



QUARTERLY REPORT

BUREAU OF AUDITS AND INVESTIGATIONS

JANUARY - MARCH 2009

**OFFICE OF THE
INSPECTOR GENERAL**

STATE OF CALIFORNIA

Introduction

The Office of the Inspector General (OIG) investigates and audits the California Department of Corrections and Rehabilitation (CDCR) to uncover criminal conduct, administrative wrongdoing, poor management practices, waste, fraud, and other abuses. This quarterly report summarizes the OIG's audit and investigation activities for the period of January 1, 2009, through March 31, 2009. The report satisfies the provisions of California Penal Code sections 6129(c)(2) and 6131(c), which require the Inspector General to publish a quarterly summary of investigations completed during the reporting period, including the conduct investigated and any discipline recommended and imposed. To provide a more complete overview of our inspectors' activities and findings, this report also summarizes audit activities, warden and superintendent candidate evaluations, and facility and medical inspections completed during the first quarter of 2009. All the activities reported were carried out under California Penal Code section 6125 et seq., which assigns our office responsibility for independent oversight of CDCR.

Evaluation of Warden and Superintendent Candidates

With the enactment of Senate Bill 737, which took effect on July 1, 2005, the Legislature assigned the Inspector General responsibility for evaluating the qualifications of every candidate the Governor nominates for appointment as a state prison warden. In 2006, California Penal Code section 6126.6 was amended to also require the Governor to submit to the Inspector General the names of youth correctional facility superintendent candidates for review of their qualifications. Within 90 days, the Inspector General advises the Governor on whether the candidate is "exceptionally well-qualified," "well-qualified," "qualified," or "not qualified" for the position. To make the evaluation, California Penal Code section 6126.6 requires the Inspector General to consider, among other factors, the candidate's experience in effectively managing correctional facilities and inmate/ward populations; knowledge of correctional best practices; and ability to deal with employees, the public, inmates, and other interested parties in a fair, effective, and professional manner. Under California Penal Code section 6126.6(e), all communications that pertain to the Inspector General's evaluation of warden and superintendent candidates are absolutely privileged and confidential from disclosure.

During the first quarter of 2009, the Governor submitted two warden candidates to the Office of the Inspector General. When combined with a request received during the previous quarter, the Office of the Inspector General completed three warden vettings and submitted the findings to the Governor's office for final determination.

Medical Inspections

Background

In 2001, California faced a class action lawsuit (*Plata v. Schwarzenegger*, previously *Plata v. Davis*) over the quality of medical care in its prison system. The suit alleged that the state did not protect inmates' Eighth Amendment rights, which prohibit cruel and unusual punishment. In 2002, the parties agreed to several changes designed to improve medical care at the prisons. Subsequently, the court established a receivership and stripped the state of its authority to manage medical care operations in the prison system, handing that responsibility to the receiver.

To evaluate and monitor the state's progress in providing medical care to inmates, the receiver requested that the OIG establish an objective, clinically appropriate, and metric-oriented medical inspection program. In response, we developed a program based on the CDCR's policies and procedures; relevant court orders; guidelines developed by the department's Quality Medical Assurance Team and the American Correctional Association; professional literature on correctional medical care; and input from clinical experts, the court, the receiver's office, the department, and the plaintiffs' attorney, the Prison Law Office. This effort resulted in a 20-component medical inspection instrument that we use to evaluate each institution.

The inspection process collects over 1,000 data elements for each institution using up to 162 questions on 20 component areas of medical delivery.

To make the inspection results meaningful to both an expert in medical care and a lay reader, we consulted with clinical experts to create a weighting system that factors the relative importance of each component compared to other components. The result of this weighting ensures that components considered more serious—or those that pose the greatest medical risk to the inmate-patient—are given more weight compared to those considered less serious.

Results

During the first quarter of 2009, the medical inspection unit issued the results of medical inspections for four institutions. The following schedule summarizes the weighted scores of all institutions inspected and publically reported as of March 31, 2009.

	California State Prison, Sacramento	California Medical Facility	R.J. Donovan Correctional Facility	Centinela State Prison	Deuel Vocational Institution	Average Score	Median Score
	Report issued Nov 2008	Report issued Jan 2009	Report issued Feb 2009	Report issued Feb 2009	Report issued Mar 2009		
Chronic Care	62.7%	83.6%	48.8%	80.9%	73.5%	69.9%	73.5%
Clinical Services	67.0%	87.1%	67.2%	80.1%	72.8%	74.8%	72.8%
Health Screening	76.4%	86.8%	68.0%	77.8%	74.3%	76.7%	76.4%
Specialty Services	47.4%	42.6%	62.3%	59.6%	53.4%	53.1%	53.4%
Urgent Services	82.5%	79.1%	73.2%	80.2%	77.5%	78.5%	79.1%
Emergency Services	47.5%	72.1%	89.7%	76.7%	71.0%	71.4%	72.1%
Prenatal Care/Childbirth/Post-Delivery	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Diagnostic Services	68.1%	72.2%	64.0%	74.4%	73.7%	70.5%	72.2%
Access to Healthcare Information	39.2%	58.8%	44.1%	82.4%	58.8%	56.7%	58.8%
Outpatient Housing Unit	75.6%	85.5%	N/A	N/A	82.8%	81.3%	82.8%
Internal Reviews	70.4%	68.8%	100.0%	60.8%	93.3%	78.7%	70.4%
Inmate Transfers	75.3%	50.0%	89.5%	100.0%	78.9%	78.7%	78.9%
Clinic Operations	91.0%	82.8%	94.9%	81.8%	87.9%	87.7%	87.9%
Preventive Services	32.1%	43.7%	24.0%	19.0%	21.7%	28.1%	24.0%
Pharmacy Services	74.5%	75.9%	93.3%	57.8%	92.0%	78.7%	75.9%
Other Services*	90.6%	100.0%	100.0%	100.0%	100.0%	98.1%	100.0%
Inmate Hunger Strikes	10.5%	31.6%	10.5%	31.6%	N/A	21.1%	21.1%
Chemical Agent Contraindications	100.0%	86.8%	94.1%	89.4%	89.4%	91.9%	89.4%
Staffing Levels and Training	95.0%	95.0%	100.0%	100.0%	95.0%	97.0%	95.0%
Nursing Policy	78.6%	35.7%	88.6%	71.4%	35.7%	62.0%	71.4%
Overall Score	65.2%	72.4%	68.0%	74.4%	72.6%	70.5%	72.4%

* Other services include the prison's provision of therapeutic diets, its handling of inmates who display poor hygiene, and the availability of the current version of the department's Health Services Policies and Procedures.

Also during the first quarter of 2009, we performed medical inspections at Central California Women's Facility, California Men's Colony, and Sierra Conservation Center. The results of these inspections were published during the second quarter of 2009. In addition, we also performed four additional medical inspections during the second quarter.

Summary of Audits Division Activities

Special Review: Management of the California Department of Corrections and Rehabilitation's Administrative Segregation Unit Population

In January 2009, we issued the results of a review into the management of administrative segregation units in selected California prisons and identified repeated failures to comply with CDCR policies. The review found that some inmates are held in segregation units longer than required, resulting in unnecessary operating costs and the denial of inmates' due process rights. The cost of housing an inmate in administrative segregation is higher than housing a general population inmate because of the extra officers and isolated cells required. The additional custody costs for inmates held in administrative segregation are estimated to be \$14,600 per inmate annually, and better management could save the department as much as \$10.9 million each year systemwide.

Inmates who threaten a prison's safety and security are placed in segregation units while the staff evaluates the threat posed. Segregation unit placement is a complex process with myriad procedures and rules. However, all inmates in administrative segregation are entitled to their procedural rights. If some prisons fail to follow the rules, those violations affect the entire department, and the California taxpayer is left holding the bill when the department faces a lawsuit or must pay for an inmate's extra time in segregation.

Certain prisons often violate policies intended to provide inmates with due process and timely release from administrative segregation. This special review discusses the problems discovered at three of eight prisons reviewed—California State Prison, Los Angeles County; California State Prison, Solano; and San Quentin State Prison.

The administrative segregation problems we found are indicative of problems in prisons throughout California. Therefore, we expect these problems to be addressed not only at the three prisons cited in our review, but at the highest level of department management.

We made twelve recommendations to correct the problems found during the special review.

Special Review: Union-Paid Leave Reimbursements Owed to the California Department of Corrections and Rehabilitation

In February 2009, we issued a special review into CDCR's billing of the Service Employees International Union (SEIU) for union-paid leave. The review identified that CDCR's Office of Labor Relations (OLR) was not billing the SEIU for union-paid leave despite government accountability laws and provisions in SEIU bargaining agreements that require reimbursement to the state. Although the OLR had recently begun to bill the SEIU, the first billing came nearly two years after the OLR assumed the billing responsibility from CDCR's regional accounting offices and four months after the OIG began its review. Despite OLR's recent billing efforts, the special review found that over \$2 million remained to be billed.

This was our second report citing problems with CDCR's management of union leave. The first report, issued in July 2006, found that CDCR lost potentially millions of dollars because it neglected to track and control union leave time and failed to collect reimbursements owed to the state.

We made three recommendations to correct the problems found during the special review.

Accountability Audit: Review of Audits of the California Department of Corrections and Rehabilitation, 2000-2007

In March 2009, we issued our annual follow-up audit of previous audit recommendations issued to the CDCR. The two-chapter audit analyzed 114 unresolved recommendations from ten prior reports and special reviews.

Chapter 1 presented results from our first-time follow-up of 94 recommendations made in three special reviews and one audit completed in 2007. We found CDCR fully or substantially implemented 59 of the 94 recommendations from these four reports, with two of the original recommendations no longer applicable. Thus, CDCR successfully addressed 64 percent of those original recommendations that were still applicable.

However, our review found CDCR still needed to implement several important recommendations. For example, CDCR still had not

implemented procedures to ensure that youthful offenders receive mandated services and are released from their rooms at least three hours each day. A 2005 OIG special review found that the practice of confining wards for long periods may have contributed to a youthful offender's suicide.

Chapter 2 summarized the results from our follow-up review of 20 recommendations made in six audits and special reviews issued from 2000 through 2006. In this chapter, we found that CDCR successfully implemented 50 percent of the total recommendations.

Among the unimplemented recommendations, however, was our recommendation that CDCR ensure that all correctional officers at armed posts complete quarterly weapons qualifications. Ignoring this recommendation could endanger employees and inmates and open the state to costly litigation.

We will exclude from future follow-up audits many of the remaining recommendations because it is not in the state's best interest to continue expending our limited resources to pursue lingering recommendations that CDCR cannot or will not address. Nevertheless, we will pursue the following critical recommendations because these issues are too serious to ignore:

- The Division of Juvenile Justice needs to ensure that youthful offenders receive mandated services, especially when they are isolated in their rooms for long periods. Extended confinement combined with lack of exercise or recreation may aggravate mental health problems and increase the risk of suicide
- CDCR must develop a comprehensive training component that includes training on effectively and safely employing the 40 mm launcher against a moving target and from an elevated position. In addition, CDCR must ensure that every officer assigned to an armed post as part of his or her regular or special assignment completes a quarterly weapons proficiency course.

Summary of Special Reports

On March 30, 2009, the OIG released a report disclosing that CDCR inappropriately paid unemployment insurance (UI) benefits to former employees who were terminated under adverse circumstances. The investigation found that in fiscal years 2006-07 and 2007-08, CDCR paid \$1.3 million in unemployment insurance benefits for the terminated employees.

Employees that have been fired for cause are not entitled to UI benefits. The investigation found that CDCR's lack of internal procedures to effectively process unemployment insurance forms and poor communication between CDCR and the Employment Development Department (EDD) contributed significantly to these employees receiving UI benefits.

Unemployment insurance benefits should be available for employees who have lost their jobs due to no fault of their own, not for employees terminated by CDCR for misconduct. In these times of high unemployment it is even more critical that UI benefits go to those employees who rightfully deserve them. Unfortunately, CDCR often failed to respond to EDD or provide them with the facts concerning the misconduct, which then resulted in EDD granting UI benefits to those employees. The investigation found that of the 1,045 employees terminated for cause during the two-year period, 186 employees (18%) received UI benefits.

Summary of Intake and Investigations Division Activities

The OIG received 819 complaints this quarter concerning the state correctional system, an average of 273 complaints a month. Most complaints arrive by mail or through the Inspector General's 24-hour toll-free telephone line. Others are brought to our attention during audits or related investigations. We may also conduct investigations at the request of CDCR officials in cases that involve potential conflicts of interest or misconduct by high-level administrators.

Our staff responds to each complaint or request for investigation; complaints that involve urgent health and safety issues receive priority attention. Most often, our staff resolves the complaints at a preliminary stage through informal inquiry by contacting the complainant and the institution or division involved to either establish that the complaint is unwarranted or to bring about an informal remedy.

Depending on the circumstances surrounding a complaint, we may refer cases to CDCR's Office of Internal Affairs (OIA) for investigation. Cases referred to the OIA may be monitored by OIG's Bureau of Independent Review (BIR) if they meet applicable criteria. Such cases are not included in the quarterly report until the OIA investigation is complete. The BIR reports its monitoring activities semiannually in a separate report.

Of particular note this quarter, we responded to a legislative inquiry, other audits, and our own investigative findings by establishing a parole

inspection program that we will report on in the second and fourth quarters.

Some complaints we receive require further inquiry or full investigation by the OIG. During the first quarter of 2009, the Intake and Investigations Division had 86 ongoing investigations and completed two administrative investigations and five criminal investigations. Those completed investigations are summarized in the table that follows.

Allegation	Investigation	Result
The OIG received allegations of possible retaliation against a CDCR staff member by CDCR management.	The OIG conducted an administrative investigation that included an evaluation of information related to the retaliatory treatment.	The investigation found there were no retaliatory acts and no evidence to support the allegations. The OIG closed this investigation.
The OIG received allegations of staff misconduct by CDCR's correctional staff in association with a criminal conspiracy investigation.	The OIG conducted a criminal investigation to identify subjects and evaluate violations of department policy and/or administrative rule violations.	The OIG identified no subjects or administrative wrongdoing during its inquiry. The OIG closed this investigation.
The OIG received allegations that CDCR's correctional staff members conspired to facilitate the homicide of an inmate and concealed information pertaining to staff misconduct at a prison.	The OIG conducted a criminal investigation that included interviews with departmental staff and inmates and the collection and review of documents.	The OIG found no evidence to support the allegations or warrant an administrative investigation. The OIG closed this investigation.
The OIG received allegations of a potential conflict of interest between a high level manager and a contractor providing services to CDCR.	<p>The OIG conducted an administrative investigation that included the following:</p> <ul style="list-style-type: none"> • Review of the bid award process • Review of the manager's employment status with the contractor • The manager's notification to superiors of outside employment • The manager's latest annual Statement of Economic Interest (Form 700) • Review of pertinent laws, policies and procedures pertaining to outside employment • Interviews with witnesses • Interview with subject 	Although the investigation found no evidence of a conflict of interest, it did reveal that the manager failed to properly disclose income he received while employed as an independent contractor with an outside entity. The OIG forwarded the report and its supporting documentation to the hiring authority for appropriate action.
The OIG discovered potential criminal conduct during an investigation into allegations that CDCR staff failed to follow established policies and procedures in conducting an investigative inquiry.	The OIG conducted a criminal investigation that included seizing and forensically examining CDCR computers, collecting and reviewing additional items of evidence, and conducting interviews with CDCR staff.	The investigation found no evidence to support criminal misconduct. The OIG closed the criminal investigation.

Allegation	Investigation	Result
The OIG received allegations that CDCR inmates, with the help of accomplices outside of prison, were filing fraudulent income tax returns with the Internal Revenue Service.	The OIG conducted a criminal investigation that included interviews with facility staff along with the collection and review of documents.	The investigation found sufficient evidence to warrant a referral of the case to the Internal Revenue Service.
The OIG received allegations that CDCR inmates, with the help of accomplices outside of prison, were filing fraudulent income tax returns with the Internal Revenue Service and the California Franchise Tax Board.	The OIG conducted a criminal investigation that included interviews with facility staff along with the collection and review of documents.	The investigation found sufficient evidence to warrant a referral of the case to the Internal Revenue Service and the California Franchise Tax Board.