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## *Legislative Performance Audit Committee*

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FOR IMMEDIATE RELEASE  
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October 11, 2018

### **Legislative Performance Audit Committee releases report on Violence and Staffing at Youth Rehabilitation and Treatment Center-Kearney**

*Committee to work with legislative committees to address findings*

An audit of the Youth Rehabilitation and Treatment Center-Kearney, released Tuesday by the Legislative Performance Audit Committee, found that juvenile justice-related reforms made in the 2013 and 2014 legislative sessions may have changed the population at YRTC-Kearney.

The main audit question was whether there had been an increase in violent incidents at YRTC-Kearney after juvenile justice-related statutory changes were made in 2013 and 2014. Taken together, audit findings show that violent infractions increased from fiscal year 2015 to fiscal year 2016, the first year these changes were in effect. Although it is not possible to prove that the legislative changes caused these increases, the timing suggests that they may have played a role.

Despite the increased numbers of violent incidents immediately following the statutory changes, from fiscal year 2016 to fiscal year 2018, there was a decrease in the number of staff assaults as well as total assaults at YRTC-Kearney. In their response to the audit, YRTC-Kearney administration credit this decrease to changes made in safety and security at the facility.

The audit also examined staffing at YRTC-K and found that while the facility was meeting federally-mandated staff-to-youth ratios, a significant amount of staff overtime was utilized to do so. The facility's response to the audit report, however, stated that staffing has improved: there has been an increase from 40 youth security staff in June 2016 to 70 in September 2018.

Sen. John Kuehn, chairman of the Performance Audit Committee said, "While the Performance Audit Committee is encouraged by the fact that staff assaults have decreased over the last three fiscal years, we're committed to working with the appropriate legislative committees to address the audit's findings to ensure that safety and staffing continue to improve at YRTC-Kearney."

The report is available on the Legislative Performance Audit Office's website: [nebraskalegislature.gov/reports/audit.php](http://nebraskalegislature.gov/reports/audit.php)





**Assessment of Violent Infractions  
and Staffing at the Youth  
Rehabilitation and Treatment  
Center-Kearney**

**Performance Audit Committee  
Nebraska Legislature**

October 2018

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***I. Committee Recommendations***



# **Audit Summary and Committee Recommendations**

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## **Audit Summary**

In 2013 and 2014, the Legislature passed LB 561 and LB 464, which were intended to expand and improve community-based services for juveniles statewide; ensure that juvenile courts send youth to the YRTC only after less restrictive, community-based treatment options had been exhausted; and encourage county attorneys to file more cases involving youth in juvenile courts. These changes were believed to have affected the population at the Youth Rehabilitation and Treatment Center-Kearney (YRTC-K), which houses young men placed there by a court.

Section I of the audit report provides an overview of the history behind YRTC-K and the youth that have resided there for the past six years. In reviewing this data, we found that, since FY2014, there has been a higher percentage of youth from rural Nebraska counties at YRTC-K as compared to the Nebraska population as a whole, which suggests that the juvenile justice-related legislative changes may have increased the proportion of YRTC-K commitment of youth from rural counties.

Section II discusses whether youth committed to YRTC-K post-legislative changes pose a higher risk for violence. We also examine whether there was an increase in documented incidents of misconduct, particularly violent infractions, following legislative changes. The audit found that while there was an increase in violent offenses that led to commitment over the entire time period reviewed, as there was a decrease after legislative changes, it appears that the legislation did not play a role in the increase.

Additionally, we found several measures that showed that youth violence at YRTC-K increased from FY2015 to FY2016, the first year most likely to have been impacted by the legislative changes. While the timing of that increase suggests the legislative changes may have played a role, other factors may also have played a role in the increase. However, we caution that as the majority of our analysis focused on incident report data from FY2014 to FY2016, this may not accurately reflect the current climate at YRTC-K.

Section III analyzes the level of staffing at the YRTC-K to determine if the staffing is sufficient to ensure the safety and security of the facility. We found that, while the facility is meeting the mandated staff-to-youth ratios required by the federal Prison Rape Elimination Act, a significant amount of staff overtime was utilized to do so. The section also provides a detailed look at selected former YRTC-K staff in order to determine whether they left for higher paying jobs. We found that most of the selected staff who left in 2016 did not leave for a higher salary; however, as the population of staff reviewed was small, this may not be representative of others that leave.

## **Committee Recommendations**

### *Section I: Youth Rehabilitation and Treatment Center-Kearney and Its Population*

**Finding:** Since fiscal year 2014, there has been a higher percentage of youth from rural Nebraska counties at YRTC-Kearney as compared to the Nebraska population as a whole, which suggests that the 2013 and 2014 juvenile justice-related legislative changes may have increased the proportion of YRTC-K commitment of youth from rural counties.

**Discussion:** The breakdown of youth at YRTC-K from metropolitan and nonmetropolitan—or rural—areas roughly tracks the population breakdown for the state for FY2012 and FY2013. However, for FY2014 through FY2017, the percentage of youth from rural counties at YRTC-K was roughly 10-15% higher than the percentage of youth in these counties statewide.

It is possible that the legislative changes in 2013 and 2014 played a role in the increase in the proportion of commitments of youth from rural counties, because those counties may have had fewer community services to be exhausted before youth were committed to YRTC-K. There could be other factors that affected these numbers, as well.

**Recommendation:** The Audit Committee will consult with the Health and Human Services Committee regarding the need for further research on rural youth committed to YRTC-K to determine whether increasing community-based, juvenile services in rural Nebraska would provide more appropriate placements for some youth currently at YRTC-K.

### *Section II: Youth Misconduct at YRTC-Kearney*

**Finding:** Predicting in advance how likely youth are to be violent once they are committed to YRTC-K would require a complex analysis that was beyond what could be done in this audit. We reviewed a single measure—the number of violent offenses that caused youth to be committed to YRTC-K between FY2012 and FY2017. While there was an increase in violent offenses that led to commitment between FY2012 and FY2017, there was a decrease between FY2015 and FY2016, the first year most likely to have been impacted by the legislative changes. This suggests that the legislation did not play a role in the increase.

**Discussion:** Our analysis of the offenses that led to youths being committed by a court to YRTC-Kearney showed the percentage of violent offenses increased from 30% to 41% of the total offenses from FY2012 to FY2017. While the percent of violent incidents that led to commitment at YRTC-K increased in both FY2015 and FY2017, there was a 4% decrease in FY2016—the first full fiscal year both legislative changes were in effect—that returned the percentage of violent offenses to what it was in FY2013 and FY2014.

**Recommendation:** None.

**Finding:** Our review of several measures of youth violence at YRTC-K showed that youth violence at YRTC-K did not necessarily increase from FY2012 to FY2016 but did increase from FY2015 to FY2016, the first year most likely to have been impacted by the legislative changes. While the timing of that increase suggests the legislative changes may have played a role, other factors may also have played a role in the increase.

**Finding:** Between FY2015 and FY2016, the proportion of youth who committed multiple violent infractions increased. However, the proportion also increased in earlier years during the review period. This suggests that the legislative changes either played no role in the increase or were only one of the factors involved.

**Discussion:** Our analysis shows increases in the following between FY2015 and FY2016:

- Total number of violent incidents went from 393 to 619;
- Percentage of total incidents that were violent went from 51% to 55%;
- Average number of violent incidents by youth that committed a violent infraction went from 3.9 to 5.4; and
- Youth assaults on other youth increased from 85 to 160 and assaults on staff increased from 81 to 202.

It is important to note, however, that since the jump in the number of assaults in FY2016, there was a substantial decrease in the number of staff assaults from FY2016 to FY2018— from 202 staff assaults to 161, which represents a 20% decrease. Due to this drop in the number of staff assaults, total assaults also decreased 9% during this time period.

**Recommendation:** The Audit Committee will consult with the Health and Human Services Committee about whether sufficient safeguards exist to provide reasonable levels of protection for youth and staff within the facility and to the public.

Additionally, the Audit Committee will consult with the Judiciary Committee regarding whether it is appropriate for a single facility to house both a large proportion of youth who have committed no violent incidents and a small proportion of youth who have committed many such incidents.

### *Section III: Staffing at YRTC-Kearney*

**Finding:** YRTC-Kearney is in compliance with the Prison Rape Elimination Act's staff-to-youth ratios, as required by federal law. To meet these ratios, however, YRTC-K had to rely heavily on staff overtime.

**Finding:** An increase in staff assaults at YRTC-Kearney and the lack of statutory protection for facility staff may affect the perception of staff safety at YRTC-Kearney.

**Finding:** Most of the Youth Security Specialist staff who left in 2016 did not leave for a higher salary. However, as the population reviewed was small, this may not be representative of others that leave.

**Discussion:** As of this report writing, YRTC-Kearney is meeting the mandated staff-to-youth ratios required by the federal Prison Rape Elimination Act. There has been a significant use of staff overtime in order to do so.

In Section II of this report, we showed the overall rise in the number of staff assaults at YRTC-K. There is also a lack of heightened penalties for assaults against YRTC staff, which exist for correctional employees and police officers. The higher number of staff assaults coupled with the lack of statutory protection could affect YRTC-K staff's perception of their safety at YRTC-Kearney, which in turn could affect staff turnover rates.

Of the 13 YSS staff that left in 2016, only 3 left for higher paying positions; the other 10 former YRTC-K staff took a pay cut at their subsequent jobs. This is a small sample of the total population of YSS staff who have left and we caution that this information may not be representative of all staff that leave these positions at YRTC-Kearney.

**Recommendation:** The Audit Committee will consult with the Health and Human Services Committee regarding a more thorough study into the barriers to hiring and retaining YSS staff at YRTC-Kearney.

The Audit Committee will also consult with the Judiciary Committee regarding whether heightened penalty statutes should be amended to include YRTC-K staff to those individuals that are protected in statute.

***II. Legislative Audit Office Report***



*Legislative Audit Office Report*  
**Assessment of Violent Infractions and  
Staffing at the Youth Rehabilitation and  
Treatment Center-Kearney**

***October 2018***

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***Prepared by***  
**Stephanie Meese**  
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# INTRODUCTION

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In January 2016, the Legislative Performance Audit Committee (Committee) directed the Legislative Audit Office (Audit Office) to conduct an audit of the Youth Rehabilitation and Treatment Center in Kearney and Geneva (YRTC-K and YRTC-G), Nebraska's residential facilities for youthful offenders. The audit took longer than originally anticipated due to delays in data compilation and analysis.

The Committee initiated the audit amid concerns in the Legislature about the physical safety of youth and staff at the facilities. Lawmakers questioned whether violent incidents were on the rise at YRTC-K and YRTC-G and, if so, whether the increase correlated to juvenile justice reforms enacted by the Legislature in 2013 and 2014. A related question among legislators was whether the facilities were sufficiently staffed.

YRTC-K houses young men and YRTC-G houses young women. The facilities are operated by Children and Family Services, a division of the state Department of Health and Human Services (DHHS). The YRTC have been affiliated with DHHS since 1997, when the Legislature transferred control from the Department of Correctional Services.

After the Audit Office conducted preliminary research that suggested the most significant safety issues concerned YRTC-Kearney, the Committee decided to focus the audit on that facility.

Specifically, this audit answers the following questions:

1. Following the statutory changes regarding the types of offending youth placed at YRTC-Kearney, has there been an increase in aggressive or violent incidents by youth residing there and do the youth placed at YRTC-Kearney now pose a higher risk for such incidents?
2. Is the level of staffing at YRTC-Kearney sufficient to ensure the safety and security of the facility? If not, what are the barriers to the facility being adequately staffed?

Section I gives a brief history of YRTC-Kearney and a description of its residents. Sections II and III of the report address these questions.

We conducted this performance audit in accordance with generally accepted government auditing standards, with two exceptions based on statutory changes made in 2017. LB 210, introduced by the Legislative Performance Audit Committee, established guidelines for continuing education hours and peer review frequency that differ from government auditing standards. The new law authorizes the Audit Office to work with the Audit Committee to determine the appropriate number of hours of continuing education needed, in place of the requirement in the standards that each auditor obtain 80 hours every two years. Additionally, the bill allows the Office to have an outside peer review every five years rather than every three as the standards require. As required by the auditing standards, we assessed the significance of noncompliance with the continuing

education and peer review standards on the objectives for this audit and determined there was no impact.

LB 210 made no changes to the standards requiring that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on the audit objectives. The methodologies used are described briefly in each section.

We appreciate the cooperation of CFS and DHHS administrators and staff and external stakeholders during the audit. The Audit Office consulted with the Juvenile Justice Institute at the University of Nebraska at Omaha regarding data analysis in Section II of the report and we greatly appreciate their assistance.

## **SECTION I: Youth Rehabilitation and Treatment Center-Kearney and Its Population**

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In this section, we provide an overview of the history behind the Youth Rehabilitation and Treatment Center-Kearney (YRTC-K) and the youth that have resided there for the past six years.

### **Finding**

#### ***More Youth from Rural Counties at YRTC-Kearney Following Legislative Changes***

**Finding:** Since fiscal year 2014, there has been a higher percentage of youth from rural Nebraska counties at YRTC-Kearney as compared to the Nebraska population as a whole, which suggests that the 2013 and 2014 juvenile justice-related legislative changes may have increased the proportion of YRTC-K commitment of youth from rural counties.

The breakdown of youth at YRTC-K from metropolitan and nonmetropolitan—or rural—areas roughly tracks the population breakdown for the state for FY2012 and FY2013. However, for FY2014 through FY2017, the percentage of youth from rural counties at YRTC-K was roughly 10-15% higher than the percentage of youth in these counties statewide.

It is possible that the legislative changes in 2013 and 2014 played a role in the increase in the proportion of commitments of youth from rural counties, because those counties may have had fewer community services to be exhausted before youth were committed to YRTC-K. There could be other factors that affected these numbers, as well.

### **Analysis**

#### **Youth Rehabilitation in Nebraska**

In 1879, the Nebraska Legislature established a facility in Kearney for youthful offenders, which began receiving boys and girls in 1881. In 1882, the Nebraska State Reform School for Juvenile Offenders (as it was then known) became a boys-only facility; a girls' facility was established in Geneva that same year. The facilities underwent several name changes over the years before becoming the Youth Rehabilitation and Treatment Center-Kearney (YRTC-K) and the Youth Rehabilitation and Treatment Center-Geneva (YRTC collectively) in 1994.

On January 1, 1997, pursuant to LB 1044 (1996), the state of Nebraska removed the Office of Juvenile Services (OJS), which oversees the YRTC, from the Department of Correctional Services. LB 1044 merged several social services agencies and programs, including OJS, into the newly-created Department of Health and Human Services.

Legislators believed the merger would begin to address the fragmented social services system for children and youth, and address staffing issues and limited funding at OJS.

The primary mission of the YRTC is to offer youth opportunities for better lives and to instill in them respect for the laws of their communities. YRTC-K seeks to achieve these goals through programming, including classes on anger management, decision-making, and the development of social skills. YRTC-K also provides educational programming through West Kearney High School, which is accredited by the state Department of Education.

In 2013, legislators passed a bill to refine how the state responded to delinquent youth. LB 561 was intended by lawmakers to reorient the state juvenile justice system from a punitive to a rehabilitative, continuum-of-care treatment model. The bill reflected proponents' belief that courts were placing too many juveniles at the YRTC and that youth respond better to treatment programs in their communities rather than in the facilities. Legislators intended to make the YRTC the treatment option of last resort for at-risk youth.

### **YRTC-Kearney Commitment Process**

Youth may be committed to YRTC-Kearney only by judicial order. Although district (i.e. adult) court judges may commit youth to YRTC-K, the majority of placements are made by juvenile court judges. When a youth is assessed under the juvenile code, they are not convicted of a crime; instead, they are found responsible for a law violation. Youth can be committed to YRTC-K for a variety of offenses, both violent and non-violent. In FY2017, for example, assault was the most common offense that led to a youth's commitment to YRTC-Kearney, followed by theft, criminal mischief, and burglary (the offenses for which YRTC-K youth were found responsible are discussed in more detail in Section II of this report, and in Appendix C).

If juveniles are found responsible for a law violation, state law permits courts to commit them to the YRTC only if judges find the commitments are "a matter of urgent necessity" for the protection of the juveniles, or for the protection of other persons or property, or if the youth appear likely to flee courts' jurisdiction. In addition, before judges commit youth to the YRTC, Nebraska law requires the state to present courts with evidence that less-restrictive levels of probation, such as community-based treatment, would be inappropriate.

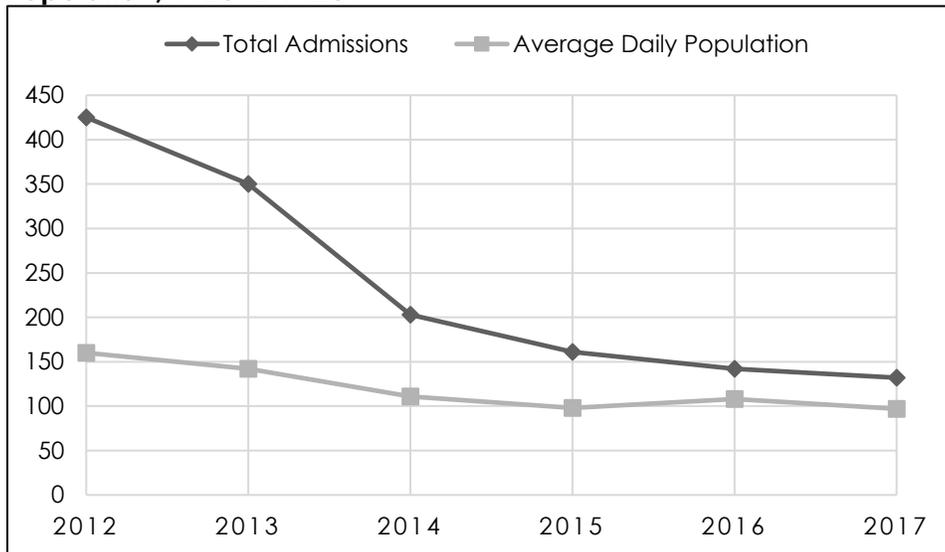
While youth are committed to YRTC-K, their stays are not sentences to be completed after a pre-determined amount of time. Instead, the Office of Juvenile Services weighs several factors in deciding when youth may be discharged, including whether juveniles have completed their treatment plan, have received the maximum benefits from the treatment, or would benefit from community-based programming. In addition, OJS considers whether youth have demonstrated an ability to function in community settings and abide by the law, or if they have shown they would comply with all conditions of probation.

## YRTC-Kearney Population

YRTC-K publishes an annual report, detailing information and demographics regarding the facility's population. The Audit Office reviewed these documents for the last six years (see Appendix A for a table containing the data used in the following figures).

As shown in Figure 1.1, the population at YRTC-K has decreased over time, with a high of 425 youth admitted in FY2012 to a low of 132 youth in FY2017, with a similar decrease in the average daily population.

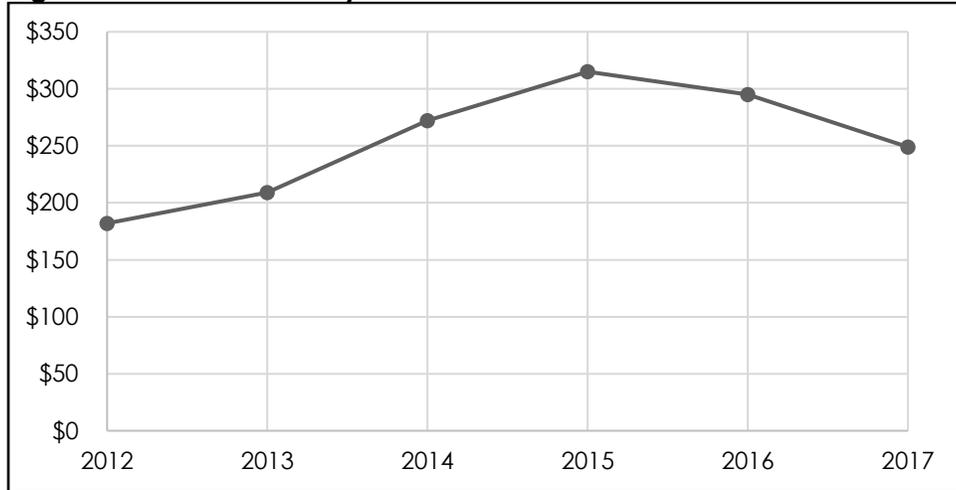
**Figure 1.1. YRTC-Kearney Total Admissions and Average Daily Population, FY2012-FY2017**



Source: Compiled by Legislative Audit Office from data from YRTC-Kearney Annual Reports, FY2012-2017.

According to the facility director, YRTC-Kearney did not eliminate staff positions when the daily population decreased in an effort to make the facility safer/more secure. Consequently, as shown in Figure 1.2, the per diem costs for each youth rose, from \$182 per day in FY2012 to a high of \$315 in FY2015, before decreasing the next two fiscal years to \$249 per day in FY2017.

**Figure 1.2. YRTC-Kearney Per Diem Costs\***

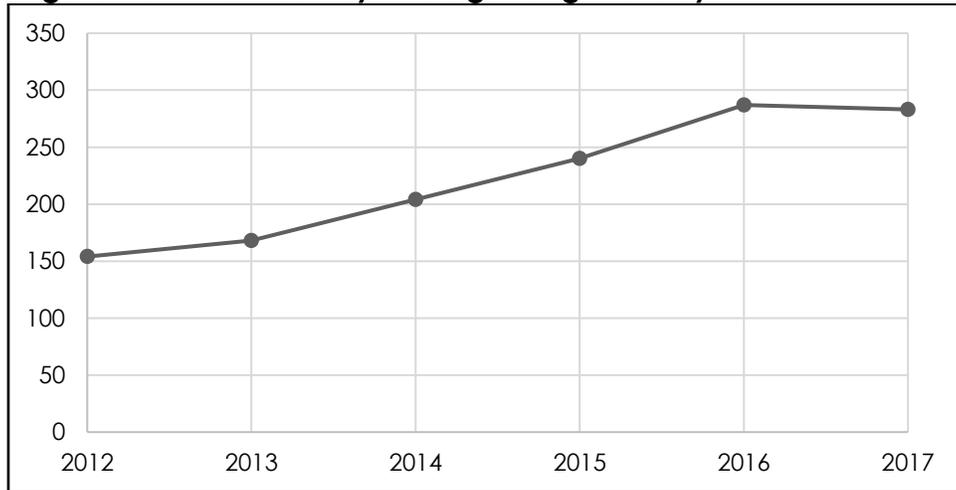


Source: Compiled by Legislative Audit Office from data from YRTC-Kearney Annual Reports.

\*Rounded to the nearest dollar.

The average time period youth stayed at YRTC-K rose from a low of 154 days in FY2012 to a high of 287 days in FY2016, and dropped slightly in FY2017, as shown in Figure 1.3.

**Figure 1.3. YRTC-Kearney Average Length of Stay**

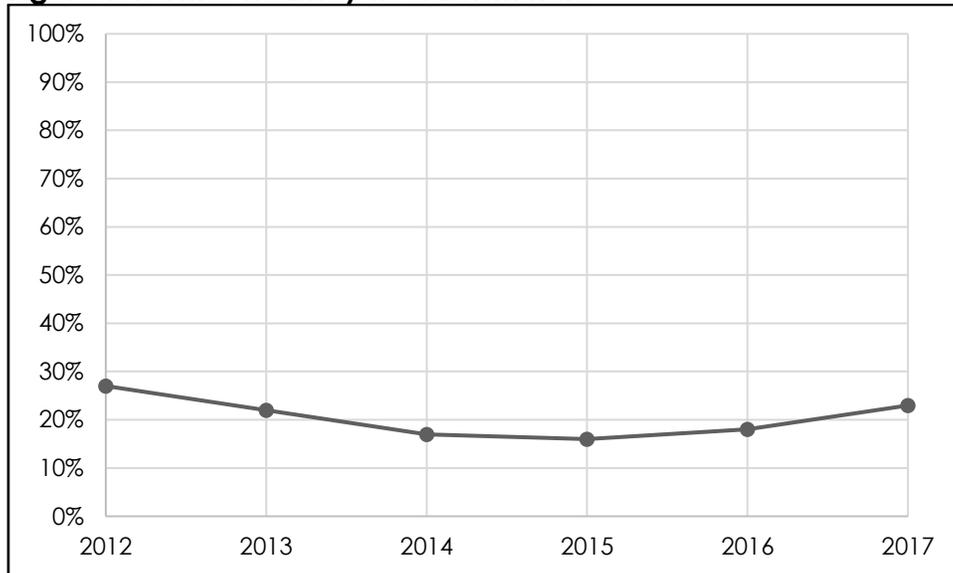


Source: Compiled by Legislative Audit Office from data from YRTC-Kearney Annual Reports.

As shown in Figure 1.4, there was a general downward trend in the recidivism rate—defined as returning to the same facility<sup>1</sup>—from FY2012 to FY2015, although this rate began to rise in FY2015.

<sup>1</sup> According to YRTC-Kearney staff, the recidivism rate does not include individuals that may enter the adult correctional system as they have no way of tracking individuals once they leave the facility.

**Figure 1.4. YRTC-Kearney Recidivism Rate**



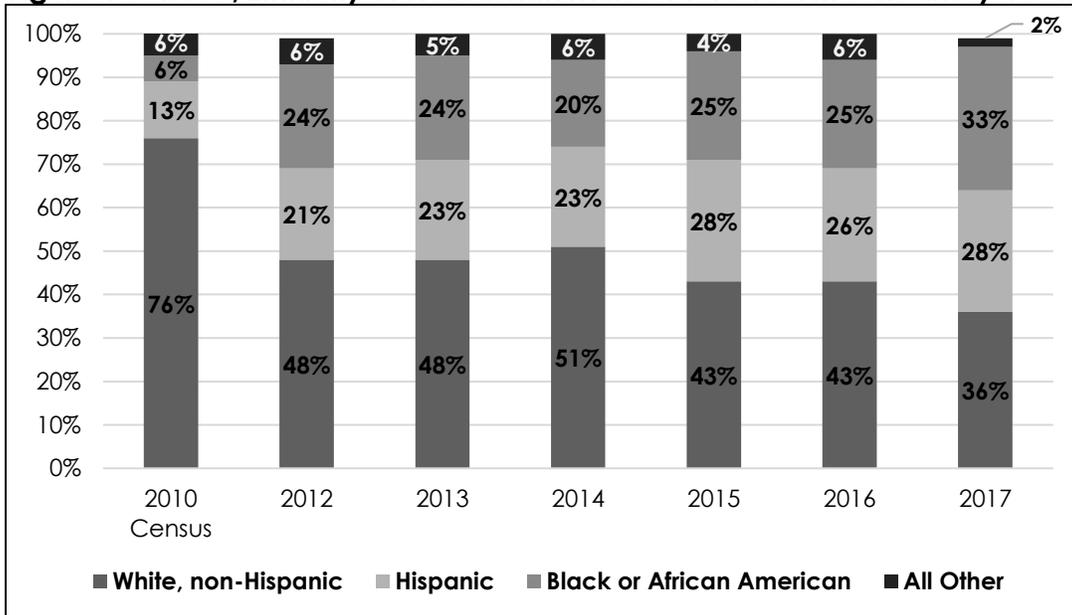
Source: Compiled by Legislative Audit Office from data from YRTC-Kearney Annual Reports.

### *Race*

We compared the number of youth at YRTC-K in racial/ethnic groups defined by the U.S. Census for each year between FY2012 and FY2017 with these racial/ethnic groups' proportion among all Nebraska boys ages 14 to 18, based on 2010 U.S. census data. The number of African American, Native American, and Hispanic (of any race) youth at YRTC-K was disproportionately high compared with the statewide populations. White (non-Hispanic) and Asian youth were under-represented at the facility during the period compared to their proportions statewide.

As shown in Figure 1.5, for all fiscal years from 2012 to 2017, White (non-Hispanic) youth made up at least 36% of juveniles at YRTC-K. Hispanic youths accounted for at least 21% of YRTC-K youth, and Black or African American, at least 20%. The "All Other" category in Figure 1.5 includes the following groups: Native American; Asian, native Hawaiian, Pacific Islander; and other/not specified. Native American youth made up from 2% to 5% of the facility's population. Neither Asian, native Hawaiian, Pacific Islander nor other/not specified accounted for more than 1% of the total population for any of the six years (see Appendix A for the data used in Figure 1.5).

**Figure 1.5. Race/Ethnicity of Nebraskan Males 14-18 vs. YRTC-Kearney Youth**



Source: Compiled by Legislative Audit Office from data from YRTC-Kearney Annual Reports and U.S. Census Bureau data.

Note: "All Other" includes: Asian, Native Hawaiian, Pacific Islander, Native American, and other/not specified.

### *Counties of Residence*

YRTC-Kearney reports on the county of residence for each youth committed to their facility each year. Stakeholders we interviewed suggested that legislative changes made to require courts to exhaust all community services prior to YRTC commitment (discussed further in Section II of this report) may have resulted in more youth being committed to the YRTC from less-populous counties, as there are fewer services available in these regions.

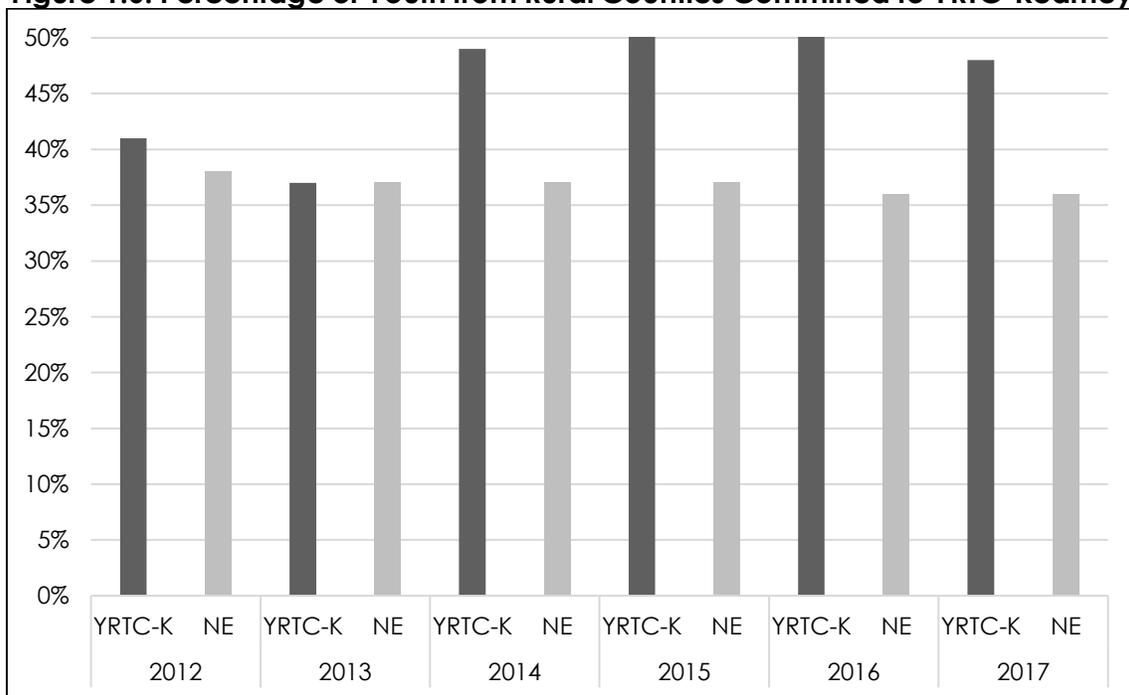
To examine this, the Office divided Nebraska counties into higher populated counties and lower populated counties, using the federal Office of Management and Budget (OMB) breakdown of each state's metropolitan and nonmetropolitan areas, with individual counties listed for each category. OMB defines a metropolitan statistical area as "county or counties (or equivalent entities) associated with at least one urbanized area of at least 50,000 population, plus adjacent counties having a high degree of social and economic integration with the core as measured through commuting ties."<sup>2</sup> As a result, Grand Island, Lincoln, and Omaha are considered metropolitan areas. Each metropolitan area includes multiple counties.<sup>3</sup>

<sup>2</sup> United States Census Bureau, "Metropolitan and Micropolitan," <https://www.census.gov/programs-surveys/metro-micro/about/glossary.html> (accessed March 20, 2018).

<sup>3</sup> The Omaha metropolitan area: Cass, Douglas, Sarpy, Saunders, and Washington counties. The Lincoln metropolitan area: Lancaster and Seward counties. The Grand Island metropolitan area: Hall, Hamilton, Howard, and Merrick counties. United States Department of Labor, Bureau of Labor Statistics, "Occupational Employment Statistics, May 2017 Metropolitan and Nonmetropolitan Area Definitions," [https://www.bls.gov/oes/current/msa\\_def.htm#N](https://www.bls.gov/oes/current/msa_def.htm#N) (accessed March 20, 2018).

As can be seen in Figure 1.6, the breakdown of youth at YRTC-K from metropolitan and nonmetropolitan—or rural—areas roughly tracks the population breakdown for the state for FY2012 and FY2013. However, for FY2014 through FY2017, the percentage of youth from rural counties at YRTC-K was roughly 10-15% higher than the percentage of youth in these counties statewide. It is possible that the legislative changes in 2013 and 2014 played a role in the increase in the proportion of commitments of youth from rural counties because, as suggested by stakeholders, those counties may have had fewer community services to be exhausted before youth were committed to YRTC-K. There could be other factors that affected these numbers, as well. (See Appendix B for the population numbers and percentages for each group from each year, as well as a county-by-county breakdown of the number of youth that were committed to YRTC-K over this same time period.)

**Figure 1.6. Percentage of Youth from Rural Counties Committed to YRTC-Kearney\***



Source: Compiled by Legislative Audit Office from data from YRTC-Kearney Annual Reports.  
 \* The YRTC-Kearney numbers are based on fiscal years, which run from July-June, while the statewide numbers are from U.S. Census Estimate Data, based on calendar years.



## **SECTION II: Youth Misconduct at YRTC-Kearney**

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In this section, we describe legislative changes that may have affected the population at the Youth Rehabilitation and Treatment Center-Kearney (YRTC-K) and discuss whether the youth committed to YRTC-K since these changes were made pose a higher risk for violence. We also examine whether there was an increase in documented incidents of misconduct, particularly violent infractions, following legislative changes.

For each measure discussed in this section, we report on two time periods: the largest window of data available and FY2015 to FY2016, which is the period most likely to show an impact, if there was any, from legislative changes made in 2013 and 2014. For most of the measures, the broadest time period for which we had data was FY2012 to FY2016.

However, there are two exceptions: for offenses that led to youth commitment at YRTC-K, we had additional data for FY2017 and for youth assaults on other youth and staff, we had data from FY2010 through FY2018. We acknowledge that use of different time periods means some measures cannot be directly compared but decided that reporting all available data was a higher priority.

Additionally, we note that the most complete incident report data we reviewed for this audit—from FY2012 to FY2016—may not accurately reflect the current climate at YRTC-K.

### **Findings**

#### ***Predictors of Violence***

**Finding:** Predicting in advance how likely youth are to be violent once they are committed to YRTC-Kearney would require a complex analysis that was beyond what could be done in this audit. We reviewed a single measure—the number of violent offenses that caused youth to be committed to YRTC-K between FY2012 and FY2017. While there was an increase in violent offenses that led to commitment between FY2012 and FY2017, there was a decrease between FY2015 and FY2016, the first year most likely to have been impacted by the legislative changes. This suggests that the legislation did not play a role in the increase.

Our analysis of the offenses that led to youths being committed by a court to YRTC-Kearney showed the percentage of violent offenses increased from 30% to 41% of the total offenses from FY2012 to FY2017. While the percent of violent incidents that led to commitment at YRTC-K increased in both FY2015 and FY2017, there was a 4% decrease in FY2016—the first full fiscal year both legislative changes were in effect—that returned the percentage of violent offenses to what it was in FY2013 and FY2014.

***Youth Violence at YRTC-Kearney:  
Increase in Violent Incidents at YRTC-Kearney from FY2015 to FY2016***

**Finding:** Our review of several measures of youth violence at YRTC-Kearney showed that youth violence at YRTC-K did not necessarily increase from FY2012 to FY2016 but did increase from FY2015 to FY2016, the first year most likely to have been impacted by the legislative changes. While the timing of that increase suggests the legislative changes may have played a role, other factors may also have played a role in the increase.

Our analysis shows increases in the following between FY2015 and FY2016:

- Total number of violent incidents went from 393 to 619;
- Percentage of total incidents that were violent went from 51% to 55%;
- Average number of violent incidents by youth that committed a violent infraction went from 3.9 to 5.4; and
- Youth assaults on other youth increased from 85 to 160 and assaults on staff increased from 81 to 202.

***Youth Violence at YRTC-Kearney:  
Youth Who Committed Violent Infractions in FY2016 Committed More  
than Youth Who Committed Such Infractions in FY2012***

**Finding:** Between FY2015 and FY2016, the proportion of youth at YRTC-Kearney who committed multiple violent infractions increased. However, the proportion also increased in earlier years during the review period. This suggests that the legislative changes either played no role in the increase or were only one of the factors involved.

Between FY2015 and FY2016, the proportion of youth with a single violent infraction dropped from 30% to 23%—in fact, that is the only category that dropped each year during the review period. During this time, the proportion of youth with 2 to 5 violent infractions also dropped: from 50% to 46%, and the proportion with 6 or more violent infractions increased from 20% in FY2015 to 32% in FY2016.

## **Discussion of Youth Violence at YRTC-Kearney Findings**

The Audit Office was asked by the Performance Audit Committee whether there had been an increase in violent incidents at YRTC-K following juvenile justice-related legislative changes. The earliest full fiscal year after the LB 561 changes went into effect was FY2014 and the earliest full fiscal year after all of the LB 464 changes went into effect was FY2016.

Taken together, these findings show that several measures of violent infractions increased from FY2015 to FY2016. Although it is not possible to prove that the legislative changes caused these increases, the timing suggests that it may have played a role. As we did not have complete incident report data beyond FY2016, we were unable to determine whether those increases were the beginning of trends or not.

We note that other factors could be playing a role in the increases. For example, a large part of the increase in violent incidents from FY2015 to FY2016 was due to an increase in the number of staff assaults. It is possible that as YRTC-K's staff-to-youth ratio improved, staff would have been more available to step in during a possible altercation between youth, which could result in a higher number of staff assaults. Encouragingly, there was a decrease in the number of staff assaults from FY2016 to FY2018 as well as a decrease in the number of overall assaults. The remainder of this section addresses each finding in more detail.

## **Analysis**

### **LB 561 (2013) and LB 464 (2014)**

The legislature passed bills in 2013 and 2014 designed to ensure that juvenile courts send youth to the YRTC only after less restrictive, community-based treatment options had been exhausted and to encourage county attorneys to file more cases involving youth in juvenile courts.

As discussed in Section I of this report, LB 561 (2013) was introduced to move the juvenile justice system from a punitive model toward a rehabilitative model. The intent of the bill was to expand and improve community-based services for juveniles statewide, establish guidelines for courts in determining whether to commit youth to YRTC, and make YRTC the treatment alternative of last resort for high-risk youth. The legislature enacted the bill because of concerns that some youth being committed to the YRTC could be better served in less restrictive treatment environments.

LB 464 (2014) built on the previous year's legislation by providing prosecutors some discretion in whether to file upper level offenses against youth in adult or juvenile court. Processing a case in juvenile court, rather than in a criminal court, means the state will adopt a treatment and rehabilitative model, rather than a punitive model, in its response to delinquent youth. Additionally, the bill required juvenile court judges to commit youth to the YRTC only after the courts have been presented with evidence all other treatment alternatives had been exhausted, that YRTC placements are an urgent necessity, or that the youth is a flight risk.

## Predictors of Violence

The Performance Audit Committee directed the Audit Office to determine whether youth committed to YRTC-Kearney since the legislative changes pose a higher risk of violence while at the facility. Answering this question assumes there is a straightforward way of identifying such youth, but our research suggests that is not the case. For example, whether a delinquent youth has a history of violence is not necessarily a reliable predictor of that youth's conduct in a correctional facility setting.

According to social science research, conditions of confinement can be as significant as a juvenile's history of violence in explaining why confined youth engage in aggressive behavior. Additionally, peer pressure, crowdedness, the quality of youth-staff relationships, and juveniles' perceptions of the fairness of the institution's disciplinary procedures have all been shown to impact how well juveniles adjust to detention.

We explored whether the risk assessment tool used prior to a youth's commitment to YRTC-K, the Youth Level of Service/Case Management Inventory (YLS), could be used to suggest future level of violence but learned this tool is not intended to be used as a predictor of violent behavior. Instead, it provides information to probation officers and YRTC personnel to better understand an individual youth's needs, strengths, and barriers in order to create a personalized treatment plan for each individual. A Probation administrator cautioned against using the YLS to assess a juveniles' likelihood for aggressiveness, and suggested that youths' hormonal development, the quality of programming, and, above all, staffing ratios are more relevant in explaining aggressive behavior at an institution like YRTC-K.

As we could not review all of the factors that might lead a youth to be at higher risk of violence, we looked at the offenses that led to youths' commitment to YRTC-K. Specifically, we determined whether the proportion of violent offenses that led to youths' commitment was increasing.<sup>4</sup> This data was collected from YRTC-Kearney's annual reports from FY2012 through FY2017, the most recent annual report released, and therefore does not have the same limitations as the incident report data (discussed in detail later in this section). We did not verify the data in the annual reports.

### *Violent Offenses that Led to YRTC-K Commitment: FY2012 to FY2017*

We used the World Health Organization's definition of violence in determining which offenses were violent and which were non-violent. According to the World Health Organization, violence is "the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, which either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation."<sup>5</sup>

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<sup>4</sup> These are only the offenses that each youth was found responsible for that led to their commitment to YRTC-K. The Audit Office had no way of knowing each youth's criminal history or what each youth was initially charged with, which may have also factored into a judge's decision to commit a youth at YRTC-K.

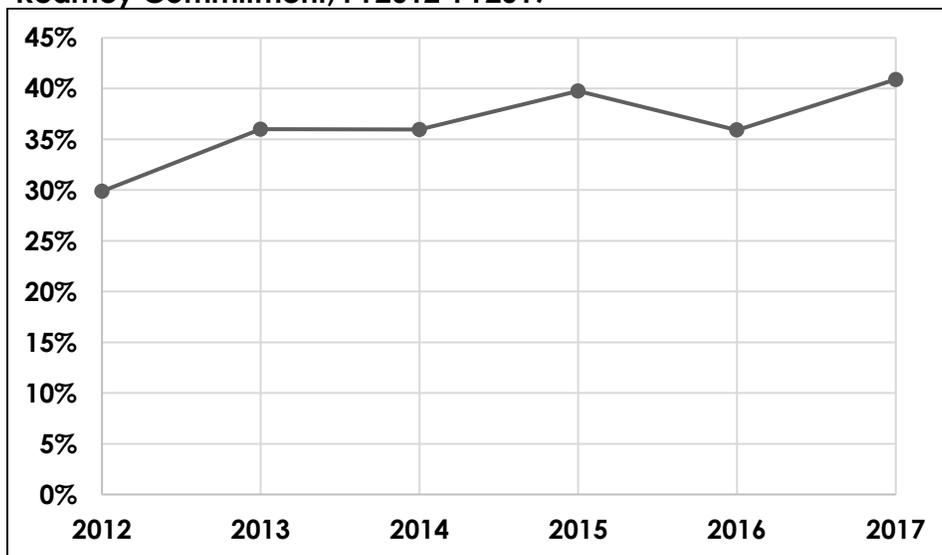
<sup>5</sup> World Health Organization, Violence Prevention Alliance, "Definition and typology of violence," <http://www.who.int/violenceprevention/approach/definition/en/> (accessed April 9, 2018).

For this analysis, we considered the following offenses violent, based on their statutory definitions: arson, assault, assault on an officer/health care, attempted arson, attempted robbery, child abuse, child enticement, disorderly conduct, driving under the influence, false imprisonment, intimidation by phone, obstructing a police officer, resisting arrest, robbery, sexual assault, strangulation, terroristic threats, use of a firearm to commit a felony, and willful reckless driving.<sup>6</sup> The breakdown of individual offenses by year and type can be found in Appendix C.

Of the 1,413 offenses that led to youths being committed by a court to YRTC-K between FY2012 and FY2017, the percentage of violent offenses increased over the time period reviewed, fluctuating between a low of 30% in FY2012 to a high of 41% in FY2017 (Appendix C also contains a table with the number of violent offenses per fiscal year). However, there was a 4% decrease in FY2016—the first full fiscal year both legislative changes were in effect—that showed a return to the percentage to what it was in FY2013 and FY2014.

Because of this decrease, at this point in time, the legislative changes do not appear to have caused an increase in the percentage of youth that have been found responsible for violent criminal offenses being committed to YRTC-Kearney. Continuing to track this data in future fiscal years would present a clearer picture of the ongoing impact of the 2013 and 2014 juvenile-justice related legislative changes on the population at YRTC-Kearney.

**Figure 2.1. Proportion of Offenses that were Violent that Led to YRTC-Kearney Commitment, FY2012-FY2017**



Source: Created by Legislative Audit Office using data from YRTC-Kearney Annual Reports, FY2012-2017.

<sup>6</sup> We looked up the statutory definitions for each of the named offenses and if any element of the offense met the World Health Organization’s definition of violence, we considered that offense violent.

## **Documented Infractions at YRTC-Kearney: FY2012 to FY2016**

The Performance Audit Committee also directed the Audit Office to examine whether violent infractions by youth at YRTC-Kearney increased following the legislative changes described previously. Following is a discussion of all types of documented misconduct committed by YRTC-Kearney residents between FY2011-12 and FY2015-16, as well as a more detailed discussion of violent incidents.

In order to determine whether there was an increase in instances of youth misconduct and, specifically, violent incidents at YRTC-Kearney, the Audit Office requested data from YRTC-K regarding the number of such incidents that had occurred between 2006 and 2016. However, YRTC-K could only provide incident data from January 2011 through May 2016. At the time, YRTC-K did not have a system for officially tracking all youth infractions. The only detailed data available were spreadsheets created by one employee, who used them for his own work as the facility operating officer prior to his departure from the agency.

We had some concerns about the data. The data were not complete for each year reviewed, and we were unable to fully verify the reliability of the existing data because there was no backup documentation of the incidents that we could check the spreadsheet data against. In analyzing the data, we found only minor errors and did not find any glaring omissions or results that would suggest data had been manipulated to the program's benefit. Consequently, as it was the only data available that documented all incidents, we chose to report on it.

As of January 2017, YRTC-K has a digital tracking system where incident data is entered each night. This system allows the facility to produce reports with incident data, so they can better track individual youth and see trends across the data.

The Audit Office consulted with the Juvenile Justice Institute at the University of Nebraska at Omaha regarding how to analyze the incident report data.<sup>7</sup>

### *All Misconduct Incidents*

YRTC-K employees are required to prepare an incident report when they believe that a youth has violated facility rules.<sup>8</sup> When an incident occurs, each staff member that witnessed the possible infraction fills out a report, which details the specific rule violated and gives the staff member's account of what occurred. Incident reports are then forwarded to the facility's disciplinary committee and the facility administration.

This audit report includes only those rule violations that resulted in an incident report. The types of misconduct documented include a range of behaviors from refusal to consent to search, property destruction, and possession of drug paraphernalia, to assault on other

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<sup>7</sup> The Audit Office worked with Dr. Anne Hobbs and Cassie Geiken at the Juvenile Justice Institute at the University of Nebraska at Omaha and their assistance was greatly appreciated.

<sup>8</sup> 401 NAC 7-006.02A.

youth or staff. Appendix D contains definitions for all infraction categories tracked by YRTC-K during this period.

For the five fiscal years we used,<sup>9</sup> YRTC-K provided 12 months of data for two of the years and 10 or 11 months of data for the other three years. Specifically, data were available for the following number of months in each year we reviewed:

- FY2012, 12 months
- FY2013, 10 months
- FY2014, 11 months
- FY2015, 12 months
- FY2016, 11 months

Between July 1, 2011 (the start of FY2012) and May 31, 2016 (the last available data for FY2016), there were a total of 5,733 documented incidents of misconduct at YRTC-K. There were 1,183 youth admitted to YRTC-K during that time period.<sup>10</sup> As shown in Figure 2.2, the average number of infractions per youth ranged from a low of 3.9 in FY2012 to a high of 8.3 in FY2016, an increase of 113% over that time period. The average incidents per youth increased 73% from FY2015 to FY2016.

As there were only two complete fiscal years of incident report data, we caution against comparing the number of incidents from year to year. Instead, the average incidents per youth is a fairer comparison across this time period, as the number of youth used in the calculations consists only those youth admitted in the months for which we had incident report data.

**Figure 2.2. Average Number of Misconduct Incidents per Youth**

<b>Fiscal Year (Number of Months of Incident Data)</b>	<b>Number of Incidents</b>	<b>Number of Youth at YRTC-K*</b>	<b>Average Incidents per Youth</b>
2012 (12)	1,668	425	3.9
2013 (10)	1,173	289	4.0
2014 (11)	988	173	5.7
2015 (12)	778	161	4.8
2016 (11)	1,126	135	8.3
<b>Total Number of Incidents</b>		<b>5,733</b>	
<b>Total Number of Youth at YRTC-K</b>		<b>1,183</b>	

Source: Compiled by Legislative Audit Office using YRTC-Kearney data.

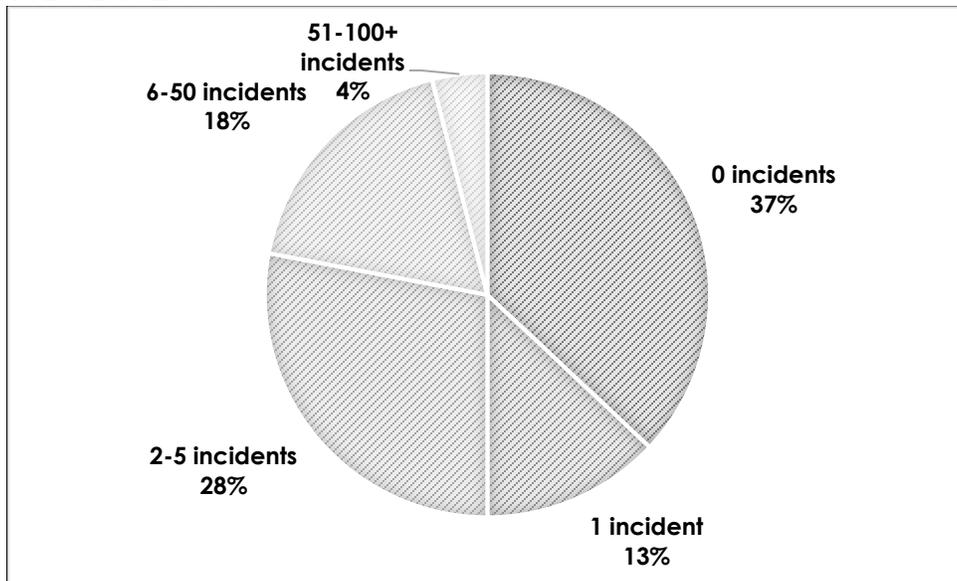
\* For years with fewer than 12 months of incident report data, the number of youth are only those admitted in the months that the incident report data were available.

<sup>9</sup> We eliminated the January to June 2011 data from the analysis because it represented only half of the 2010-11 fiscal year so was not as comparable to the data from the other fiscal years.

<sup>10</sup> In addition to the youth admitted during each fiscal year, there are some youth whose stays cross two or more fiscal years. Those youth are not included in 1,183 total. This undercount means that the actual average number of incidents per youth is *lower* than what we are reporting. However, there was not a better way to identify the total number of youth during each fiscal year. We assume that the differences would not create a meaningful difference in the relationship of the averages from year to year.

As shown in Figure 2.3, of the 1,183 youth at YRTC-Kearney between FY2012 and FY2016, we estimate that 432 (37%) had no documented reports of misconduct—violent or non-violent.<sup>11</sup> Of those who did have documented misconduct, the number of incidents ranged from 1 to over 100 per youth. 78% of the population had between zero and five incidents during this time period; 158 youth (13%) had only one incident and 331 (28%) had between two and five incidents. The remaining 262 (22%) had between 6 and over 100 incidents each.<sup>12</sup>

**Figure 2.3. Actual Number of Misconduct Incidents per Youth, FY2012-FY2016**



Source: Compiled by Legislative Audit Office using YRTC-Kearney data.

### *Violent Incidents at YRTC-Kearney*

As our scope question specifically asked whether there had been an increase in violent infractions by youth at YRTC-K, the Audit Office selected seven of the misconduct categories as involving violence, again using, at the Juvenile Justice Institute’s suggestion, the World Health Organization’s definition of violence. The seven misconduct categories selected were murder, mutilation of self or others, mutinous actions, staff assault, use of threatening language or gestures/fighting, youth assault, and youth fighting.

#### **World Health Organization Definition of Violence**

The intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, which either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation.

<sup>11</sup> We estimated the number of youth with no incidents by subtracting the number of youth who *had* documented incidents (751) from the total new admissions (1,183). As explained in the previous footnote, we did not have the number of youth whose stays at YRTC-K crossed more than one fiscal year. It is possible that some of those youth committed no incidents so our estimate may undercount the actual number.

<sup>12</sup> To protect the confidentiality of the youth who committed the highest number of offenses, we are not including the specific number at the high end of the range.

While the severity of actual infractions within each category varies—some will cause more harm than others—all of the categories potentially include infractions that resulted in physical injury. The definitions for each can be found in the sidebar on this page.

Of the total 5,733 documented incidents during the review period, 3,079, or 54%, met our definition of violent. As shown in Figure 2.4, for each of the fiscal years we reviewed, the percentage of violent infractions was around 50%, fluctuating from a high of 57% in FY2012 to a low of 49% in FY2014. From FY2015 to FY2016, the proportion increased 4%, the largest increase during the period reviewed. However, even with that increase, the rate was not as high as FY2012.

**Figure 2.4. Proportion of Incidents that were Violent**

Fiscal Year (Number of Months of Incident Data)	Number of Violent Incidents	Total Number of Incidents	Percentage of Total Incidents That Were Violent
2012 (12)	953	1,668	57%
2013 (10)	630	1,173	54%
2014 (11)	484	988	49%
2015 (12)	393	778	51%
2016 (11)	619	1,126	55%
<b>Total</b>	<b>3,079</b>	<b>5,733</b>	<b>54%</b>

Source: Compiled by Legislative Audit Office using YRTC-Kearney data.

### *Violent Incidents by Type*

Figure 2.5 shows the total number of each type of violent infraction recorded during the time period reviewed. Of the 3,079 violent incidents, the use of threatening language and gestures\fighting was the most frequent type documented (978 incidents or 32%), followed by youth assaults (800 incidents or 26%) and youth fighting (773 incidents or 25%). Another 495 (16%) incidents were for assaults on staff. The remaining 33 (about 1%) were for mutilation of self or others and mutinous actions. There were no murders.

## **Violent Infraction Definitions**

### **Murder**

The killing of another person.

### **Mutilation of Self or Others**

Intentionally piercing, branding, marking, tattooing, or cutting any portion of one's body or another's body or causing injury to one's self.

### **Mutinous Actions**

Mutiny, inciting to riot, insurrection, taking of hostages, and/or arson in any part of the institution, or any work assignment, or within the extended limits of the facility.

### **Staff Assault**

Assault on another person which causes pain or bodily injury, threatened assault, fighting with another person resulting in serious bodily injury, or sexual assault.

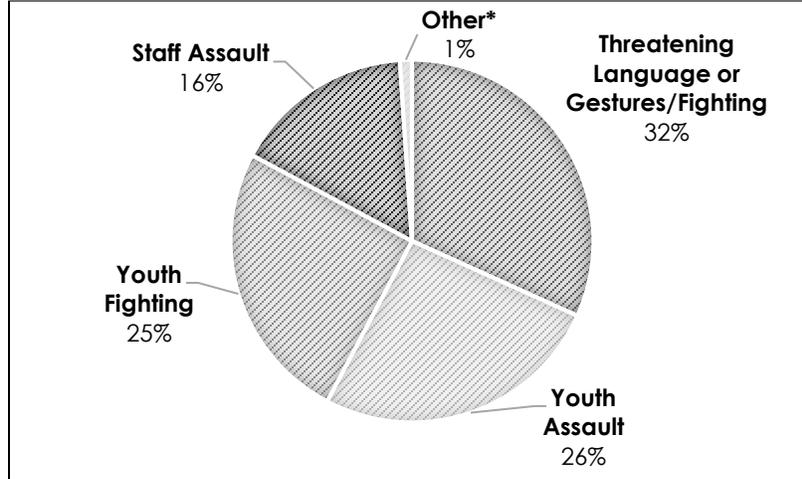
### **Use of Threatening Language or Gestures/Fighting**

Use of language or gestures thereby threatening physical harm to another person; or fighting which results in more than physical contact but less than serious bodily injury.

### **Youth Assault/Youth Fighting**

Assault on another person which causes pain or bodily injury, threatened assault, fighting with another person resulting in serious bodily injury, or sexual assault.

**Figure 2.5. Total Number of Violent Incidents, by Type, FY2012-FY2016**



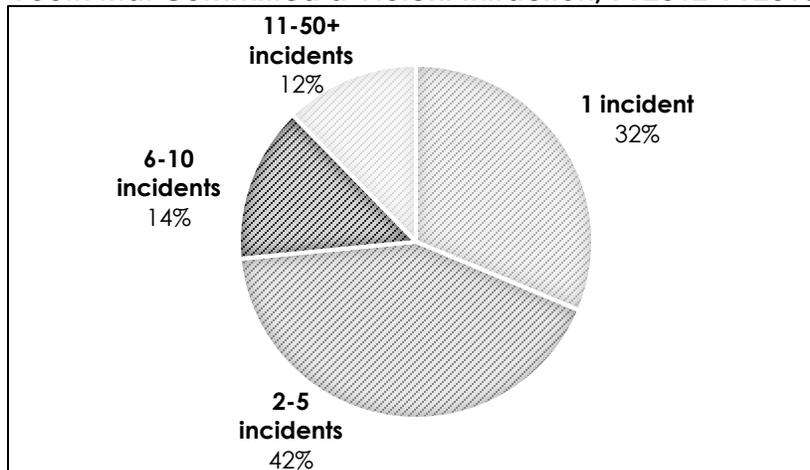
Source: Compiled by Legislative Audit Office using YRTC-Kearney data.  
 \* Other includes mutilation of self or others and mutinous actions.

*Number of Violent Incidents per Youth*

Of the 1,183 youth at YRTC-Kearney between FY2012 and FY2016, 580 (49% of the total population) had no documented violent infractions and 603 (51% of the total population) had between 1 and more than 50 violent infractions.

As shown in Figure 2.6, of the 603 youth who committed violent infractions, 74% had between one and five violent incidents during this time period: 189 youth (32%) had only one documented incident and 254 (42%) had between two and five incidents. Another 86 (14%) had between 6 and 10 violent incidents and the remaining 74 (12%) had between 11 and more than 50 violent incidents each (see Appendix E for the breakdown by number of violent infractions).

**Figure 2.6. Actual Number of Violent Incidents per Youth: Youth that Committed a Violent Infraction, FY2012-FY2016**



Source: Compiled by Legislative Audit Office using YRTC-Kearney data.

For each fiscal year, we calculated the average number of violent infractions committed by only those youth who had committed at least one violent infraction that year. As shown in Figure 2.7, we found that the average has been increasing since FY2014, with a high of 5.4 violent incidents per youth in FY2016. The average violent infractions per youth that committed such an infraction rose 46% from FY2012 to FY2016, with a 38% increase between FY2015 and FY2016.

**Figure 2.7. Average Number of Violent Infractions per Youth: Youth that Committed a Violent Infraction**

<b>Fiscal Year (Number of Months)</b>	<b>Number of Violent Infractions</b>	<b>Number of Youth that Committed a Violent Infraction</b>	<b>Average Violent Infractions per Youth</b>
2012 (12)	953	261	3.7
2013 (10)	630	189	3.3
2014 (11)	484	132	3.7
2015 (12)	393	100	3.9
2016 (11)	619	114	5.4
<b>Total Violent Infractions</b>		<b>3,079</b>	
<b>Total Youth that Committed a Violent Infraction</b>		<b>603*</b>	

Source: Compiled by Legislative Audit Office using YRTC-Kearney data.

\* This number is less than the sum of the number of youth for each individual year because some youth committed an infraction in more than one fiscal year.

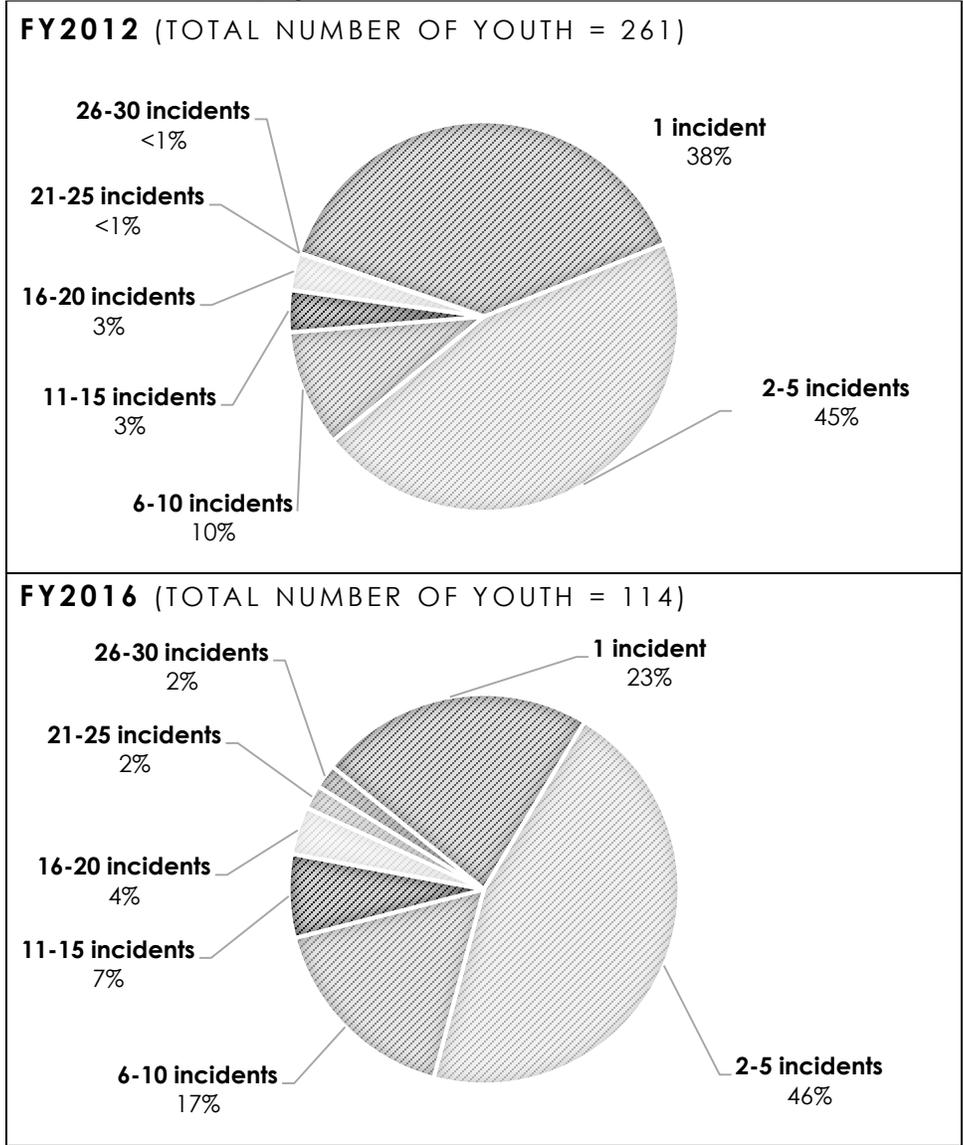
Looking at the data in more detail, the Audit Office found that the FY2016 increase in the average number of violent infractions per youth who committed at least one violent offense was due to an increase in the proportion of youth who committed more than one violent infraction.<sup>13</sup> The proportion of youth who committed a single violent infraction dropped from 38% in FY2012 to 23% in FY2016, meaning the proportion who committed two or more violent infractions increased from 62% in FY2012 to 77% in FY2016.

Figure 2.8 shows the percentage of youth by the number of violent infractions for FY2012 and FY2016. Youth with 2 to 5 violent infractions made up the largest proportion in each year, 45% in FY2012 and 46% in FY2016. The 1% increase in that category is slightly misleading because youth with 2 and 3 infractions actually increased 4.6% but the increase was offset by a drop of 3.9% in the number of youth with 4 and 5 infractions.

The largest increase was in the group of youth who had 6 to 10 violent incidents, which increased from 10% in FY2012 to 17% in FY2016. Each of the higher categories of incidents increased between 1% and 4%.

<sup>13</sup> Such an increase *could have been due* to 1) an increase in the total number of violent infractions, while the number of youth committing them remained the same or 2) a drop in the number of infractions, with an increase in the number of youth committing them, but neither was true in this case.

**Figure 2.8. Percentage of Youth Who Committed at Least One Violent Infraction, by Number of Infractions: FY2012 and FY2016**

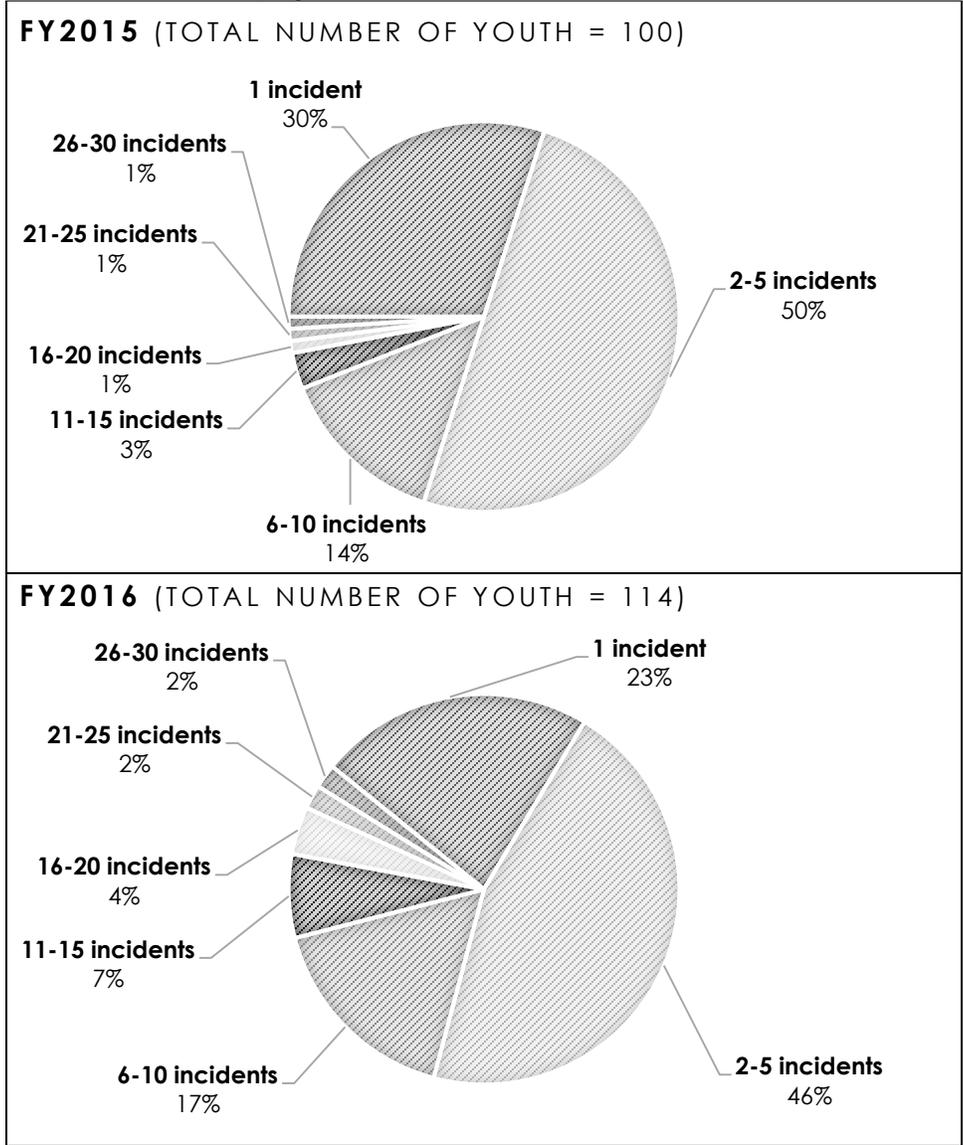


Source: Compiled by Legislative Audit Office using YRTC-Kearney data.

We also compared the proportion of youth with different numbers of violent infractions between FY2015 and FY2016, to see if there were changes that could be related to the 2013 and 2014 legislation. The pattern was similar to what is described above for FY2012 to FY2016.

Between FY2015 and FY2016, the proportion of youth with a single violent infraction dropped from 30% to 23%—in fact, that is the only category that dropped each year during the review period. In FY2016, unlike the above discussion, the proportion with 2 to 5 violent infractions also dropped: from 50% to 46%. The proportion of youth with 6 or more violent infractions increased, as shown in Figure 2.9.

**Figure 2.9. Percentage of Youth Who Committed at Least One Violent Infraction, by Number of Infractions: FY2015 and FY2016**



Source: Compiled by Legislative Audit Office using YRTC-Kearney data.

**Assaults at YRTC-Kearney: FY2010 to FY2018**

Our review of the incident data for FY2012 to FY2016 showed that of the six types of violent infractions we reported on, youth assaults and staff assaults increased the most between FY2015 and FY2016: 15% and 21%, respectively. Youth fighting increased 12% and threatening language/fighting increased 10%.<sup>14</sup>

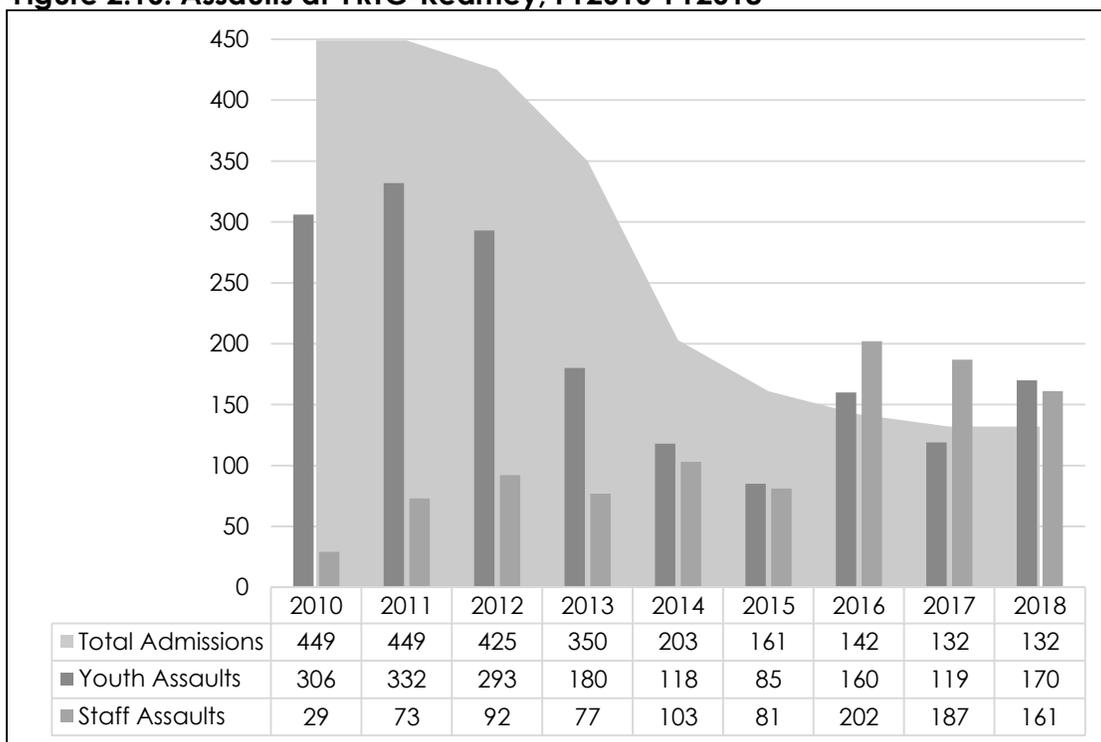
<sup>14</sup> Mutilation and mutiny, which represented less than 1% of the infractions we reviewed, increased less than 1% each.

Although YRTC-K did not have additional detailed incident report data beyond what they provided, they did have aggregate data on the number of assaults on other youth and assaults on staff by youth for each fiscal year. They provided this data to the Audit Office for FY2010 through FY2018.

Looking at Figure 2.10, YRTC-Kearney admissions have decreased since FY2011 (shown by the background shading in the figure) and the number of youth assaults also dropped until FY2016. Despite a 12% decrease in admissions between FY2015 and FY2016, youth assaults increased 88%.

Staff assaults also decreased until FY2016; between FY2015 and FY2016, staff assaults increased 149%, outnumbering youth assaults for the first time in the reviewed period. In FY2018, there were again more youth assaults than staff assaults. Over the entire time period, from FY2010 to FY2018, admissions decreased 71% and youth assaults decreased 44%, but staff assaults increased 455%.

**Figure 2.10. Assaults at YRTC-Kearney, FY2010-FY2018**



Source: Compiled by Legislative Audit Office using YRTC-Kearney figures.

It is important to note, however, that since the jump in the number of assaults in FY2016, there was a substantial decrease in the number of staff assaults from FY2016 to FY2018—from 202 staff assaults to 161, which represents a 20% decrease. However, while youth-on-youth assaults dropped 26% from FY2016 to FY2017, these types of assaults rose again in FY2017, causing an overall increase of 6% in these assaults from FY2016 to FY2018.

Even with the increase in the number of youth assaults from FY2016 to FY2018, the decrease in the number of staff assaults dropped the number of total assaults 9%, as

shown in Figure 2.11. YRTC-K administrators suggest that this decrease in the number of assaults is due to improvements in security and safety that they have made at the facility since FY2016.

**Figure 2.11. Assaults at YRTC-Kearney, FY2016-FY2018**

	<b>FY2016</b>	<b>FY2017</b>	<b>FY2018</b>
<b>Youth Assaults</b>	160	119	170
<b>Staff Assaults</b>	202	187	161
<b>Total</b>	<b>362</b>	<b>306</b>	<b>331</b>

Source: Compiled by Legislative Audit Office using YRTC-Kearney figures.



## **SECTION III: Staffing at YRTC-Kearney**

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In this section, we analyze the level of staffing at the Youth Rehabilitation and Treatment Center-Kearney (YRTC-K) to determine if the staffing is sufficient to ensure the safety and security of the facility. We also provide a detailed look at selected former YRTC-K staff in order to determine whether they left for higher paying jobs.

### **Findings**

#### ***YRTC-Kearney is in Compliance with PREA Youth-Staff Ratios***

**Finding:** YRTC-Kearney is in compliance with the Prison Rape Elimination Act's staff-to-youth ratios, as required by federal law. To meet these ratios, however, YRTC-K had to rely heavily on staff overtime.

As of this report writing, YRTC-Kearney is meeting the mandated staff-to-youth ratios required by the federal Prison Rape Elimination Act. There has been a significant use of staff overtime in order to do so.

#### ***Negative Perceptions of Staff Safety***

**Finding:** An increase in staff assaults at YRTC-Kearney and the lack of statutory protection for facility staff may affect the perception of staff safety at YRTC-Kearney.

In Section II of this report, we showed the overall rise in the number of staff assaults at YRTC-K. There is also a lack of heightened penalties for assaults against YRTC staff, which exist for correctional employees and police officers.

The higher number of staff assaults coupled with the lack of statutory protection could affect YRTC-K staff's perception of their safety at YRTC-Kearney, which in turn could affect staff turnover rates.

#### ***Majority of Youth Security Specialist Staff that Left YRTC-Kearney in 2016 Moved to Lower Paying Jobs***

**Finding:** Most of the Youth Security Specialist staff who left in 2016 did not leave for a higher salary. However, as the population of YSS staff reviewed was small, this may not be representative of others that leave.

Of the 13 YSS staff that left in 2016, only 3 left for higher paying positions; the other 10 former YRTC-K staff took a pay cut at their subsequent jobs. This is a small sample of the total population of YSS staff and we caution that this information may not be representative of all staff that leave these positions at YRTC-Kearney.

## Analysis

### **Youth Detention Facility Standards: Prison Rape Elimination Act**

YRTC-K must comply with staffing levels required under the federal Prison Rape Elimination Act (PREA or Act), passed in 2003. For juvenile facilities such as YRTC-K, PREA requires minimum staff-to-youth ratios of 1 staff person to each 8 youth during the day, and 1 staff to 16 youth at night. The U.S. Department of Justice (DOJ) gave institutions until October 1, 2017 to achieve the required ratios.

Under PREA, juvenile facilities may count only “security staff” in calculating staffing ratios. To be counted as a security staff person, an employee must:

- 1) Have received crisis intervention training—e.g. verbal de-escalation techniques, age-appropriate defensive tactics, and/or crisis intervention skills—in addition to the PREA training the Act requires of all youth facility employees; and
- 2) At the time for which the ratio is calculated, be “primarily responsible for the supervision and control of ... residents in housing units, recreational areas, dining areas, and other program areas of the facility.”<sup>15</sup>

The penalty for non-compliance with PREA requirements is 5% of DOJ grant funds a state would receive for corrections purposes. Non-compliant states may still receive the full grant if governors agree to use 5% of the funds to achieve compliance. If Nebraska were found to be out of compliance, the state would be penalized approximately \$91,954 using FY2015-16 figures, the most recent available.<sup>16</sup>

#### *Adequacy of Staffing Ratios at YRTC-Kearney*

In order to determine YRTC-Kearney’s compliance with PREA, the Audit Office requested four individual weeks of youth and staffing counts, for all shifts. The four weeks were selected to show ratios at points early, in the middle, and at the end of the period reviewed.

YRTC-K only counts Youth Security Specialist (YSS) positions for their PREA ratios. There are three levels of this position: YSS I, YSS II, and Youth Security Supervisor. Generally, employees in these positions provide care and supervision of youth at YRTC-Kearney. YSS job duties include supervision of individual youth or small groups in work and recreation activities; providing care as outlined in each youth’s individual treatment plan; and controlling the movement of residents to and from living quarters for school and recreational activities, dining room, work detail, and off campus appointments.

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<sup>15</sup> National PREA Resource Center, “Who counts as ‘security staff’ for purposes of the minimum staffing ration Standard for secure juvenile facilities?” <https://www.prearesourcecenter.org/node/3254> (accessed February 16, 2017).

<sup>16</sup> Specifically, the state would lose \$30,860 in grants to the Edward Byrne Memorial Justice Assistance Grant Program and \$61,094 in grants to the Services, Training, Officers, and Prosecutors (STOP) Violence Against Women Formula Grant Program. U.S. Department of Justice, Bureau of Justice Assistance, “Impact of PREA on Department of Justice Grants,” <https://www.bja.gov/Programs/FY2016-PREA-Grant-Impact.pdf> (accessed February 16, 2017).

According to the facility, only YSS staff are counted for PREA ratios because, while other employees at YRTC-Kearney technically *could* meet the Act’s definition of security staff during certain portions of the day,<sup>17</sup> the YSS positions are the only staff who are consistently engaged in the supervision of youth. By not relying on any other staff positions to meet the PREA ratio requirements, YRTC-K is more likely to have adequate coverage in the event of an unusual or unforeseen situation, which could range from something as simple as staff going with a youth to a doctor’s appointment outside the facility to a true emergency.

As can be seen in Figure 3.1, we found that while YRTC-Kearney was not in compliance with PREA ratio requirements during the earliest week we reviewed (the week of May 16, 2016), the facility was able to come into compliance by the second week we reviewed (the week of January 2, 2017), which was well before October 1, 2017, the end of the grace period given by the DOJ.

By the first week of January 2017, YRTC-Kearney had a ratio of 1 staff member to 7 youth during the day, and 1 staff member to 11 youth at night, which are both better ratios than PREA requires. Looking at the final week of our review (the first week of June 2018), YRTC-K had improved their ratios further, averaging 1 staff member for every 6 youth during the day and 1 staff to every 10 youth at night.

**Figure 3.1. Staff to Youth Ratios at YRTC-Kearney, Weekly Average**

Youth Status	May 16, 2016	January 2, 2017	Oct. 1, 2017 PREA Standard Enforced	January 1, 2018	June 1, 2018
<b>Waking</b>	1:12	1:7	<b>1:8</b>	1:7	1:6
<b>Sleeping</b>	1:13	1:11	<b>1:16</b>	1:11	1:10

Source: Compiled by Legislative Audit Office using YRTC-Kearney staffing data.

While YRTC-K was able to meet the PREA ratios, it had to rely heavily on overtime to do so. In other words, the facility’s general staffing levels were insufficient to meet PREA standards, at least given the way the facility counts its staff for PREA purposes. In order to meet these ratios, YRTC-Kearney has utilized overtime from Youth Security Specialists and other staff. According to YRTC-K administrators, the large amount of overtime is necessitated by turnover causing the facility to be understaffed. In fact, the funding for overtime pay comes from vacancy savings that the agency has due to these unfilled positions.

In July 2017, YRTC-Kearney received funding for 27 more YSS positions, which the facility is attempting to fill. To date, only six of these positions have been filled. As can be seen in Figure 3.2, use of overtime hours has continued to increase during the period reviewed for this study, to a high of 496 hours as of June 1, 2018.

<sup>17</sup> For example, a teacher who has had the appropriate training could be included in the PREA ratio when he or she is actively teaching a class, as the students would be under the supervision and control of the teacher during that time. However, the same teacher could not be included while, for example, preparing a lesson plan.

**Figure 3.2. YRTC-Kearney Overtime Hours, by Week**

<b>Position</b>	<b>May 16, 2016</b>	<b>January 2, 2017</b>	<b>January 1, 2018</b>	<b>June 1, 2018</b>
YSS I	51	32	73	66
YSS II	132	114	306	376
Other			41	54
<b>Total</b>	<b>183</b>	<b>146</b>	<b>420</b>	<b>496</b>

Source: Compiled by Legislative Audit Office using YRTC-Kearney staffing data.

### **Staff Safety at YRTC-Kearney**

Another major indicator regarding the adequacy of staffing at a detention facility is staff safety; concerns regarding safety at YRTC-K were raised by stakeholders as well as YRTC-K staff. In Section II of this report, we showed the overall rise in the number of staff assaults at YRTC-K, which is the clearest measure of staff safety at the facility.

Another issue that was raised involved the lack of heightened penalties for assaults against YRTC staff, which exist for correctional employees and police officers. Under § 28-931, an assault against an officer, correctional employee, or health care professional is treated as a Class IIIA felony if the assault occurs while the individual is engaged in the performance of his or her official duties.<sup>18</sup> A recent bill, LB 623 (2017), would have added “public safety officers,” which would include YRTC staff and others, to that category of individuals but the bill did not advance out of the Judiciary Committee. The only opponent to the bill was against adding any additional professions to this section of law as it would elevate more criminal actions to a felony-level offense.

The Audit Office did not review heightened penalty statutes to determine whether such policies act as a deterrent to assaults. The lack of additional protections that exist for staff doing similar work coupled with the increase in staff assaults could affect how safe staff feels at YRTC-Kearney, which in turn could affect staff turnover rates.

### **Staffing at YRTC-Kearney**

Having found that YRTC-K cannot meet PREA standards without incurring significant overtime costs, we examined how long employees stay in the positions counted towards the PREA ratios. We also looked at certain employees who had left and compared their salaries before they worked at YRTC-K, while there, and at their subsequent jobs.

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<sup>18</sup> Department of Health and Human Services employees are only included in this category if they are a health care professional or if they are assaulted by a dangerous sex offender. Neb. Rev. Stat. § 28-931.

### *YSS Employee Salaries Compared to Previous and Subsequent Employment*

To assess whether employees in YSS positions tended to leave YRTC employment for higher paying jobs, we reviewed the salaries of those employees when they left the YRTC with those of their subsequent jobs. To do this, we worked with the Department of Labor (Labor) which was able to provide wage amounts for the last quarter of the employees YRTC employment and the first quarter of their next job. We were unable to determine whether the subsequent employment was full-time or part-time and consequently simply report the quarterly data.

We provided Labor with a list of the staff holding YSS positions during the first quarter (January through March) of 2016, and Labor provided us with the following information for each individual:

- last employer prior to starting at YRTC-K and wages for their last full quarter with that employer (through the end of 2016<sup>19</sup>);
- wages for their first full quarter at YRTC-Kearney; and
- wages for their final quarter at YRTC-K or last quarter of 2016, whichever was later.

For individuals who held YSS staff positions at the beginning of 2016 but left YRTC-K by the end of that year, Labor also provided wages for the first quarter of employment at their new jobs.

Of the 64 staff holding YSS positions at the beginning of 2016, we could only use 45 in this analysis: 13 who left employment at YRTC-K during 2016 and 32 who remained employed there at the end of 2016.<sup>20</sup> This is a small sample of the total population of YSS staff who have left and we caution that this information may not be representative of all staff that leave these positions at YRTC-Kearney.

### *Prior Wages Compared to Initial YRTC-Kearney Wages*

Before we look at the salaries of those employees that left YRTC-Kearney, we present information on employees' prior wages. On average, the 45 YSS staff earned \$3,448 per quarter more in their first quarter at YRTC-K than they had earned at their previous employment, as shown in Figure 3.3. However, the average includes three individuals who earned *lower* wages (on average, -\$7,188 per quarter).<sup>21</sup> Those who earned higher wages (42, or 93%) earned, on average, \$4,208 more per quarter.

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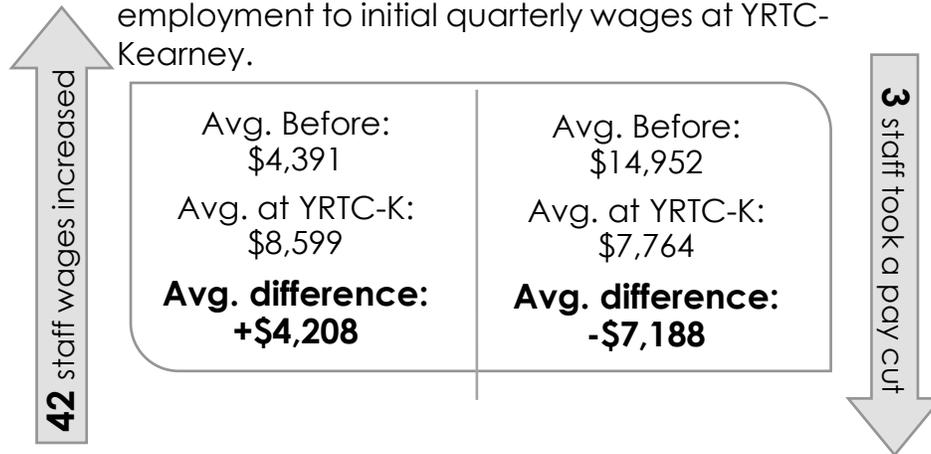
<sup>19</sup> We chose this time period, 2016, as that was the most recent complete year that the Department of Labor had available data for when they did this analysis for us in the fall of 2017.

<sup>20</sup> We had to remove 19 from our analysis because there was no information on either their previous employer, their subsequent employer, or both.

<sup>21</sup> Additional information on the averages reported in this section, including data ranges and standard deviations, is contained in Appendix F.

### Figure 3.3. YRTC-Kearney Staff Wages Prior to Employment

We compared staff quarterly wages before employment to initial quarterly wages at YRTC-Kearney.



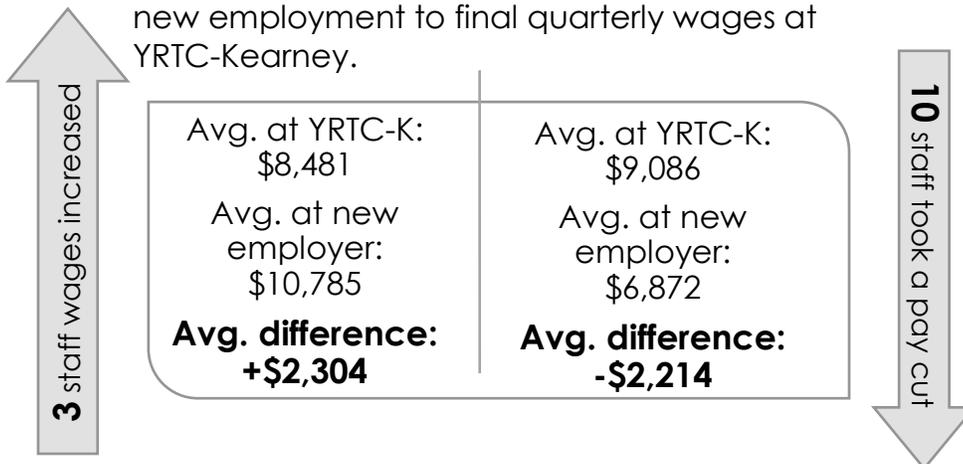
Source: Compiled by Legislative Audit Office using Department of Labor data.

### *Final YRTC-Kearney Wages Compared to Wages at New Jobs*

On average, the 13 YSS staff who left during 2016 earned \$1,171 less at their jobs after leaving YRTC-K, as shown in Figure 3.4. However, the average includes three staff who received higher wages at their subsequent employer (on average \$2,304 per quarter).<sup>22</sup> Those who earned lower wages (10 or 77%) earned, on average \$2,214 less per quarter.

### Figure 3.4. YRTC-Kearney Staff Wages After Leaving

We compared staff quarterly wages after new employment to final quarterly wages at YRTC-Kearney.



Source: Compiled by Legislative Audit Office using Department of Labor data.

<sup>22</sup> The three who received higher wages after leaving YRTC-K are not the same people as the three whose wages dropped when they began working at the YRTC. It is just a coincidence that in each analysis there were three employees who were not part of the majority.

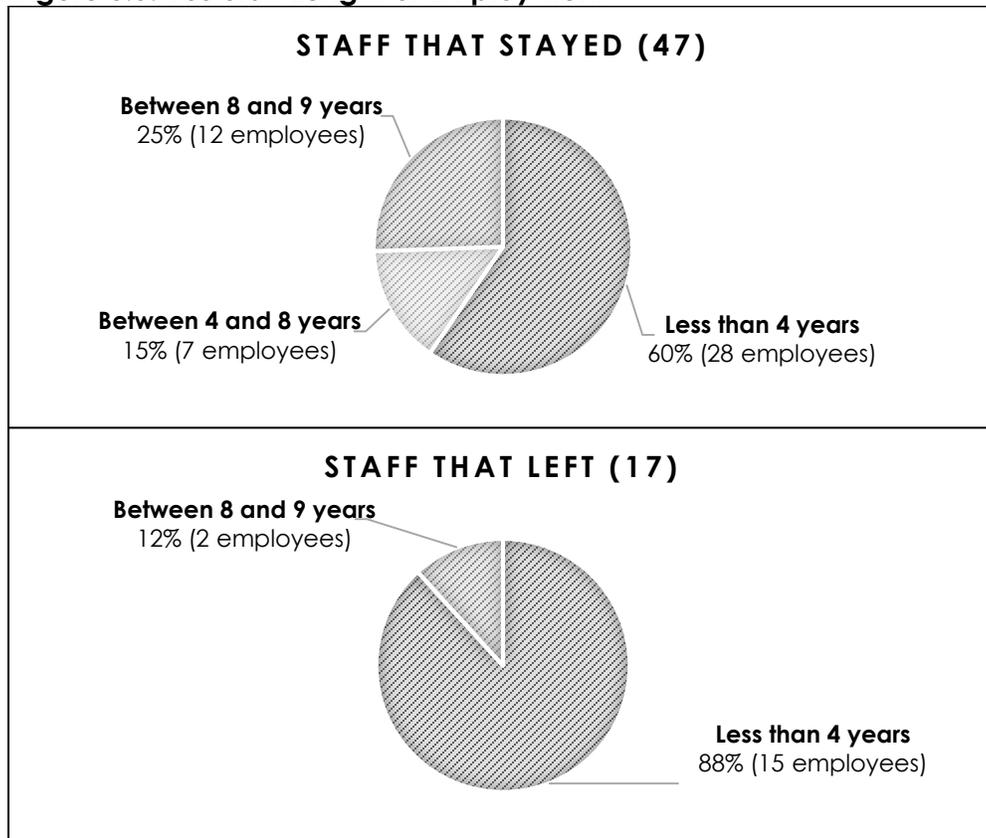
## YSS Employees, Years Employed at YRTC-K

The Audit Office also looked at whether there was a difference in the years worked at YRTC-K between those who remained at the end of 2016 and those who had left. For this analysis, we were able to use data on all 64 YSS staff at YRTC-K in the first quarter of 2016—the 47 who remained at YRTC-K at the end of 2016 and the 17 who had left.<sup>23</sup>

On average, the group who remained at YRTC-K had worked there about two years longer than the group who left: an average of 4.3 years compared to 2.4 years as shown in Figure 3.5. In both groups, the least amount of time worked by an employee was less than one year. Of those who left, the longest employment at YRTC-K was 8.5 years. Of those who stayed, the longest was more than 9.25 years, although because of data limitations we do not know how much more.<sup>24</sup>

The group who remained at YRTC-K had more employees who worked there for 8 or more years (25%) than those who left (12%). The group who left had more employees who'd worked there 4 years or less (88%) compared to the group who remained (60%). See Appendix G for the breakdown of each individual's length of employment.

**Figure 3.5. YSS Staff Length of Employment**



Source: Compiled by Legislative Audit Office using Department of Labor data.

<sup>23</sup> There was length of employment data for the 19 staff excluded because of the lack of wage data.

<sup>24</sup> We do not have start dates for 10 of these employees, so we know they worked there longer than 9.25 years but not how much longer.



## APPENDIX A: YRTC-Kearney Population, FY2012-2017

Figure A.1 below contains population information utilized in Figures 1.1, 1.2, 1.3, and 1.4 in Section I of the report.

**Figure A.1. YRTC-Kearney Population Information, FY2012-FY2017**

Fiscal Year	Total Admissions	Average Daily Population	Average Length of Stay (Days)	Per Diem Costs*	Recidivism Rate
2012	425	160	154	\$182	27%
2013	350	142	168	\$209	22%
2014	203	111	204	\$272	17%
2015	161	98	240	\$315	16%
2016	142	108	287	\$295	18%
2017	132	97	283	\$249	23%

Source: Compiled by Legislative Audit Office from data from YRTC-Kearney Annual Reports, FY2012-2017.

\*Rounded to the nearest dollar.

Figure A.2 contains the race for YRTC-K youth used in Figure 1.5 in Section I of the report.

**Figure A.2. Race/Ethnicity of YRTC-Kearney Youth, FY2012-FY2017**

Race/Ethnicity	Nebraska 2010 Census	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017
White, non-Hispanic	49,226 (76%)	205 (48%)	167 (48%)	103 (51%)	70 (43%)	61 (43%)	47 (36%)
Hispanic	8,110 (13%)	88 (21%)	80 (23%)	46 (23%)	45 (28%)	37 (26%)	37 (28%)
Black or African American	3,913 (6%)	103 (24%)	85 (24%)	41 (20%)	40 (25%)	36 (25%)	44 (33%)
Asian, Native Hawaiian, Pacific Islander	1,122 (2%)	6 (1%)	0	0	0	1 (1%)	0
Native American	725 (1%)	23 (5%)	18 (5%)	10 (5%)	5 (3%)	7 (5%)	3 (2%)
Other/Not Specified	1,711 (3%)	0	0	3 (1%)	1 (1%)	0	0

Source: Compiled by Legislative Audit Office from data from YRTC-Kearney Annual Reports, FY2012-2017 and U.S. Census Bureau data.

\* Percentages are rounded so may not total 100% for each year.



## APPENDIX B: YRTC-Kearney Youth Home Counties

Figure B.1 contains the data used in Figure 1.6 in Section I. Figure B.2 has the county-by-county breakdown by fiscal year. Counties in bold in Figure B.2 are metropolitan counties as defined by the federal Office of Management and Budget, which defines a metropolitan statistical area as “county or counties (or equivalent entities) associated with at least one urbanized area of at least 50,000 population, plus adjacent counties having a high degree of social and economic integration with the core as measured through commuting ties.”<sup>1</sup>

**Figure B.1. Percentage of Youth Committed to YRTC-Kearney from Metropolitan and Nonmetropolitan Counties, 2012-2017**

Fiscal Year*	Type of County			
	Metropolitan		Nonmetropolitan	
	YRTC-K	NE	YRTC-K	NE
<b>2012</b>	59%	62%	41%	38%
<b>2013</b>	63%	63%	37%	37%
<b>2014</b>	51%	63%	49%	37%
<b>2015</b>	47%	63%	53%	37%
<b>2016</b>	49%	64%	51%	36%
<b>2017</b>	52%	64%	48%	36%

Source: Compiled by Legislative Audit Office from data from YRTC-Kearney Annual Reports, FY2012-2017 and U.S. Census Estimate Data.

\* The YRTC-Kearney numbers are based on fiscal years, which run from July-June, while the U.S. Census Estimate Data are for calendar years.

**Figure B.2. YRTC-Kearney Admissions by County, FY2012-FY2017**

County	Fiscal Year					
	2012	2013	2014	2015	2016	2017
Adams	8	9	8	8	3	2
Antelope						2
Box Butte	4	3	1			
Buffalo	9	4	7	7	11	5
Butler	2	1	1			1
<b>Cass</b>	1		1	2	1	1
Cedar	1					
Chase	1	1				
Cherry		3		1	1	9
Cheyenne	1	2	1			
Clay		2	1			
Colfax		1	3	1		

<sup>1</sup> United States Census Bureau, “Metropolitan and Micropolitan,” <https://www.census.gov/programs-surveys/metro-micro/about/glossary.html> (accessed March 20, 2018).

County	Fiscal Year					
	2012	2013	2014	2015	2016	2017
Cuming	3	2	1	1		1
Custer	2			4		
Dakota	16	13	6	2	4	3
Dawes	1		2			
Dawson	7	6	1	3	6	2
Deuel		1				
Dixon	2					
Dodge	14	4	8	4	5	5
<b>Douglas</b>	97	92	34	32	31	36
Fillmore		2	1			
Franklin	1		1			
Frontier			1	1		
Furnas	2	1	1	1	1	1
Gage	8	5	1		4	
Garden		2				
<b>Hall</b>	29	18	16	16	7	
<b>Hamilton</b>	1	1	1			
Harlan			1		1	
Hitchcock				1		
Holt	2			3	2	
<b>Howard</b>	3			2		
Jefferson	2	3	2			
Kearney	1	1	1			
Keith	3	4	1	1	1	
Kimball		1				
Knox	3	1	2			
<b>Lancaster</b>	98	92	44	19	26	31
Lincoln	12	8	9	11	12	11
Madison	16	10	7	14	6	9
<b>Merrick</b>	1	1	1			
Morrill	1					
Nemaha				2		
Nuckolls						1
Omaha Nation				2		1
Otoe	1	2				1
Phelps	4	3	3		1	

County	Fiscal Year					
	2012	2013	2014	2015	2016	2017
Pierce	1	2		2	1	
Platte	7	8	7	2	1	4
Polk	1					
Red Willow	1	1		2		
Richardson	3		1	1		
Saline	7	4	6	3		
Santee Sioux Nation			2			1
<b>Sarpy</b>	8	6	5	4	3	
<b>Saunders</b>	5	4	1			
Scotts Bluff	17	14	9	9	9	3
<b>Seward</b>	4	4		1	1	
Sheridan	3		1			
Sherman	2					
Stanton		2				
Thayer			1		1	
Thurston	2					
<b>Washington</b>	4	3	1			1
Wayne	1		1		1	
Webster			2			
Winnebago					1	1
York	1	1			1	

Source: Compiled by Legislative Audit Office from data from YRTC-Kearney Annual Reports, FY2012-2017.



## APPENDIX C: Youth Offenses that Led to YRTC-Kearney Commitment

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Figure C.1 shows the number of violent offenses for which youth were found responsible that led to their commitment to YRTC-Kearney, as a percentage of the total offenses, from FY2012 through FY2017. This data was used in Figure 2.1 in Section II of the report.

We used the World Health Organization’s definition of violence: “the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, which either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation.”<sup>2</sup> For this analysis, we considered the following offenses violent, based on their statutory definitions: arson, assault, assault on an officer/health care, attempted arson, attempted robbery, child abuse, child enticement, disorderly conduct, driving under the influence, false imprisonment, intimidation by phone, obstructing a police officer, resisting arrest, robbery, sexual assault, strangulation, terroristic threats, use of a firearm to commit a felony, and willful reckless driving. We looked up the statutory definitions for each of the named offenses and if any element of the offense met the World Health Organization’s definition of violence, we considered that offense violent.

**Figure C.1. Violent Offenses That Led to YRTC-Kearney Commitment**

Fiscal Year	Violent Offenses (Percentage of Total Offenses)	Total Offenses
2012	127 (30%)	425
2013	126 (36%)	350
2014	73 (36%)	203
2015	64 (40%)	161
2016	51 (36%)	142
2017	54 (41%)	132

Source: Compiled by Legislative Audit Office using data from YRTC-Kearney Annual Reports, FY2012-2017.

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<sup>2</sup> World Health Organization, Violence Prevention Alliance, “Definition and typology of violence,” <http://www.who.int/violenceprevention/approach/definition/en/> (accessed April 9, 2018).

Figure C.2 shows the offenses for which youth were found responsible that led to their commitment to YRTC-Kearney, from FY2012 through FY2017. Those offenses we determined to be violent, using the World Health Organization’s definition, are bolded.

**Figure C.2. Youth Offenses That Led to YRTC-Kearney Commitment, by Fiscal Year, FY2012-FY2017**

<b>Fiscal Year</b>	<b>Offense</b>	<b>Total</b>
<b>2012</b>	Aiding & Abetting	1
	<b>Arson</b>	2
	<b>Assault</b>	88
	Auto Theft	13
	Burglary	44
	Concealed Weapon	11
	Criminal Mischief	43
	<b>Disorderly Conduct</b>	4
	Distribution of Drugs	2
	Disturbing the Peace	10
	Escape	4
	<b>False Imprisonment</b>	1
	False Information	4
	<b>Obstructing a Police Officer</b>	9
	Possession of Drug Paraphernalia	28
	Possession of Drugs	45
	Possession of Firearm	2
	Probation Violation	1
	<b>Resisting Arrest</b>	1
	<b>Robbery</b>	11
	<b>Sexual Assault</b>	7
	Shoplifting	2
	<b>Terroristic Threats</b>	4
	Theft	76
Trespass	8	
Vandalism	4	
	<b>Total</b>	<b>425</b>

Fiscal Year	Offense	Total
2013	Aiding & Abetting	1
	<b>Arson</b>	4
	<b>Assault</b>	96
	Auto Theft	8
	Burglary	27
	Concealed Weapon	16
	Criminal Mischief	24
	<b>Disorderly Conduct</b>	1
	Distribution of Drugs	1
	Disturbing the Peace	13
	<b>False Imprisonment</b>	2
	False Information	3
	Forgery	2
	<b>Obstructing a Police Officer</b>	2
	Possession of Drugs	53
	Possession of Firearm	1
	Probation Violation	1
	<b>Resisting Arrest</b>	3
	<b>Robbery</b>	8
	<b>Sexual Assault</b>	5
	Shoplifting	3
	<b>Terroristic Threats</b>	4
	Theft	62
	Trespass	8
	Vandalism	1
	<b>Willful Reckless Driving</b>	1
	<b>Total</b>	<b>350</b>

Fiscal Year	Offense	Total
2014	Aiding & Abetting	1
	<b>Assault</b>	59
	Auto Theft	9
	Burglary	20
	Concealed Weapon	3
	Contributing to the Delinquency of a Minor	2
	Criminal Impersonation	1
	Criminal Mischief	17
	Distribution of Drugs	1
	Disturbing the Peace	9
	Escape	1
	Failure to Comply	1
	False Information	1
	<b>Obstructing a Police Officer</b>	1
	Possession of a Firearm	2
	Possession of Drugs	25
	Probation Violation	2
	<b>Robbery</b>	4
	<b>Sexual Assault</b>	6
	Shoplifting	1
	<b>Terroristic Threats</b>	3
	Theft	28
	Trespass	5
Unauthorized use of Vehicle	1	
	<b>Total</b>	<b>203</b>

<b>Fiscal Year</b>	<b>Offense</b>	<b>Total</b>
<b>2015</b>	<b>Arson</b>	1
	<b>Assault</b>	34
	<b>Assault on Officer/Health Care</b>	3
	<b>Attempted Robbery</b>	1
	Auto Theft	1
	Breath/Inhale/Drink Certain Compound	1
	Burglary	13
	<b>Child Enticement</b>	1
	Concealed Weapon	6
	Criminal Mischief	12
	Discharge Firearm near House/Vehicle	1
	<b>Disorderly Conduct</b>	2
	Distribution of Drugs	1
	Disturbing the Peace	3
	False Information	1
	Flight to Avoid Arrest	1
	Forgery	1
	<b>Intimidation by Phone</b>	1
	Leaving Scene of Accident	2
	No Operators License	1
	<b>Obstructing a Police Officer</b>	8
	Possession of a Firearm	2
	Possession of Controlled Substance	1
	Possession of Drugs	8
	Possession of Stolen Firearm	1
	Probation Violation	3
	<b>Resisting Arrest</b>	2
	<b>Robbery</b>	5
	<b>Sexual Assault</b>	2
	Shoplifting	8
	<b>Terroristic Threats</b>	2
	Theft	20
	Trespass	4
	Unauthorized use of Financial Device	3
Unauthorized use of Vehicle	3	
<b>Use of Firearm to Commit Felony</b>	1	
<b>Willful Wreckful Driving</b>	1	
	<b>Total</b>	<b>161</b>

<b>Fiscal Year</b>	<b>Offense</b>	<b>Total</b>
<b>2016</b>	<b>Arson</b>	1
	<b>Assault</b>	27
	<b>Assault on Officer/Health Care</b>	2
	<b>Attempted Robbery</b>	4
	Burglary	10
	Concealed Weapon	7
	Contributing to the Delinquency of a Minor	1
	Criminal Impersonation	1
	Criminal Mischief	13
	Distribution of Drugs	1
	Disturbing the Peace	3
	Escape	1
	False Information	2
	Leaving Scene of Accident	1
	<b>Obstructing a Police Officer</b>	3
	Possession of Controlled Substance	5
	Possession of Drugs	5
	Probation Violation	4
	<b>Resisting Arrest</b>	6
	<b>Robbery</b>	1
	<b>Sexual Assault</b>	2
	Shoplifting	2
	<b>Strangulation</b>	1
	<b>Terroristic Threats</b>	4
	Theft	28
	Trespass	4
	Unauthorized use of Vehicle	2
Use of Tobacco by Minor	1	
	<b>Total</b>	<b>142</b>

<b>Fiscal Year</b>	<b>Offense</b>	<b>Total</b>
<b>2017</b>	<b>Assault</b>	25
	<b>Assault on Officer/Health Care</b>	2
	<b>Attempted Arson</b>	2
	<b>Attempted Robbery</b>	4
	Burglary	9
	<b>Child Abuse</b>	1
	Concealed Weapon	7
	Criminal Mischief	9
	<b>Disorderly Conduct</b>	2
	Distribution of Drugs	3
	Disturbing the Peace	1
	False Information	1
	<b>Obstructing a Police Officer</b>	5
	Operating Motor Vehicle to Avoid Arrest	1
	Possession Machine Gun	1
	Possession of Controlled Substance	4
	Possession of Drugs	4
	Possession of Firearm	1
	Possession of Imitation Controlled Substance	1
	Possession of Stolen Firearm	1
	Probation Violation	1
	<b>Resisting Arrest</b>	5
	<b>Robbery</b>	2
	<b>Sexual Assault</b>	2
	Shoplifting	3
	<b>Terroristic Threats</b>	4
	Theft	21
	Trespass	6
	Unauthorized Use of Vehicle	1
	Under the Influence of Controlled Substance	1
Unlawful Possession of Handgun	2	
	<b>Total</b>	<b>132</b>

Source: Compiled by Legislative Audit Office using data from YRTC-Kearney Annual Reports, FY2012-2017.



## **APPENDIX D: YRTC-Kearney Rule Infraction Definitions**

Figure D.1 contains the regulatory definitions for the different types of rule infractions at YRTC-Kearney. The infractions in bold are those that we found to meet the definition of violent, using the World Health Organization’s definition of violence: “the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, which either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation.”<sup>3</sup>

**Figure D.1. Infraction Categories and Definitions**

<b>Type of Infraction</b>	<b>Definition</b>
Bribery	Offering to sell, give, or loan any item or to perform any service for the benefit of any person in exchange for that person’s deviation from assigned authorized duties or institutional rules.
Destruction of Property \$100-\$500	Destruction, alteration, unauthorized use, or wasting of property which belongs to the State or another person valued between \$100 and \$500; or unauthorized contact or interference with such property.
Destruction of Property over \$500	Destruction, alteration, unauthorized use, or wasting of property which belongs to the State or another person valued over \$500; or unauthorized contact or interference with such property.
Disruption of Authorized Duties	Hindering any employee or youth in the performance of his/her duties by creating a disturbance, causing a delay, giving false information to authorized State Personnel, delaying count, turning in a false alarm, wearing a disguise or mask, tampering with locks, malingering, littering, or by creating or maintaining a health, safety or fire hazard.
Drug Abuse	Use, possession, manufacture, or sale of drugs, narcotics, or medication not prescribed by facility personnel, or of intoxicants; being under the influence of any intoxicant, or refusal to submit to a breath, blood, or urine test upon instruction from authorized personnel. Tampering with test procedures, contaminating the evidence, or intentionally invalidating the urinalysis in any manner.
Drug Paraphernalia	Possession, or manufacture of needles, syringes, or any other drug or narcotic paraphernalia.
Escape	Escape, or attempted escape from any part of the facility, from any work assignment, or any extended limits of the facility. Failure to remain within the extended limits of confinement or to return within the time prescribed to a facility.
Escape Paraphernalia	Possession, manufacture, or use of escape paraphernalia.
Forgery	Forging, or altering official papers or documents. Signing another youth’s name or number.

<sup>3</sup> World Health Organization, Violence Prevention Alliance, “Definition and typology of violence,” <http://www.who.int/violenceprevention/approach/definition/en/> (accessed April 9, 2018).

<b>Type of Infraction</b>	<b>Definition</b>
Gang-related Behavior	Use of gestures, language, or other conduct which promotes or indicates gang affiliation.
Improper Use of Transportation	Operation of a motor vehicle without authorization from the Department authorities; the operation of a company-owned, job-related vehicle for any purpose other than work; or transportation in any vehicle without prior authority from Department administrators.
Law Violations	Violation of any law, statute, or ordinance of any city, county, state, or federal government; or failure to promptly notify Department authorities of any contact with law enforcement officials.
Medication Abuse	Use or possession of authorized medication contrary to prescription or unauthorized possession of non-prescription medication.
<b>Murder</b>	The killing of another person.
<b>Mutilation of Self or Others</b>	Intentionally piercing, branding, marking, tattooing, or cutting any portion of one's body or another's body or causing injury to one's self.
<b>Mutinous Actions</b>	Mutiny, inciting to riot, insurrection, taking of hostages, and/or arson in any part of the institution, or any work assignment, or within the extended limits of the facility.
Payment for Protect	Demanding or receiving anything from another person in exchange for protecting another person from the youth population; demanding, or receiving anything in exchange for not informing on another person, or threatening to inform on another person.
Possession of Government Money Without Authorization	Possession of official government money without authorization, or in excess of the amount authorized by the Chief Executive Officer.
Refusal of Search	Refusal to submit to a search of person, clothing, property, or living quarters when ordered by authorized personnel; flight to avoid search; or interference with such a search.
Sexual Activities	Engaging in or pressuring others to engage in sexual activities.
<b>Staff Assault</b>	Assault on another person which causes pain or bodily injury, threatened assault, fighting with another person resulting in serious bodily injury, or sexual assault.
Tattoo Activities	Performing tattoo services, maintaining tattoo paraphernalia, or receiving a tattoo.
<b>Use of Threatening Language or Gestures/Fighting</b>	Use of language or gestures thereby threatening physical harm to another person; or fighting which results in more than physical contact but less than serious bodily injury.
Violation of Sanctions	Violation of restrictions or sanctions as imposed by a Disciplinary Committee of the institution or Department.
Violation of Regulations	Failure to adhere to any written or posted order or regulation of the institution or a program of the Department.
Weapons	Possession or manufacture of any weapon or article to be used as a weapon.

<b>Type of Infraction</b>	<b>Definition</b>
Work Strike	Encouraging other youths to refuse to work or participate in designated programs, or preventing other youths from working, or participating in designated programs.
<b>Youth Assault \ Youth Fighting</b>	Assault on another person which causes pain or bodily injury, threatened assault, fighting with another person resulting in serious bodily injury, or sexual assault.

Source: 401 NAC 6-005.



## APPENDIX E: YRTC-Kearney Youth Infractions

Figure E.1 shows the data used in Figure 2.3 in Section II of the report. Figure E.2 shows the data used in Figure 2.5 in Section II of the report. Figure E.3 shows the data used in Figure 2.6 in Section II of the report.

**Figure E.1. Actual Number of Misconduct Incidents per Youth, FY2012-FY2016**

Number of Incidents Committed	Number of Youth (total=1,183)	Percentage of YRTC-K Population
0	432	37%
1	158	13%
2-5	331	28%
6-10	112	9%
11-15	51	9%
16-20	33	
21-25	17	
26-30	15	3%
31-35	9	
36-40	7	
41-45	5	
46-50	3	
51-60	4	1%
61-70	3	
71-80	0	
81-90	0	
91-100	1	
>100	2	

Source: Compiled by Legislative Audit Office using YRTC-Kearney data.

**Figure E.2. Total Number of Violent Incidents, by Type, FY2012-FY2016**

Violent Incident Type	Number of Incidents (Percentage of Total Violent Incidents)
Use of Threatening Language or Gestures/Fighting	978 (32%)
Youth Assault	800 (26%)
Youth Fighting	773 (25%)
Staff Assault	495 (16%)
Mutilation of Self or Others	27 (1%)
Mutinous Actions	6 (<1%)
Murder	0
<b>Total</b>	<b>3,079</b>

Source: Compiled by Legislative Audit Office using YRTC-Kearney data.

**Figure E.3. Actual Number of Violent Incidents per Youth, FY2012-FY2016**

<b>Number of Violent Infractions Committed</b>	<b>Number of Youth</b>
1	189
2	110
3	73
4	42
5	29
6	22
7	12
8	15
9	22
10	15
11	5
12	6
13	6
14	5
15	7
16	7
17	4
18	4
19	5
20	3
21	1
22	2
23	3
25	1
26	2
27	3
28	1
29	2
34	1
36	1
37	1
41	1
44	1
45	1
52	1

Source: Compiled by Legislative Audit Office using YRTC-Kearney data.

## APPENDIX F: YRTC-Kearney Staff Wages

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This appendix contains supplemental information for the wage averages reported in Section III. The Audit Office conducted all of the analyses using data from the Nebraska Department of Labor.

### 45 Youth Security Specialist Staff Employed YRTC-Kearney at the Beginning of 2016: Quarterly Wage at YRTC-K Compared to Prior Employment

**Figure F.1. Difference: Wages at Prior Employment Compared to YRTC-K First Wages (n=45)**

	Quarterly Wage
Average	+\$3,448
Range	-\$8,585 to +\$5,603
Standard Deviation	\$2,325
Median	\$4,296

### *3 Staff with Lower Wages at YRTC-K than at Prior Employment*

**Figure F.2. Difference**

	Quarterly Wage
Average	-\$7,188
Range	-\$4,955 to -\$11,584
Standard Deviation	\$2,727
Median	-\$5,027

**Figure F.3. YRTC-K Wages**

	Quarterly Wage
Average	\$7,764
Range	\$6,280 to \$8,549
Standard Deviation	\$1,050
Median	\$8,463

**Figure F.4. Prior Wages**

	Quarterly Wage
Average	\$14,952
Range	\$11,234 to \$20,133
Standard Deviation	\$3,777
Median	\$13,490

## 42 Staff with Higher Wages at YRTC-K than at Prior Employment

**Figure F.5. Difference**

	Quarterly Wage
Average	\$4,208
Range	\$2,217 to \$5,603
Standard Deviation	\$1,087
Median	\$4,578

**Figure F.6. YRTC-K Wages**

	Quarterly Wage
Average	\$8,599
Range	\$5,640 to \$11,548
Standard Deviation	\$1,325
Median	\$8,640

**Figure F.7. Prior Wages**

	Quarterly Wage
Average	\$4,391
Range	\$37 to \$9,331
Standard Deviation	\$2,412
Median	\$4,062

## 13 YSS Staff Who Left YRTC-K in 2016

**Figure F.8. Difference: Last Wages at YRTC-K Compared to Subsequent Wages (n=13)**

	Quarterly Wage
Average	-\$1,171
Range	-\$3,615 to +\$2,868
Standard Deviation	\$1,147
Median	-\$1,095

## 3 YSS Staff that Left Received Higher Wages at Subsequent Employment

**Figure F.9. Difference**

	Quarterly Wage
Average	\$2,304
Range	\$1,608 to \$2,916
Standard Deviation	\$499
Median	\$2,389

**Figure F.10. YRTC-K**

	<b>Quarterly Wage</b>
Average	\$8,481
Range	\$6,916 to \$10,805
Standard Deviation	\$1,676
Median	\$7,722

**Figure F.11. Subsequent Employer**

	<b>Quarterly Wage</b>
Average	\$10,785
Range	\$8,524 to \$13,721
Standard Deviation	\$2,174
Median	\$10,111

***10 YSS Staff that Left Received Lower Wages at Subsequent Employment***

**Figure F.12. Difference**

	<b>Quarterly Wage</b>
Average	-\$2,214
Range	-\$3,615 to -\$1,547
Standard Deviation	\$598
Median	-\$2,219

**Figure F.13. YRTC-K**

	<b>Quarterly Wage</b>
Average	\$9,086
Range	\$6,686 to \$10,853
Standard Deviation	\$1,297
Median	\$9,328

**Figure F.14. Subsequent Employer**

	<b>Quarterly Wage</b>
Average	\$6,872
Range	\$3,071 to \$9,306
Standard Deviation	\$1,895
Median	\$7,110

Source for all Appendix F figures: Compiled by Legislative Audit Office using Department of Labor data.



## APPENDIX G: YRTC-K Staff Length of Employment

Figure G.1 shows the data used in Figure 3.5 in Section III of the report.

**Figure G.1. YRTC-Kearney Youth Security Specialist Staff Length of Employment**

Of 47 who stayed				Of 17 who left			
< 1 yr	1	2%	60%	< 1 yr	3	18%	88%
≥1, < 2	15	32%		≥1, < 2	7	41%	
≥2, <3	5	11%		≥2, <3	3	18%	
≥3, <4	7	15%		≥3, <4	2	12%	
≥4, <5	4	9%	15%	≥4, <5	0		0
≥5, <6	2	4%		≥5, <6	0		
≥6, <7	1	2%		≥6, <7	0		
≥7, <8	0	0%	25%	≥7, <8	0		12%
≥8, <9	2	4%		≥8, <9	2	12%	
≥9	10	21%		≥9			
<b>Total</b>	<b>47</b>	<b>100%</b>		<b>Total</b>	<b>17</b>	<b>100%</b>	

Source: Compiled by Legislative Audit Office using Department of Labor data.



### ***III. Agency Response and Fiscal Analyst's Opinion***





September 12, 2018

Stephanie Meese, Legal Counsel  
Legislative Audit Office  
1225 L Street, #502  
P.O. Box 94604  
Lincoln, NE 68509

Dear Ms. Meese,

Thank you for providing research findings, from your audit, regarding violent infractions at the Youth Rehabilitation and Treatment Center- Kearney (YRTC-K) from FY2012 to FY2017 and for meeting to discuss those findings on September 5, 2018. After reviewing the findings and draft recommendations, we have the following response.

First, it is imperative to us that there is a clear understanding of the time frame of when this data was collected, FY2012 to FY2017. We were going through major changes during the end of this data collection time frame and have made significant improvements since then regarding safety and security at the facility. The improvements include, but are not limited to, a significant reduction in escapes and staff assaults. The specific data researched in this study may result in future recommendations and Legislative changes that are unnecessary due to not utilizing the most current data from YRTC-K. For this reason, we would like the specific time frame in which data was collected emphasized on the front end of the report, as discussed in the meeting. We feel it is necessary to specifically note that data from FY2018 and current data in this FY is not included.

Second, regarding the draft recommendations in *Section II: Youth Misconduct at YRTC-Kearney*, there is specific mention of the Legislature recently appropriating funds for 27 new staff "but most of those positions remain unfilled and YRTC-K continues to rely heavily on overtime to meet PREA standards". It's important that hard work is recognized. Before receiving those appropriated funds for new positions, YRTC-K already had double-digit direct care staff vacancies. Since then, we have filled those openings and are giving specific attention to our recruiting and retention efforts in order to fill the remaining positions. In June 2016, due to the immense vacancies there were 40 Youth Program Specialists (direct care) positions working and, as of September 2018, we currently have 70 Youth Program Specialists working.

We thank you again for your time and effort in this research project and your feedback during our recent meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark LaBouchardiere".

Mark LaBouchardiere, Director  
DHHS Facilities  
Department of Health and Human Services



## **Legislative Auditor's Summary of Agency Response**

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This summary meets the requirement of Neb. Rev. Stat. § 50-1210 that the Legislative Auditor briefly summarize the agency's response to the draft performance audit report and describe any significant disagreements the agency has with the report or recommendations.

There were no disagreements with the audit report's findings or recommendations in the Department of Health and Human Services' response letter; however, the agency asked that the Audit Office add some additional language to clarify the time period reviewed in the audit. The agency response asked that the report emphasize that the majority of the data collected and used in the report was from FY2012 to FY2017, and therefore not reflective of the current climate at YRTC-Kearney. The response further stated that YRTC-Kearney was going through many changes at the end of the primary time period reviewed and that improvements have been made regarding security and safety at the facility since that time.

The agency response also provided an update to information provided in the report to clarify that the facility is working diligently to fill vacant staff positions. According to the agency, prior to receiving funding from the Legislature for new security staff positions, there were already double digit vacancies in these positions. This has improved through the facility's efforts: while in June 2016 there were only 40 direct care positions filled, as of September 2018, there were 70 direct care staff members employed at the facility.



# State of Nebraska

SEP 24 2018

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TOM BERGQUIST  
 Legislative Fiscal Analyst

MARSHALL LUX  
 Ombudsman

September 17, 2018

Martha Carter  
 Legislative Auditor  
 Performance Audit  
 11<sup>th</sup> Floor, State Capitol  
 Lincoln, NE 68509

Dear Martha;

Pursuant to Section 50-1210(2) Fiscal Office staff have reviewed the draft audit report, "Assessments of Violent Infractions and Staffing at the Youth Rehabilitation and Treatment Center – Kearney" and offer the following assessment of the cost to implement the recommendations.

### **Draft Report:**

Section 1: The Legislature may want to gather additional information on rural youth committed to the YRTC- Kearney to determine whether increasing community-based, juvenile services in rural Nebraska would provide more appropriate placements for some youth at YRTC- Kearney.

Section 2. The Legislature should consider whether sufficient safeguards exist to provide reasonable levels of protection for youth and staff within the facility and to the public given the recent increase in violent incidents by youth at the YRTC – Kearney. As indicated by the PREA standards discussed in Section III, sufficient staffing is an important safety factor. The Legislature recently appropriated funds for 27 new staff but most of those positions remain unfilled and the YRTC – Kearney continues to rely heavily on overtime to meet PREA standards. There may be non-staffing related ways of increasing safety but an examination of those was outside the scope of this audit.

Section 3. The Legislature should consider a more thorough study into the barriers to hiring and retaining YSS staff at the YRTC – Kearney. The Legislature should consider whether heightened penalty statutes should be amended to include YRTC – Kearney staff to those individuals that are protected in statute. Additionally, the

Legislature should consider whether it is appropriate for a single facility to house both a large population of youth who have committed no violent incidents and a small proportion of youth who have committed many such incidents.

**LFO Assessment:**

Depending on the scope of the study recommended in Section 1, there could be additional costs. If the study involved an inventory of existing services and a needs assessment of rural youth only, departmental and/or legislative staff may be able to conduct the study without additional resources. However, isolating the needs of rural youth from the larger need/operation of the YRTC – Kearney may not be the best approach. A study of the need for and/or appropriateness of the YRTC – Kearney for all the children not just those from rural areas may be warranted. The study could also address the recommendation in Section 2 that raised the question as to whether kids with less serious offenses should be placed in the same facility as those with more serious/violent ones and incorporate an examination of the costs of operating the YRTC - Kearney with fewer children. A more comprehensive study likely would require additional resources for an outside contract.

With regard to the barriers of hiring and retaining staff, it is unlikely that additional financial resources would reduce the difficulty of recruiting staff for the 27 new staff positions and retaining existing staff, as the salary levels do not seem to be a factor. As recommended in Section 3, more information is needed on the barriers to hiring and retaining staff. Stiffer penalties for protection of YRTC – Kearney staff would be handled within the existing appropriations of the judicial and correctional systems.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Tom Bergquist  
Legislative Fiscal Analyst