fully Addressed

Overall, we found that the Division has fully implemented only one of the eight recommendations we selected for review (12.5 percent). Four additional recommendations are in progress (50 percent), two recommendations are not implemented (25 percent), and one recommendation is no longer applicable (12.5 percent). Given the Division's initial agreement with the recommendations and the fact that several years have passed since the release of these audits, we anticipated more recommendations would be fully implemented. Instead, our review showed that the Division needs to initiate a number of actions if it is to fully implement the recommendations which remain unaddressed. Our disposition report on each recommendation provides more information about the tasks that are still at hand. Issues from the prior audit reports that are still relevant and applicable to our current audit work are also discussed in other sections of this report, where appropriate.

The Division does not have formal processes in place to ensure audit recommendations are addressed in a timely and complete manner. Instituting more formalized oversight and

accountability mechanisms will help ensure audit recommendations are addressed in an appropriate manner in the future. Possible improvements include developing a formal corrective action plan that outlines the specific actions needed to ensure recommendations are fully addressed. The Division should also formally assign responsibility for implementing individual audit recommendations to the appropriate management staff and then use progress in this area as a factor in its performance evaluation process.

Recommendation No. 19:

The Division of Criminal Justice should institute improved oversight and accountability processes to ensure audit recommendations are addressed in both a timely and a complete manner.

Division of Criminal Justice Response:

Agree. Effectively immediately, the issue of timely audit compliance will be placed on the Division's management meeting agenda on a quarterly basis. This practice institutes an accountability factor that should ensure adherence to this recommendation. Further, compliance with the responses noted herein will be made a part of each affected unit manager's yearly performance management goals. The coupling of an agency checkpoint and personal performance management plans will produce a better compliance result from the Division Director through the entire staff.

Status of Individual Recommendations Selected for Follow-Up Review

November 1993 Community-Based Corrections System Performance Audit

1993 Recommendation No. 2:

The Judicial Department, Department of Corrections, and the Division of Criminal Justice should improve their ability to assess long-term outcomes of the community-based corrections system by:

a. Working jointly to develop outcome measures that span agency barriers. This may include performing periodic longitudinal studies of offender recidivism that cross agency barriers.

b. Using this information to assess which program options are the most effective and cost-efficient in producing future law-abiding behavior.

1993 Division of Criminal Justice Response:

Agree. These measures should be developed. However, the measures should not be limited to community-based corrections. More clearly defined public policy objectives should be used to measure institutional-based and community-based correctional programs. Developing these measures should be included in the plans and progress reports referenced in the first recommendation. This will not be easy. Conflicting public policy and a high degree of autonomy and discretion makes consensus difficult on desired outcomes, complex nature of comparing different programs, settings, etc. We will seek additional FTE for this purpose.

Division of Criminal Justice Status (January 2001):

The Division agreed with this recommendation but further noted that this is difficult to do given the differences in programming, settings, and policies. DCJ has conducted recidivism studies on community corrections in the past; however, without dedicated appropriations, recidivism studies are costly because they require intensive staff time.

In Fiscal Year 2000 the Office of Research Statistics at DCJ applied for and received a federal grant to conduct a recidivism study on community corrections. The field research has been collected and the results of this study should be available in May 2001.

In addition, DCJ and the Department of Corrections have been conducting an evaluation on the effectiveness of community-based Intensive Residential Treatment (IRT), Drug Abuse Residential Treatment (DART), and Short-Term Intensive Residential Treatment (STIRT). This is a three-year study. Preliminary data are expected to be available by May 2001. We hope that studies of this nature will be able to tie accurate assessment and appropriate treatment interventions directly to effective programs.

Office of the State Auditor Disposition (May 2001):

In Progress. The previous audit recommendation was aimed at getting the various agencies involved with Colorado's criminal justice system to cooperate in the development of long-term, cross-agency measures of offender success. Since the audit, the Division has been involved with two studies that address the recommendation, at least in part. For example, in May 2001 the Division completed a study of the recidivism rates of offenders who successfully terminated from a community corrections program in Fiscal Year 1998. The study found that 31 percent of these offenders had new felony or misdemeanor charges filed against them within 24 months of successfully terminating from a program. Although this study is limited to only offenders placed in community corrections, it does provide some insight as to the longer-term success of a certain population of offenders within Colorado's criminal justice system.

The Division is also currently working with the Department of Corrections on a three-year study of several intensive residential treatment programs. Although this study addresses the audit recommendation in terms of its cross-agency involvement, its focus is on shorter-term success (e.g., six months after program completion).

In addition, the Division is currently a member of the Multi-Agency Review Team (MART), which includes officials from the Judicial Branch, the Department of Corrections, and the Department of Human Services. The MART is a response to several legislative requests to identify and evaluate performance and outcome measures in Colorado's community-based criminal justice programs.

We commend the Division on its recent efforts to address this recommendation and urge it to continue working with other criminal justice agencies to develop more comprehensive cross-agency measures of long-term offender success.

1993 Recommendation No. 3:

The Division of Criminal Justice should improve its ability to measure program performance by ensuring that stated goals link to measurable objectives and that objectives tie to quantifiable performance measures.

1993 Division of Criminal Justice Response:

Agree. The Division of Criminal Justice will review current performance measures to ensure linkage to stated goals and objectives. This process will require coordination with other state agencies (related to Recommendations No. 4 and No. 5), as well as with service providers and budget committees and staff.

Division of Criminal Justice Status (January 2001):

The Division agreed that measures should be linked to stated goals and objectives. The database for community corrections collects important information about offenders while they are participating in community corrections programs. Over the last several years, DCJ has conducted training at the programs to ensure that staff at these facilities are completing the forms in an accurate manner. It is critical that staff understand how the information on these forms is used and can be tied to program performance.

While many of our goals and objectives can be impacted by outside influences such as sentencing practices, policy changes, community corrections boards' acceptance criteria, and program tolerance of offender behavior, DCJ has also tried to identify goals and objectives that can be specifically measured, such as education level at intake and termination, payments made to restitution, federal and state taxes, and subsistence. After this recommendation was made, we also added an area on urinalysis testing and the impact this testing has on offenders during program participation. DCJ now requests data on entrance and exit urinalysis tests and on the number of positive tests each offender had during his or her stay. We would hope to show little or no drug use during the length of stay. During the last year or so, an area was added to capture offender needs assessment scores. This will enable DCJ to audit treatment received against criminogenic needs identified in the assessment process. In conjunction with our onsite audits and the Correctional Program Assessment Inventory (CPAI), these data elements should enable us to predict program success in the future.

Office of the State Auditor Disposition (May 2001):

Not Implemented. There are two key documents that report performance information on the Division's community corrections program: (1) the Department's annual budget request document, and (2) an Annual Statistical Report that the Division publishes, which is entitled *Community Corrections in Colorado*. Upon reviewing the Department's Fiscal Year 2002 budget request, we found that the linkages between program objectives and measures were still weak in several areas. Further,

we noted that several measures had no data showing actual performance, other measures added little value in terms of providing important performance information, and one performance target appeared to be unreasonable given past experience. Upon reviewing the second document, we found that although this report contains a great deal of information that could be used to assess program performance, it is not presented in such a way that it truly serves as a performance measurement mechanism. That is, the Annual Statistical Report compiles data on a variety of subjects (e.g., offender escapes while in community corrections, successful termination rates), but it does not establish associated performance goals (e.g., reduce offender escapes by X percent). We also noted that the Division does not always publish this report in a timely manner, which also limits its usefulness. See current Recommendation No. 10 for further discussion of these issues.

1993 Recommendation No. 6:

The Division of Criminal Justice should continue to identify and utilize methods to measure provider and offender success in community corrections. This includes identifying mutually agreed-upon success measures, establishing reporting mechanisms, and conducting audits to ensure reported performance data are valid.

1993 Division of Criminal Justice Response:

Partially agree. The Division agrees that performance data collection and monitoring procedures for service providers should continue to be expanded and improved. Such information is valuable for state policy makers, referral agencies, and community corrections boards and programs. However, the assumption that the State (DCJ) may continue to contract with marginal or poor providers based on the State's conclusions from these data or monitoring efforts conflicts with one of the original approaches of community corrections in Colorado. That approach strongly values local control of programs with local service providers selected by units of local government and/or local boards. DCJ has developed program standards and completed a first round of audits to measure compliance with the standards. The Department of Public Safety (DPS) is also beginning fiscal audits to verify program costs and budget information. Summary discharge information has also been collected for offenders leaving residential programs since 1987. DPS and DCJ intend to continue and expand these efforts as administrative resources allow, but believe that vendor selection must continue to be primarily a function of local officials. We will seek additional FTE for this purpose.

Division of Criminal Justice Status (January 2001):

The Division partially agreed with this recommendation. DCJ conducts program audits that measure compliance with the community corrections standards, Colorado Revised Statutes, and contract requirements. The Division also requires annual independent financial audits of each program. During the past two years, the DCJ Community Corrections staff have been trained in the Correctional Program Assessment Inventory (CPAI). The premise of the CPAI is that effective offender programming and treatment results in positive outcomes. This assessment identifies areas in which programs may be weak or strong. The CPAI measures a program in areas such as agency and staff qualifications, client assessment, program characteristics, evaluation, and a category called "other" which includes record keeping, changes in the agency that could affect services, community support, and ethics. Programs can then begin to make improvements. If the agency has been responsive to the initial report in the CPAI process, a subsequent CPAI would be able to measure the change. With the use of this instrument, the Division will be able to better demonstrate the link between appropriate treatment and effective programs.

DCJ Community Corrections staff have also developed a more aggressive schedule for the auditing of programs. The staff hopes to be able to audit all programs every two years. In our budget request, we asked for, but did not receive, additional travel dollars to enable us to accomplish this goal. At the very least, we hope to be able to do some kind of onsite visit to every program over the two-year period. This may take the form of a follow-up visit, a "surprise" limited scope review, or (in some cases) a limited scope audit based on a complaint or other special circumstance.

Office of the State Auditor Disposition (May 2001):

In Progress. At the time of the prior audit, there were several problems in the Division's methods for collecting information on both individual offender success and the performance of local programs. For example, some programs were not regularly submitting community corrections client information forms to the Division. These forms are the Division's main data collection instrument for gauging offender success. Data from these forms are compiled in the Division's Annual Statistical Report entitled *Community Corrections in Colorado*. Further, at the time of the previous audit, we observed that the Division's audit and other monitoring processes were not producing a steady stream of information that could be used to judge the performance of local programs.

Overall, we believe that the Division has made some progress toward implementing this recommendation. For example, Division staff report that programs are now doing a better job of submitting the community corrections client information forms as required; however, we noted that the process for submitting these forms is cumbersome and inefficient. In addition, Division staff stated that client information forms routinely contain errors that need to be corrected before the data can be compiled for the Annual Statistical Report. See current Recommendation No. 10 for further discussion of this issue.

We also observed that the Division's standards compliance audit process continues to have several problems. See current Recommendation No. 5 for further discussion of this issue. In addition, we noted that the Department no longer conducts financial audits of community corrections programs, thereby eliminating another oversight opportunity. Requiring programs to obtain an annual independent financial audit provides some assurance that programs are adhering to certain basic financial management principles. It is unlikely, however, that these audits are as thorough as the audits that the Department used to conduct. We did observe that the Division recently instituted a new oversight mechanism—the Correctional Program Assessment Inventory (CPAI)—which has promise as an effective oversight device. We encourage the Division to continue using this tool as one of its methods for monitoring the performance of local community corrections providers, while making improvements to the other parts of its monitoring process.

1993 Recommendation No. 7:

The Division of Criminal Justice should work with the Joint Budget Committee and community corrections providers to improve the ability to compensate providers for positive outcomes, specialization, and other program factors by:

a. Developing a pilot project that tests various options for compensating community corrections providers.

b. Using the results of the pilot project to identify ways to improve the current reimbursement system. The Division should pursue legislative changes, if necessary, to implement this recommendation.

1993 Division of Criminal Justice Response:

Agree. The Division concurs that new approaches to funding should be attempted to provide more flexibility for service providers, with incentives for improving

performance. DCJ has explored this concept with local boards and programs and received mixed reactions. DCJ proposes experimenting with "block grants" with a few selected jurisdictions during Fiscal Year 1995 and Fiscal Year 1996 that tie negotiated outcomes to funding. DCJ would still expect detailed program and budget descriptions of services to provide accountability and audit measures. With assistance from the Community Corrections Advisory Council appointed by the Governor, this new funding concept could be developed and evaluated for possible statewide implementation over the next five years.

Division of Criminal Justice Status (January 2001):

Although DCJ agreed with this recommendation, initiating block grants did not prove to be feasible within the allocation structure of community corrections. The Joint Budget Committee has made some alternative recommendations on the allocation process. DCJ and the Department of Corrections have implemented those recommendations whenever possible. These recommendations include the Department of Corrections' policy for placing 10 percent of the total prison population in community supervision, 6 percent in community corrections, and 4 percent on Intensive Supervision Parole; and DCJ has requested diversion beds based on a three-year historical use average. In addition, the Governor's Community Corrections Advisory Council, through a subcommittee, has been exploring the use of differential per diem rates for serving special populations such as female offenders, substance abusing offenders, mentally ill offenders, and sex offenders.

Office of the State Auditor Disposition (May 2001):

In Progress. Differential per diem reimbursement rates are now being paid to some community corrections providers on the basis of program specialization (e.g., CIRT and Boot Camp). Even so, we believe that more should be done in this area. As the Division's status report notes, the Governor's Community Corrections Advisory Council is looking into the possibility of establishing differential per diem rates for serving special offender populations. We encourage these efforts and urge the Division to continue working with the appropriate parties to facilitate this change.

We also encourage the Division to explore the feasibility of incorporating certain performance elements into its contracts with local boards and programs. Currently there is no financial incentive for programs to provide high-quality services, since compensation does not vary as a result of performance. See current Recommendation No. 9 for further discussion of this issue.

1993 Recommendation No. 8:

The Department of Public Safety should ensure community corrections provider reimbursement rates are based on accurate information by:

a. Continuing to perform comprehensive audits of provider-submitted budget information.

b. Expanding its audit function to ensure that all providers are audited on a regular basis.

1993 Department of Public Safety Response:

Agree.

a. The DPS will continue to perform comprehensive financial and compliance audits which include the verification of budget and other program information submitted with the "Exhibit A" contract attachment.

b. The Internal Audit Office at DPS will develop an audit plan which addresses audit frequency and submit a budget request to add additional FTE to the audit staff.

Department of Public Safety Status (January 2001):

The Department agreed initially with this recommendation but performing "comprehensive" financial audits is a massive job for one person to do. The Department had further stated it would request additional FTE to accomplish this task. The Division, in the meantime, began to request annual independent financial audits from each community corrections provider. These financial audits are routed to the Department's internal audit office. The Division has also improved the process for auditing "Exhibit A's" for the necessary documentation as they are submitted during the contract process. In addition, DCJ staff audit billing statements for accurate information before payment and during onsite performance audits.

Office of the State Auditor Disposition (May 2001):

No Longer Applicable. The Joint Budget Committee no longer uses provider budget data in its process for setting per diem reimbursement rates. Therefore, there is no need for the Division or the Department to verify the accuracy of this information.

1993 Recommendation No. 16:

The Division of Criminal Justice should work with community corrections providers to develop strategies that ensure ability to pay does not prevent offenders from obtaining needed treatment.

1993 Division of Criminal Justice Response:

Partially agree. The Division agrees that treatment is not always provided in a timely manner. This problem also occurs in probation, parole, and prisons. Public policy and public expectations of correctional services during the past decade have not emphasized treatment. For example, of the 1,543 community beds funded statewide, only 65 are at higher rates to support intensive substance abuse treatment. Surveillance, punishment, and incapacitation have been stressed (and funded) more than treatment. Service agencies such as mental health and substance abuse, even when supported with public funds, have often resisted serving offender populations. Consequently, treatment must be frequently paid by offenders themselves. Most offenders have limited resources and they are also required to pay other fees and restitution as criminal sanctions. DCJ supports the resurgent interest and support of offender treatment as an effective approach to reduce crime. DCJ program standards require timely assessment, and development and implementation of individualized treatment plans. Through the second round of standards compliance audits during the next three years, DCJ will identify programs that do not meet standards pertaining to offender treatment and require corrective action plans. But until public policy and resource allocation are more clearly focused on offender treatment, some delays in delivery of offender treatment will likely continue. DCJ will develop a formula for possible adoption by programs related to ability to pay.

Division of Criminal Justice Status (January 2001):

The Division partially agreed with this recommendation but pointed out that until resources follow offenders into programs, the "ability to pay" will be an issue. Over the last several years, however, the State has made some significant improvements to fund offender substance abuse treatment through the Drug Offender Surcharge Fund. Many community corrections offenders have benefitted from this funding pool through the increase in Intensive Residential Treatment beds for diversion offenders in Alamosa and Greeley, specialized services for women at the Haven and the Residential Treatment Center in Greeley, the addition of 30-day treatment beds in the DART Program in Denver, and extended drug treatment services for offenders at the Day

Reporting Center. The Joint Budget Committee also authorized the Specialized Offender Services Fund, which has been targeted for use to treat violent offenders (sex offenders, domestic violence offenders, assault perpetrators) and some offenders with serious mental health issues in the community corrections programs.

Office of the State Auditor Disposition (May 2001):

Not Implemented. It appears that ability to pay is still negatively affecting some offenders' ability to access treatment services in a timely manner. We reviewed case files for 20 offenders who were in a Metro-Area community corrections program in March 2001 to determine whether these individuals were assessed in a timely manner and then subsequently placed in an appropriate treatment program within a reasonable time frame. When timeliness problems were identified, we did further research to determine the reasons for the delay. We found that although this program was doing a good job of assessing offenders in a timely manner, delays were still apparent with regard to actual placement in a treatment program. We noted four cases where over two and one-half months elapsed between the date an offender was admitted to the program and when he or she finally entered treatment. Two of the case files we reviewed showed clear evidence that ability to pay was a factor in accessing appropriate and timely treatment. The Division needs to work with local boards and programs to identify more effective ways to address ability-to-pay concerns where they now exist.

May 1994 Victims' Services Follow-Up Performance Audit

1994 Recommendation No. 3:

The Division of Criminal Justice should perform a reconciliation of redistribution figures reported to the Judicial Department with quarterly financial activity figures reported to the Division of Criminal Justice.

1994 Division of Criminal Justice Response:

Agree. The Department will work with the Judicial Department to ensure that an appropriate policy is developed.

Division of Criminal Justice Status (January 2001):

Once a year in November, following the end of the fiscal year, the Judicial Department sends DCJ financial activity reports from all 22 judicial districts. The reports outline each district's state collections, recoveries, and expenditures. Each section of the report is then reconciled with the figures that were reported to DCJ for the same time period. In addition, the Judicial Department has begun to send this same information on a monthly basis allowing DCJ staff to track fund balances more closely throughout the year.

Office of the State Auditor Disposition (May 2001):

Implemented. The Division and the Judicial Branch have developed a reconciliation process as recommended in the previous audit report. For more information about additional improvements that we are now recommending regarding the redistribution process, see current Recommendation No. 15.

1994 Recommendation No. 7:

The Division of Criminal Justice should develop procedures and forms to monitor and report:

a. Case-specific waivers and payment patterns.

b. Crime victim compensation fund balances, revenues, expenditures, and recoveries.

c. The amounts of VALE funds spent for separately identified victims assistance, law enforcement, and administrative expenditures.

d. The fairness and consistency of program appeals processes.

e. Administrative funding needs for individual programs.

1994 Division of Criminal Justice Response:

Agree. The Department believes that it can develop effective monitoring procedures to examine and report on all of the issues included in the recommendation. The Department will work with local programs to determine the most expedient methods

of collecting necessary information without overburdening limited local resources. It is likely that this and other recommendations may require additional resources within the Division of Criminal Justice.

Division of Criminal Justice Status (January 2001):

Staff in the Division's Office for Victims' Programs monitor both victim compensation and local VALE programs for compliance with the reporting requirements identified in this recommendation. Forms have been developed by the Office for Victims' Programs to track this information or the local programs include this information in their administrative process. The information is summarized and provided to the boards for review. Staff in the Office for Victims' Programs make recommendations and provide technical assistance when it is necessary.

a. In 1998 the victim compensation and VALE standards were updated. These updated standards were effective January 1, 1999, and districts had one year to come into compliance. In the new standards districts are required to identify in their minutes any claims approved, denied, or reduced for "good cause" or in the "interest of justice" and any claim brought to the board for appeal. Recording this information in the minutes allows DCJ staff to review case-specific waivers and the fairness of program appeals processes when conducting site visits.

   The issue of compiling and analyzing district-specific payment limits has also been addressed. DCJ compiles a compensation payment policy guide every other year. This guide lists the specific payment limits of each district and is widely distributed around the State for districts to use when reviewing their own polices (districts are required to review their policies at least semi-annually).

b. The financial activity report (DCJ 11) has not been changed to date. However, DCJ will be working closely with the Judicial Department over the next two years to overhaul the financial guide for court administrators and could review the DCJ 11 forms at this time.

c. This information is summarized yearly according to the audit requirements.

d. With the revised standards, districts are required to: have a written policy describing their appeals process, to state a specific reason why a claim is denied or reduced, to inform the applicant in writing of the right-to-appeal process, to give the applicant the time frame within which the board will review the claim and make a decision, and to notify the applicant of the ability to have the board's decision

reviewed in accordance with the Colorado rules of civil procedure if the claim is denied after the appeal. In addition, programs are required to include information about the appeals process in their compensation applications.

e. As part of the onsite monitoring visits, DCJ staff requests information on how the compensation program is funded. Many programs are still funded through a combination of sources, including administrative funds, even though the administrative allotment for district attorneys was raised from 8 to 10 percent in 1998.

Office of the State Auditor Disposition (May 2001):

In Progress. The standards promulgated in 1998 and the Division's current program monitoring processes do address some of the concerns noted in the previous audit. With respect to the individual parts of the recommendation, we found the following:

a. Standards now require boards to document claims decisions in their minutes, and the Division reviews compliance with this requirement through its monitoring processes. Further, the Division is now periodically compiling and disseminating information about districts' payment policies (e.g., maximum awards by claim type). Although this shows progress since the prior audit, further improvements are possible. For example, the Division's current activities in this area are focused on data compilation, not data analysis. The Division could improve its performance in this area by conducting more state-level comparisons and then conveying the results of the analysis to the Victims Compensation and Assistance Coordinating Committee for its review and comment.

b. The Division now requires local victim compensation programs to periodically report a variety of financial information (including the items noted in the previous audit report) via its DCJ Form 11. Even so, classification and reporting problems still exist because the instructions for filling out this form have not changed since the audit. The Division needs to work with the Judicial Branch and local programs to improve guidance in this area.

c. This information is compiled and summarized each year as recommended. During our current audit, however, we noted that accounting for administrative expenditures is inconsistent across the State. The Division should work with the Judicial Branch and local programs to develop a standardized reporting approach in this area. See current Recommendation No. 16 for further discussion of this issue.

d. Standards now require local boards to have written, well-publicized appeals policies, and the Division reviews compliance with this requirement through its monitoring processes. Although these are both improvements, neither speaks to the issue originally brought forth in the audit report (i.e., whether local-level appeals processes are fair and consistent across the State). The Division needs to do more analysis in this area to determine if this is actually the case.

e. During our current audit we found that administrative funding for both local victim compensation and VALE programs is still problematic. The Division does require local programs to report various data related to their use of administrative dollars; however, this information has not been subject to any type of systematic review. See current Recommendation No.16 for further discussion of this issue.

Appendix A

Selected Data Related to States With Internet Sex Offender Registries					
State	**Total State Registry**	**Sex Offenders Listed on Internet and Percentage of Total Registry**		**Abscond/Out of Compliance Number & Percentage**	
AL	3,300	1,800	55%	45	1%
AZ	10,976	1,205	11%	787	7%
CO	8,653	1	0	n/a	n/a
DE	1,720	846	49%	n/a	na/
FL	21,780	21,780	100%	859	4%
HI	1,802	1,600	89%	75	4%
IL	16,677	16,427	99%	4,361	26%
IN	6,347	6,347	100%	824	13%
IA	3,953	848	21%	999	25%
KS	2,343	1,401	60%	126	5%
LA	5,708	1,992	35%	46	1%
MI	26,272	13,883	53%	847	3%
NE	1,130	83	7%	86	8%
NM	1,050	850	81%	15	1%
NC	5,915	5,908	99%	58	1%
SC	5,016	5,016	100%	n/a	n/a
TN	4,602	800	17%	1,712	37%
TX	49,778	29,495	59%	2,500	5%
UT	5,192	5,192	100%	1,790	34%
WV	1,745	325	19%	27	1%
WY	691	57	8%	217	31%
Source: OSA survey conducted in April 2001. This list is not exhaustive.					

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