



SPECIAL REPORT

The California Department of Corrections and Rehabilitation's Monitoring of Employee Discipline

**OFFICE OF THE
INSPECTOR GENERAL**

STATE OF CALIFORNIA

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March 29, 2011

Matthew L. Cate, Secretary
California Department of Corrections and Rehabilitation
1515 S street, Room 502 South
Sacramento, California 95814


Dear Mr. Cate:

Enclosed is the Office of the Inspector General's report concerning the California Department of Corrections and Rehabilitation's (CDCR) imposition of disciplinary actions against employees who violate CDCR policies, state laws, or regulations governing employee conduct. Our review of CDCR's disciplinary process examined the department's compliance with its own policies concerning tracking and reporting of employee discipline cases, and tested a sample of cases to determine whether prescribed penalties were actually imposed on employees found to have committed misconduct.

The report concludes that the department does not adhere to its policies for tracking and reporting employee discipline cases, and does not prepare required quarterly reports of disciplinary statistics or required annual reports on the effectiveness of CDCR's disciplinary process. Further, in following up on past disciplinary cases, our sample disclosed cases in which the prescribed monetary discipline was misapplied, causing employees to be either over- or under-penalized. In some cases, the prescribed discipline was not imposed at all. Finally, our report found cases in which financial penalties imposed upon disciplined employees were never collected.

If you have any questions concerning this report, please contact Bill Shepherd, Deputy Inspector General, In-Charge, Bureau of Audits, at (916) 830-3600.

Sincerely,


BRUCE A. MONFROSS
Inspector General (A)

Enclosure

cc: Scott Kernan, Undersecretary, Operations, CDCR
Elizabeth Siggins, Chief Deputy Secretary, Adult Programs, CDCR
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Executive Summary

This report presents the results of a special review by the Office of the Inspector General (OIG) into the California Department of Corrections and Rehabilitation's (CDCR) imposition of disciplinary actions against employees who violate CDCR policies, state laws, or regulations governing employee conduct.

Pursuant to the *Madrid v. Gomez* lawsuit (*Madrid*), CDCR has established a detailed process to report and investigate alleged employee misconduct and has formalized the imposition of discipline for employees found to have committed misconduct. The final step of this disciplinary process is the actual imposition of the identified penalty. Our review of CDCR's disciplinary process focused on determining whether penalties were actually imposed for employees found to have committed misconduct. Our review determined the following:

- CDCR does not adhere to Department Operations Manual (DOM), policies regarding the tracking and reporting of employee discipline cases. More specifically, the Employee Discipline Unit (EDU) does not maintain copies of all adverse action documents within a centralized repository. In addition, the Employment Advocacy and Prosecution Team (EAPT) does not prepare required quarterly reports of disciplinary statistics. Finally, the Office of Legal Affairs and Office of Internal Affairs have not prepared required annual reports on the effectiveness of CDCR's disciplinary process. As a result, CDCR is not able to benefit from information to assist it in identifying misconduct trends and allocating appropriate resources to combat disciplinary problems identified through a department-wide review of adverse action cases. Further, CDCR limits its ability to oversee, monitor, and ensure the complete, timely, and accurate imposition of disciplinary penalties by the hiring authority, such as a warden or parole administrator.
- Although generally accurate, prison personnel office employees sometimes made clerical and calculation errors when establishing financial penalties in the payroll system, causing some employees to fully or partially escape penalty, while causing others to be over penalized. Of 100 cases reviewed, we identified 14 specific errors occurring in our sample. The errors fell into one or more of the following general categories:
 - *Failure to impose the disciplinary penalty.* We discovered three cases, in which an adverse action was authorized by the hiring authority, yet personnel office employees did not enter the prescribed financial penalty into the payroll system to reduce the employee's wages; as a result, the penalty was never imposed.
 - *Failure to stop punitive actions on the scheduled end date.* We found four instances in which employees were over-penalized because personnel office

employees failed to make an entry in the payroll system to end a financial penalty.

- *Miscalculation of financial penalty or pay restoration.* In four cases, prison personnel office employees made either clerical or calculation errors in determining the financial penalty assessed against the disciplined employee. For example, one case involved an employee who was assessed a 10 percent salary reduction for twelve months. However, when the penalty ended the personnel staff restored his pay by only five percent. The employee continued to be underpaid by five percent for 11 months until OIG inspectors informed the prison of this error and back pay of \$2,503 was issued to the employee.
- *Failure to collect monies owed by employees from disciplinary actions.* When a financial penalty is not initiated in the payroll system on time, CDCR must establish an account receivable and collect the amount owed by the employee through a payroll deduction. OIG inspectors found three instances in which CDCR failed to initiate a payroll deduction to collect accounts receivable from disciplined employees.

Recommendations

The Office of the Inspector General recommends that the California Department of Corrections and Rehabilitation take the following actions:

- Ensure that the department collects and maintains copies of adverse action documents, as required by DOM Sections 33030.5.4 and 33030.5.6.
- Ensure that the Employment Advocacy and Prosecution Team prepare quarterly reports of adverse action cases, as mandated by DOM Section 33030.31.
- Ensure that the Office of Legal Affairs, in conjunction with the Office of Internal Affairs, audits the effectiveness of the employee discipline process annually, as required by DOM Section 33030.32.
- If it believes the reporting and auditing requirements for employee discipline as described in DOM Sections 33030.31 and 33030.32 should be changed, the department should initiate the changes.
- Require that key hiring authority representatives for adverse action cases discuss and monitor new and on-going cases with institution personnel to ensure that all cases are accounted for, processed promptly and fully completed, and that each responsible party is held accountable for performing their required duties.
- Remind all personnel employees to use the official method of calculating payroll reductions as currently identified in the California State Civil Service Pay Scale Manual.

- Follow established department procedures intended to ensure that disciplinary penalties begin and end on the dates identified in the notice of adverse action.
- For salary reductions that are not fully collected, establish and collect payroll accounts receivable from the affected employee.
- For employees who have paid financial penalties in excess of amounts owed, promptly repay the employees all amounts due.

Introduction

Fair and consistent consequences for employee misconduct in the California Department of Corrections and Rehabilitation (CDCR) is not only a prudent business practice, it is mandated by the federal court. In *Madrid v. Gomez*¹ (*Madrid*), the federal court noted that a meaningful disciplinary system is essential, arguing that if there are no penalties imposed for misconduct, the underlying policies and procedures become ineffective. In response to the court’s mandate to implement a meaningful disciplinary system, CDCR established Chapter 3, Article 22, of the Department Operations Manual (DOM), which requires that “all disciplinary action be imposed in a fair, objective, and impartial manner,” and specifies that CDCR “shall consistently apply accepted principles of due process and progressive discipline when corrective or adverse action is imposed.” To determine if penalties were actually imposed, OIG inspectors reviewed a sample of disciplinary cases. We conducted this review under the authority of California Penal Code section 6126(a) (1), which assigns the Office of the Inspector General responsibility for oversight of CDCR.

Background

Hiring authorities are individuals authorized by the Secretary of CDCR to hire, discipline, and dismiss employees. These authorities include parole administrators, wardens, superintendents, and various headquarters personnel. Each hiring authority is responsible for taking “adverse action”—that is, imposing penalties—whenever warranted by an employee’s conduct and for ensuring that such penalties are imposed fairly and objectively. The hiring authority determines an appropriate penalty by using the Employee Disciplinary Matrix established in CDCR’s policy. Depending on the seriousness of the misconduct, the hiring authority can impose one of nine penalty levels from the Employee Disciplinary Matrix, including official reprimand, work suspension or salary reduction for a specified period, demotion, or dismissal. After determining a penalty based on the Employee Disciplinary Matrix, the hiring authority communicates that penalty to the employee by preparing and serving a Notice of Adverse Action (NOAA). The NOAA articulates to the employee the charges on which the proposed penalty is based and the date on which the proposed penalty takes effect. It also informs the employee of their right to a Skelly Hearing² and their right to appeal the case to the State Personnel Board.

Employee misconduct investigations are conducted by CDCR’s Office of Internal Affairs. In some instances, the Office of the Inspector General’s Bureau of Independent Review (BIR) monitors internal affairs investigations conducted by the Office of Internal Affairs and the hiring authority. For example, the BIR monitors cases involving abuse of

¹ *Madrid v. Gomez*, 889 F. Supp. 1146, 1156 (N.D. Cal. 1995).

² A Skelly Hearing is an informal proceeding in which the employee, along with his or her representative, is provided an opportunity to respond to management regarding the charges in the Notice of Adverse Action.

authority, use of deadly force, use of significant force with injury, employee dishonesty, lack of integrity, and serious allegations against supervisors and managers. If the hiring authority imposes discipline based upon evidence obtained during the investigation, the hiring authority consults with the department's attorney and the BIR regarding the appropriateness of the penalty. However, the BIR has not historically used its monitoring authority to confirm that CDCR actually imposes on its employees the financial penalties reported to the BIR at the conclusion of each case, nor was it ever charged with doing so.

The parties responsible for completing certain tasks in the employee discipline process vary, depending on whether the employee works at an adult prison, a parole office, CDCR headquarters, or the Division of Juvenile Justice (DJJ). Each of California's 33 correctional institutions and four regional parole offices has an Employee Relations Officer (ERO), who serves as the disciplinary officer. The ERO monitors and coordinates the adverse action process and drafts Notices of Adverse Actions (NOAA) for all cases that are not designated for assignment to a department attorney. For cases originating at CDCR's headquarters offices, regional parole offices, and the Department of Juvenile Justice (DJJ), CDCR's Employee Discipline Unit (EDU) drafts NOAA's and may represent CDCR before the State Personnel Board.

For employee discipline cases processed at prisons, the respective prison's personnel office processes payroll transactions that impose financial penalties such as salary reductions or suspensions. For disciplinary cases originating at the CDCR's headquarters offices, regional parole offices, or the DJJ, CDCR's Office of Personnel Services Transactions Unit processes such payroll transactions.

Objectives, Scope, and Methodology

The objective of the review is to assess whether CDCR is complying with policies and procedures established in the *Madrid* litigation regarding employee discipline. To determine if CDCR is meeting employee discipline reporting requirements, we reviewed the *Madrid* litigation which ordered CDCR to enact Chapter 3, Article 22 of the DOM. We then examined this DOM section to understand the reporting process for employee discipline (see Appendix A). Finally, we interviewed several employee relations officers, management from the Office of Legal Affairs, and the Office of Internal Affairs to determine the current process for reporting employee discipline.

To determine whether CDCR is completely and correctly implementing disciplinary penalties, OIG inspectors reviewed a statewide sample of employee disciplinary cases. To understand CDCR's employee discipline process, we reviewed relevant state laws and regulations as well as CDCR policies and procedures, and we interviewed personnel from employee relations and personnel offices at CDCR headquarters, at various prisons, and at a regional parole office. In addition, we conducted a site visit to a CDCR institution to investigate specific allegations of failure to implement disciplinary penalties.

To select our sample, we obtained from CDCR a statewide listing of employee disciplinary actions involving financial penalties. We targeted salary reductions and

suspensions because they have a direct monetary impact upon the employee when imposed and because their imposition is easily verified. The list included 1,219 adverse action cases with effective dates between January 1, 2008 and June 30, 2009. We sampled 100 cases from this list involving either suspension without pay for ten or more days, or a salary reduction of at least five percent for six or more months. For each sampled case, we recalculated the prescribed financial penalty and compared our result with the penalty shown within the state payroll system, noting whether the penalty was imposed, and if so, was it imposed correctly. In addition, we reviewed supporting documents such as Notices of Adverse Action and Stipulation Agreements in employee adverse action files to confirm that the final financial penalty imposed through the adverse action process was properly imposed.

The scope of our review was limited because, as discussed in Finding 1, EDU's database of adverse actions does not include all adverse action cases. The statewide sample we selected for review was limited to those cases in the EDU adverse action database, which contains only the cases it received. We were unable to determine the extent to which the EDU's files are complete.

Review Results

We found that CDCR does not adhere to its policies in the Department Operation Manual (DOM) requiring the Employee Discipline Unit (EDU) to collect and maintain a separate repository of all adverse action documents. Further, CDCR does not adhere to its policies requiring quarterly reporting by its Employment Advocacy and Prosecution Team (EAPT) on statistics for disciplinary cases, and require annual reporting by the Office of Legal Affairs in conjunction with the Office of Internal Affairs on the effectiveness of the department's disciplinary process. As a result, CDCR limits its ability to oversee, monitor, and ensure the complete, timely, and accurate disposition of disciplinary penalties. Further, CDCR is not able to benefit from information to help it identify misconduct trends among its staff and allocate appropriate resources to combat disciplinary problems that might be identified through a system-wide review of adverse action cases. The employee discipline reporting process and responsibilities are charted in Appendix A.

In our review of 100 disciplinary cases involving financial penalties imposed on CDCR employees, we found 14 errors involving 11 employees at different prisons who did not receive the correct penalty as a result of those errors. Employees were both under- and over-penalized, with the errors ranging from a \$6,949 penalty not collected to a penalty over-collected from the employee by \$2,503. Most of the errors resulted because personnel employees did not initiate the payroll deduction to collect the penalty, did not stop the deduction at the scheduled time, or started the deduction late. Other errors resulted from incorrect calculations. All of these errors undermine a principal tenant of discipline - that disciplinary penalties be consistently applied to all affected employees. Appendix B provides a complete listing of the errors we discovered.

Finding 1

CDCR has not complied with court-ordered policies requiring reports on employee discipline cases

In late December 2005, the court in *Madrid* ordered CDCR to implement the department's proposed modifications to employee discipline policies. The modifications required CDCR to maintain a separate repository of all adverse action documents, provide quarterly reports on adverse actions to the Secretary of CDCR beginning March 2006, and complete an annual audit of the effectiveness of its disciplinary process. CDCR has not complied with these requirements. As a result, CDCR is not in compliance with those policies and is not able to benefit from information to help it identify and address any patterns of employee misconduct.

Centralized Repository of Adverse Actions Not Implemented

The Employee Discipline Unit (EDU) does not maintain copies of all adverse action documents within a centralized repository. In order to prepare accurate and relevant quarterly reports and annual audits, CDCR must first compile information from all of its employee disciplinary actions.

DOM Section 33030.5.6 requires the EDU to collect and maintain the official CDCR copies of all adverse action documents separate and apart from those held in official personnel files. The EDU, which reports to CDCR's Office of Legal Affairs, is also required to maintain statistical information and generate reports regarding adverse actions. DOM Section 33030.5.4 requires Employee Relations/Disciplinary Officers to provide copies of pending employee disciplinary actions to the EDU every quarter.

Each of California's 33 prisons and four regional parole offices maintains an Employee Relations Office, which is managed by an employee relations officer who also serves as the disciplinary officer. The employee relations officer monitors and coordinates the adverse action process. Several prisons' employee relations officers told us that they were either not aware of the requirement to submit copies of adverse action documents to the EDU or that their workload demands prevented it.

The failure to maintain copies of all adverse action cases in a single location deprives CDCR's management of potentially useful information that may assist it in monitoring the imposition of penalties, identifying trends, or tracking problems occurring with its disciplinary process. Further, the lack of a central repository inhibits the preparation of complete quarterly reports and annual audits, as required by CDCR policy and procedure.

Quarterly Report of Employee Disciplinary Actions Not Completed

DOM Section 33030.31 mandates that the Employment Advocacy and Prosecution Team (EAPT), which reports to CDCR's Office of Legal Affairs, prepare a quarterly report with detailed information (see Table 1) on adverse action cases. The quarterly report is to be sent to the Secretary of CDCR.

An EAPT manager told us that the EAPT has not prepared the required quarterly reports primarily because it does not have a database that captures the required information.

A manager at CDCR's Office of Internal Affairs (OIA), which maintains the case management system database, explained that when the court approved the policy

Table 1

Section 33030.31 requires the EAPT to prepare a quarterly report that documents the number of adverse actions by type, including the following:

- Cases by type of discipline
- Cases without an investigation, by type of adverse action
- Cases with an investigation, by type of adverse action
- Cases in which the discipline was sustained by the Skelly officer
- Cases in which the Skelly officer recommended modification of the discipline, showing the hiring authority's acceptance or rejection of the recommendation
- Cases in which settlement was reached prior to the State Personnel Board (SPB) decision
- Cases in which the SPB upheld, modified, or revoked the hiring authority's recommended discipline
- Cases in which the State Personnel Board (SPB) upheld, modified, or revoked the hiring authorities' recommended discipline.

changes, the database in use at that time did not track information which was subsequently determined to be necessary. The current database tracks all required investigation and disciplinary information, but specific programming is required to provide customized information.

Annual Employee Discipline Audit Not Completed

Section 33030.32 of the DOM requires CDCR's Office of Legal Affairs and Office of Internal Affairs to jointly prepare an annual audit of the effectiveness of the employee discipline process. Those audits have never been done. Table 2 outlines the scope of the annual audit.

Table 2

Section 33030.32 requires that the annual audit include the following elements:

- An assessment of the adequacy of the monitoring of the statute of limitations, and
- An assessment of training needs by evaluating the following:
 - The effectiveness of the attorneys assigned to EAPT-monitored cases
 - The appropriateness and thoroughness of the investigation, investigation report, penalty, NOAA, and settlement, and
 - The policy issues involved and/or at stake.

An EAPT manager recommends CDCR's Office of Audits and Court Compliance, rather than the Legal Affairs Office, perform the annual audits, and further recommends revising Section 33030.32 of the DOM because it is unclear how some of the required audit elements can be evaluated.

The annual audit required by DOM Section 33030.32 provides an opportunity for CDCR to identify and correct systemic weaknesses in its disciplinary process. For example, evaluating the adequacy of CDCR's monitoring of the statute of limitations in various phases of its disciplinary cases may reveal cases in which the hiring authority lost its ability to impose discipline because investigations were not completed before the statute of limitations expired.

Prisons report the number of investigations exceeding the statute of limitations in monthly CompStat (comparative statistics) reports. There can be numerous reasons that the statute of limitations may be exceeded. For example, a disciplinary officer can cause a case to be lost by failing to serve the NOAA on the employee before the statute of limitations date expires, but the CompStat reports do not include such cases. The EAPT manager believes that because CDCR constantly strives to avoid losing cases through an expired statute of limitations, this area should be a required component of the annual employee discipline audit.

The EAPT manager uses the semi-annual report of the OIG Bureau of Independent Review in conjunction with information maintained by EAPT to evaluate the work of EAPT attorneys providing legal consultation to the hiring authority.³ Nonetheless, the reporting and auditing requirements of DOM Sections 33030.31 and 33030.32 apply to *all* of CDCR's adverse action cases, and the cases assigned to the EAPT represent only a fraction of the total cases.

³ According to a department manager, EAPT monitors designated adverse action cases continually, and are working with other CDCR employees to develop new reporting and auditing requirements to help executive management evaluate CDCR's hiring authorities.

Therefore, OIG believes that many of CDCR's adverse action cases are not subjected to review except by the hiring authorities who initiated them.

Recommendations

The Office of the Inspector General recommends that the California Department of Corrections and Rehabilitation take the following actions:

- Ensure that the department collects and maintains copies of adverse action documents, as required by DOM Sections 33030.5.4 and 33030.5.6.
- Ensure that the Employment Advocacy and Prosecution Team prepares quarterly reports of adverse action cases, as mandated by DOM Section 33030.31.
- Ensure that the Office of Legal Affairs, in conjunction with the Office of Internal Affairs, audits the effectiveness of the employee discipline process annually, as required by DOM Section 33030.32.
- If it believes the reporting and auditing requirements for employee discipline as described in DOM Sections 33030.31 and 33030.32 should be changed, the department should initiate the changes.

Finding 2

Failure to correctly assess disciplinary pay reductions

A review of 100 employee discipline cases identified 14 errors when establishing financial penalties in the payroll system. As a result, some employees fully or partially escaped penalty, while others were over-penalized. Specific errors included employee disciplinary penalties not imposed, not terminated on the scheduled end date, miscalculated, or started late.

Failure to Impose the Disciplinary Penalty

During our review, we encountered three instances in which the hiring authority issued a Notice of Adverse Action (NOAA) to an employee, yet no financial penalty was imposed because the hiring authority did not enter the penalty into the payroll system. In one case, the hiring authority imposed a 10 percent salary reduction over a period of 24 months. The employee appealed the adverse action to the State Personnel Board (SPB) and reached a stipulated agreement with the hiring authority decreasing the punitive action to a 10 percent salary reduction over a period of 16 months. However, the hiring authority missed two opportunities to impose the penalty. First, it never entered the original penalty into the payroll system prior to the employee's appeal to the SPB, and secondly, it failed to enter the reduced penalty after the SPB ruling. The lack of communication between the hiring authority's representative for adverse action cases, the employee relations officer, and the personnel department contributed to the failure to properly impose the adverse action. Such communication is essential to ensure that cases are accurately, promptly and completely imposed by the hiring authority. Consequently, the employee avoided a penalty of approximately \$6,949 over the 16-month punitive period until OIG inspectors brought the case to CDCR's attention.

Failure to Terminate Punitive Actions on the Scheduled End Date

We also found four instances in which CDCR appropriately entered the pay reduction into the payroll system decreasing employees' wages, but over-penalized the employees when the prison's personnel employees failed to terminate the transactions when they were scheduled to end. In one case, the prison continued to dock the employee's wages for a full four months after the adverse action was scheduled to end. When OIG inspectors informed prison officials of the error, the prison corrected the transaction by issuing nearly \$1,000 in back pay to the disciplined employee.

Miscalculation of Financial Penalty or Pay Restoration

In addition to the seven errors noted above, we found four calculation errors made by personnel employees when imposing penalties. For example, one employee received a 10 percent reduction in pay for a year, but when the prison's personnel employees ended the penalty, they reinstated the employee's salary by only five percent. Consequently, for eleven months the employee was paid five percent less than he was entitled to be paid, until OIG inspectors discovered this error. The prison subsequently issued the employee \$2,503 in back pay.

Another type of error occurred when personnel employees used an incorrect calculation for computing salary reductions rather than the proper calculation method established in the California State Civil Service Pay Scale Manual. The employees may have believed that their method used to calculate a punitive penalty would equal the results using the formula found in the pay scale manual, when the results were in fact different. The failure to calculate the penalty in accordance with instructions within the Pay Scale Manual resulted in a \$748 underpayment of the employee's wages over 11 months.

Failure to Collect Monies Owed by Employees from Disciplinary Actions

Finally, we identified three cases in which the salary deduction was entered into the payroll system late, up to three months after the effective dates mandated by the official disciplinary documents. Generally, the Notice of Adverse Action (NOAA) specifies the beginning and ending dates of the period during which the employee's salary will be reduced. The transaction to commence the salary reduction is sometimes delayed until after the start date designated on the NOAA, while the transaction to cease the reduction occurs on the NOAA's designated ending date. As a result, in these instances the penalty collection period is shortened and the disciplinary penalty is not fully deducted from the employee's pay check.

To collect the remaining amounts owed in such cases, an account receivable is established for the employee debt, and institution personnel must collect the receivable from the employee through either a payroll deduction or direct payment. In each of the three instances we noted, the prisons failed to collect the accounts receivable from the subject employees until informed by OIG Inspectors.

OIG inspectors questioned an institution personnel officer (IPO) as to the reasons for the delays in starting salary reductions on time. The IPO stated that input delays can happen because the State Controller's Office (SCO) must process certain types of payroll transactions such as those for adverse actions that would decrease an employee's wages below the minimum base pay for that employee's civil service classification. In addition, the IPO said that the SCO is required to input payroll transactions for adverse actions resulting from amended disciplinary rulings by the State Personnel Board (SPB). Sometimes, the SCO may not input these transactions until after the intended start date designated in the NOAA, while the penalty is completed on the ending date designated in the NOAA, resulting in under-collection of the intended penalty amount. Similarly, for penalties that may be processed directly by institution personnel employees, the personnel specialists can inadvertently fail to enter penalty transactions into the payroll system promptly, thus shortening the period for collecting salary reductions.

One such case involved a situation where the initial adverse action recommended by the hiring authority was amended at an SPB hearing to a 5 percent salary reduction over 12 months. The SCO, responsible for entering the penalty into the payroll system because it involved an amended disciplinary ruling by the SPB, delayed inputting the disciplinary penalty into the payroll system by three months. According to the prison's IPO, the prison's payroll specialist is responsible for making sure that all transactions attendant to an adverse action are actually complete, but the personnel specialist failed to follow-up

with SCO to ensure this happened. The prison did not initiate the payroll deduction to collect the accounts receivable, thereby allowing the employee to avoid approximately \$722 in wage deductions over the three-month period.

A valid solution: Institution Initiates Oversight of Employee Discipline Process

During our review, we determined that one institution had detected and corrected a number of its own employee discipline errors. The institutions personnel employees hold monthly meetings to discuss new adverse action cases and the status of ongoing cases to prevent and detect the types of mistakes identified above. Although improvement is still needed, these meetings help ensure that all adverse action cases are accounted for, and that each responsible party is held accountable.

In 2007, the warden discovered that the prison's personnel department failed to completely process several adverse actions against prison employees and that those employees had not been penalized. As a result of the failure to properly discipline its employees, OIG inspectors reviewed the institutions employee discipline cases from January 2006 through December 2009. The prison's current disciplinary officer identified several adverse action cases that a prior employee failed to process completely. We reviewed those cases and found that the employee had not followed CDCR policy and had missed the statutory deadline for serving the NOAA on four employees, thus denying CDCR any further opportunity to take action against them. The warden addressed this problem by recommending adverse action against this individual and by initiating regular meetings of the prison's management team to discuss the status of adverse action cases.

We also found two additional cases in which employees received suspensions without pay as a result of misconduct, but the suspensions never took place. In one case, a correctional officer was suspended from work without pay for six days. However, when we reviewed the officer's employee history, we found no directive to suspend the officer's pay. Further, our review of the officer's timesheet for the suspension period revealed that not only had he worked his regularly scheduled hours, he had also worked overtime. According to the prison's employee relations officer, this error was likely caused by the personnel department not forwarding the NOAA to the personnel office for entry into the state payroll system and failing to inform the prison's watch office of the officer's suspension, in accordance with established procedures. Similarly, in the second case, a sergeant was suspended from work without pay for ten days. Our review of the officer's timesheet revealed that the sergeant did not serve his prescribed ten-day suspension.

In addition to the cases discussed above, the personnel department employee failed to properly process other cases in 2007 as well, causing the cases to be lost because the statute of limitations period was exceeded. In addition, the lack of management review over the work of the personnel department created an environment in which policies and procedures specific to the adverse action process were not followed. As a result of suspected deficiencies in the handling of an adverse action case, in late 2007 the then-

warden requested an investigation of the personnel department employee's work performance. The warden subsequently determined that adverse action against the employee was warranted. However, the personnel employee retired from CDCR employment before the adverse action was served. The breakdown in the disciplinary process highlights the potential for similar problems at other institutions.

According to the current disciplinary officer, the prison began holding regular meetings to review all adverse action cases as a result of discovering the mishandled disciplinary cases. These meetings include the warden (or chief deputy warden), the lieutenant (or sergeant) from the investigative services unit (ISU), and the disciplinary officer. The ISU officer provides information about new cases submitted to the CDCR's Office of Internal Affairs for review and information about cases the ISU has completed or is currently reviewing. The prison's disciplinary officer informs the group of the status of each active case and provides subject matter expertise.

Holding such meetings is a reasonable method of ensuring that all adverse action cases are accounted for and that each responsible party is held accountable. However, by not including a representative from the prison's personnel office or requiring a review of a disciplined employee's payroll status during these meetings, the potential for errors similar to those discovered in our statewide sample remain. In fact, our review of more recent disciplinary cases at the prison identified two errors made by prison personnel employees, in which punitive actions were not terminated by personnel employees after the penalty periods expired. One of the cases continued for a full 12 months after the scheduled end of the action, costing the employee five percent of his salary each month, or \$2,566. In the second case, an officer received an additional 10 percent salary reduction for 14 months, an overcharge totaling \$4,369. After the OIG informed personnel employees of these errors the personnel department stated that they would remit all monies owed the employees for the reduction in their wages. These two cases underscore the need to have prison management interact with personnel employees regarding the termination of punitive actions.

Correcting problems such as those we identified is critical because errors in enforcing and calculating disciplinary penalties erode employees' and CDCR stakeholders' confidence that the disciplinary system operates in a fair, objective, and impartial manner. Moreover, the CDCR resources required to handle employee discipline cases, including the investigations and appeals process, are wasted when the penalties are not initiated as necessary to collect the penalty, do not stop at the scheduled time, or are started late.

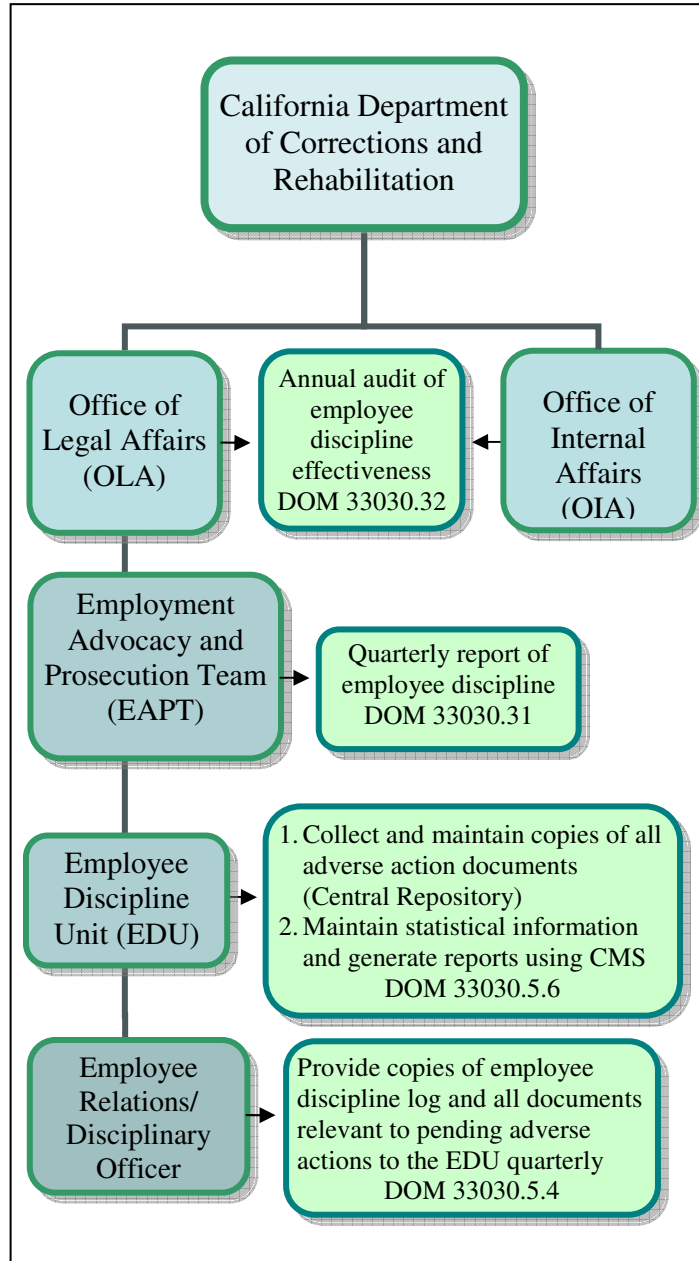
Recommendations

The Office of the Inspector General recommends that the California Department of Corrections and Rehabilitation take the following actions:

- Require that key hiring authority representatives on adverse action cases discuss and monitor new and on-going cases with institution personnel to ensure that all cases are accounted for, processed promptly and fully completed, and that each responsible party is held accountable for performing their required duties.
- Remind all personnel employees to use the official method of calculating payroll reductions as currently identified in the California State Civil Service Pay Scale Manual.
- Follow established department procedures intended to ensure that disciplinary penalties begin and end on the dates identified in the notice of adverse action.
- For salary reductions that are not fully collected, establish and collect payroll accounts receivable from the affected employee.
- For employees who have paid financial penalties in excess of amounts owed, promptly repay the employees all amounts due.

Appendix A

Employee Discipline Reporting Process and Responsibilities



Appendix B

Summary of Adverse Action Errors

Adverse Action Errors	Employee	Institution	Salary Reduction Error	Percent and Duration of Salary Reduction	Amount Due From or <Owed To> Employee
1	1	CCI	Never Imposed	10% / 16 months	\$ 6,949 ^①
2	2	CCWF	Never Imposed	10% / 12 months	\$4,644 ^①
3	3	LAC	Never Imposed	10% / 24 months	\$2,636 ^②
4		LAC	Did Not End as Scheduled	10% / 12 months	<\$1,318> ^②
5	4	SOL	Did Not End as Scheduled	5% / 5 months	<\$328> ^①
6	5	SQ	Did Not End as Scheduled	5% / 12 months	<\$894> ^①
7	6	SAC	Did Not End as Scheduled	5% / 12 months	<\$979> ^②
8		SAC	Accounts Receivable (A/R) Collection Errors	5% / 12 months	\$586 ^②
9	7	PVSP	Calculation Errors	10% / 12 months	<\$2,503>
10	8	HDSP	Calculation Errors	10% / 11 months	<\$748> ^①
11	9	COR	Calculation Errors	10% / 12 months	<\$386>
12	10	CCC	Calculation Errors	10% / 6 months	\$870 ^① ^②
13		CCC	A/R Collection Errors	10% / 6 months	\$176 ^① ^②
14	11	WSP	A/R Collection Errors	5% / 12 months	\$722 ^①

^① Amount estimated by OIG or provided by respective institutional personnel staff.

^② Employee Nos. 6 and 10 each had two errors within a single adverse action case; while Employee No. 3 had two errors from two separate adverse action cases [Note: Item No. 3 was not in the statewide listing of employee disciplinary actions provided by the department].

Population: Adverse action cases with effective dates between January 1, 2008 through June 30, 2009

Population Size: 1,219

Sample Size: 100 (Suspension without pay for 10 or more days or a salary reduction of at least 5 percent for 6 months or more)

Sample Results: 14 (Adverse action errors causing an amount due from or owed to department employees)

Appendix C

CDCR Institution Abbreviations and Names (used in Appendix B)

CDCR Institution Abbreviation	CDCR Institution Name
CCC	California Correctional Center
CCI	California Correctional Institution
CCWF	Central California Women's Facility
COR	Corcoran State Prison
HDSP	High Desert State Prison
LAC	California State Prison, Los Angeles County
PVSP	Pleasant Valley State Prison
RJD	R.J. Donovan Correctional Facility
SAC	California State Prison, Sacramento
SOL	California State Prison, Solano
SQ	San Quentin State Prison
WSP	Wasco State Prison

California Department of Corrections and Rehabilitation's Response

OFFICE OF THE SECRETARY

P.O. Box 942883
Sacramento, CA 94283-0001



March 25, 2011

Mr. Bruce Monfross
Inspector General (A)
Office of the Inspector General
P.O. Box 348780
Sacramento, CA 95834-8780

Dear Mr. Monfross:

This letter is being submitted in response to the Office of the Inspector General's (OIG) report titled *Special Review: The California Department of Corrections and Rehabilitation's Monitoring of Employee Discipline*, dated March 2011.

The California Department of Corrections and Rehabilitation (CDCR) has implemented processes to report and investigate alleged employee misconduct and procedures for imposition of employee discipline when warranted. These processes include the tracking and reporting of employee discipline cases. CDCR has several methods, including the Case Management System, which capture investigative and disciplinary information and assists to ensure complete, timely, and accurate investigations and impositions of discipline. However, we recognize the value of the recommendations set forth in the report, and we will be reviewing those recommendations to comply with or modify the relevant sections of the Department Operations Manual (DOM). Meanwhile, direction will be given to require institution personnel staff to conduct monthly meetings to discuss new and ongoing adverse action cases and to ensure all cases are accounted for and processed appropriately. Additionally, in accordance with DOM, the Office of Legal Affairs and the Office of Internal Affairs will collaborate to review the effectiveness of the employee discipline process annually. Finally, the Department will review the audit requirements and take appropriate action as necessary.

We would like to thank the OIG for allowing us the opportunity to comment on the special review and value your continued professionalism and guidance in our efforts to improve our operations. The California Department of Corrections and Rehabilitation's Office of Audits and Court Compliance will monitor and document the Department's progress in addressing the report's recommendations. If you should have any questions or concerns, please call my office at (916) 323-6001.

Sincerely,

LEE E. SEALE
Deputy Chief of Staff