

OFFICE OF THE INSPECTOR GENERAL

MATTHEW L. CATE, INSPECTOR GENERAL



QUARTERLY REPORT

JANUARY - MARCH 2005

STATE OF CALIFORNIA

INTRODUCTION

This quarterly report summarizes the audit and investigation activities of the Office of the Inspector General for the period January 1, 2005 through March 31, 2005.

The report satisfies the provisions of California Penal Code sections 6129, subdivision (c)(2), and 6131, subdivision (c), which require the Inspector General to publish a quarterly summary of investigations completed, including the conduct investigated and any discipline recommended and imposed. To provide a more complete overview of the Inspector General's activities and findings, this report reaches beyond that requirement to also summarize audits and special reviews performed by the office during the first quarter period. All of the activities reported were carried out under California Penal Code section 6125 *et seq.*, which assigns the Office of the Inspector General responsibility for independent oversight of the Youth and Adult Correctional Agency and its subordinate entities.

BACKGROUND

The Office of the Inspector General investigates and audits the state's correctional departments, programs, and institutions to uncover criminal conduct, administrative wrongdoing, poor management practices, waste, fraud, and other abuses. Established in its present form in 1998, the office has undergone significant change in the past five years, and particularly in the months leading up to and extending through the first quarter of 2005. Between 1999 and the end of 2003, the Office of the Inspector General conducted 48 management review audits and special reviews of state correctional entities, responded to 16,000 complaints concerning the correctional system, and conducted more than 1,400 investigations into allegations of misconduct and other improprieties by correctional staff and management. The office also performed quality control reviews of more than 4,000 internal affairs investigations conducted by the investigative units of the Department of Corrections and the California Youth Authority.

As a result of the state's fiscal crisis, however, the Inspector General's budget was cut 77 percent between 2001 and 2003, from \$11.1 million to \$2.7 million. The budget cuts resulted in a reduction in staff from 114.9 funded positions to 23 and the closing of all regional offices, even though the Office of the Inspector General's statutory mandates remained unchanged.

After months of downsizing, the Inspector General's responsibilities dramatically expanded in January 2004 as a result of actions by the Legislature and the U. S. District Court, Northern District of California. As an integral part of a settlement between the Department of Corrections and plaintiffs in a court action involving illegal use of force by correctional officers at Pelican Bay State Prison, the Inspector General was assigned responsibility for increased oversight of state prison internal affairs investigations. The terms of the settlement called for the establishment of a Bureau of Independent Review within the Office of the Inspector General to provide real-time evaluation of every Department of Corrections abuse of force and employee ethics internal affairs case, including all cases involving use of the correctional officers' "code of silence." The

settlement plan requires Bureau of Independent Review attorneys and investigators to be co-located throughout the state with each of the three offices of the Department of Corrections, Office of Investigative Services.

In accordance with the U. S. District Court settlement, the Legislature provided for the establishment of the Bureau of Independent Review within the Office of the Inspector General, effective January 1, 2005. The Legislature also set out specific audit and investigative responsibilities for the Office of the Inspector General, including specific new responsibilities for publicly reporting the results of its audits and investigations.

To fulfill the new mandates, the Governor appointed a new Inspector General in March 2004 and the Office of the Inspector General's budget for 2004-05 was restored to \$8.8 million.

The months following the appointment of the new Inspector General have been devoted to a rapid reconfiguration, re-staffing, and re-building of the office. During fiscal year 2004-05, the Inspector General hired 32 new staff members, and between March and December 2004, opened three regional offices in Rancho Cordova, Bakersfield, and Rancho Cucamonga for attorneys and investigators assigned to the Bureau of Independent Review. In addition, a new Bureau of Audits and Investigations was established within the office to conduct management review audits of state prison wardens and youth correctional facility superintendents, as well as special reviews of correctional agencies and programs and investigations into alleged misconduct by correctional agencies and employees. The Inspector General's proposed 2005-06 budget has been increased to \$15.5 million and the office anticipates hiring 43 additional employees in fiscal year 2005-06, bringing the staff total to 96.

Concurrent with re-building and re-staffing the office in 2004 and 2005, the Office of the Inspector General has continued a vigorous schedule of investigations and audits. The following pages summarize those activities. A separate semi-annual report summarizing internal affairs investigations monitored by the Bureau of Independent Review, will be published in August 2005 and will be posted on the Inspector General's website at <http://www.oig.ca.gov/>.

SUMMARY OF INVESTIGATIONS

The Office of the Inspector General receives about 300 complaints a month concerning state correctional departments and institutions. Most of the complaints arrive by mail or through the Inspector General's 24-hour toll-free telephone line, while others are brought to the attention of the Office of the Inspector General in the course of audits or related investigations. The Office of the Inspector General may also conduct investigations at the request of agency or department officials in cases involving potential conflicts of interest by high-level administrators. The Inspector General's staff responds to each of the complaints and requests for investigation, with those involving urgent health and safety issues receiving priority attention through the Inspector General's rapid response process. Most often the Inspector General's staff is able to resolve the complaints at a preliminary stage through informal inquiry or preliminary investigation by contacting the complainant and the institution or department involved and either establishing that the complaint is unwarranted or bringing about an informal remedy. Some of the complaints, however, warrant a full official investigation.

During the first three months of 2005, the Office of the Inspector General completed 12 full investigations. Following is a summary of those investigations.

Board of Prison Terms. The Office of the Inspector General investigated the case of an independent contractor who provided part-time language interpretation services to the Board of Prison Terms. The investigation resulted from information submitted by an investigator from the San Diego County District Attorney's Office, who had determined that the employee, who also worked full-time for the San Diego County Public Defender's Office, was claiming full-time hours with the County of San Diego on days she also invoiced the Board of Prison Terms for services. The investigator suspected the employee was submitting fraudulent claims to the Board of Prison Terms.

Result: The Office of the Inspector General found that the employee had billed the Board of Prison Terms for excessive hours and duplicate claims totaling \$11,862. The Inspector General forwarded the results of the investigation, along with a Declaration in Support of Arrest Warrant, to the San Diego County District Attorney for consideration. Upon completion of the investigation, the Office of the Inspector General conducted a special review of Board of Prison Terms interpretation services procedures. The findings of the special review are reported elsewhere in this report.

Status: As the result of a March 1, 2005 plea agreement, the suspect pleaded guilty to a felony count of grand theft under California Penal Code section 487 and was ordered to pay full restitution to the Board of Prison Terms in the amount of \$11,862. The court placed the defendant on probation, suspended a 120-day jail sentence, and ordered her to serve 160 hours of community service.

Department of Corrections, Office of Investigative Services/Office of Internal Affairs. The Office of the Inspector General investigated a complaint that staff members,

including a supervisor, in the Department of Corrections, Office of Internal Affairs, contrary to the instructions of a higher authority, granted administrative immunity to witnesses during administrative investigations involving the department's Law Enforcement and Investigations Unit and Parole and Community Services Division. The complaint also alleged that the staff members had been dishonest in reporting to the assistant director of the Office of Investigative Services whether administrative immunity had been granted to the witnesses.

Result: The Office of the Inspector General found sufficient evidence to sustain the first allegation, but did not find sufficient evidence to sustain the second allegation.

Recommendations: The Office of the Inspector General recommended adverse action against the supervisory staff member for insubordination, neglect of duty, and dishonesty. The Office of the Inspector General recommended corrective action against two of the other staff members for violation of department policy. In addition, the Office of the Inspector General recommended that the director of the Department of Corrections establish clear policy and procedures governing the use of administrative immunity and provide training to all employees assigned to conduct internal affairs investigations.

Status: The Office of the Inspector General referred the matter to the director of the Department of Corrections for appropriate action. The supervisory employee was terminated. That case is scheduled for hearing before the State Personnel Board. The Department of Corrections has established an interim policy to prohibit the granting of administrative immunity in administrative cases unless approved by the assistant director of the Office of Investigative Services or the chief deputy director of Field Operations. The department is developing a policy governing the use of immunity.

Department of Corrections, Office of Investigative Services. The director of the Department of Corrections requested that the Office of the Inspector General investigate allegations presented in legislative testimony that department management retaliated against special agents of the Office of the Investigative Services as part of an attempt to close the southern office of the Office of Investigative Services. In testimony before the Senate Select Committee on Government Oversight and the Senate Select Committee on the California Correctional System, special agents also testified under oath that the former department director conspired with the California Correctional Peace Officers Association to obstruct justice and that the agents were ordered to release evidence to the California Correctional Peace Officers Association during an open criminal investigation. The allegations stemmed from an attempt for the first time by the California Correctional Peace Officers Association to use provisions of section 9.09 of the memorandum of understanding between Bargaining Unit 6 and the State of California to obtain evidence in an active criminal case. To avoid turning over the evidence to the California Correctional Peace Officers Association and to protect the chain of custody in an

investigation concerning the California Institution for Men, the special agents had contacted the Attorney General's Office, which subsequently secured the evidence.

Result: The Office of the Inspector General found that the case did not meet the *prima facie* standard for a protected activity to establish a legally cognizable claim of retaliation. In response to the allegations that the department director conspired with the California Correctional Peace Officers Association to interfere with and obstruct an active criminal investigation, the Office of the Inspector General found that no motive for personal gain, favors, or personal benefit was discovered or provided in evidence.

Recommendations: The Office of the Inspector General recommended that the Department of Corrections close the case without further investigation.

Status: The Office of the Inspector General referred the case to the Office of Investigative Services for closure.

Correctional Training Facility. The Office of the Inspector General conducted an inquiry into an allegation that a correctional officer at the Correctional Training Facility used excessive force on an inmate. The complainant alleged the correctional officer kicked the inside of the inmate's knee, causing injury to his knee and wrist. The Office of the Inspector General determined that the inmate had filed an appeal of the incident with the institution and after interviewing the inmate, the correctional officer, and witnesses and reviewing pertinent documents, the institution had not sustained the allegations.

Result: The Office of the Inspector General determined that the institution may not have followed required policies and procedures for reviewing and investigating use-of-force incidents.

Recommendations: The Office of the Inspector General requested that the warden explain why required policies and procedures may not have been followed.

Status: The Office of the Inspector General is awaiting response from the warden and will take appropriate action after reviewing the response.

California State Prison, Los Angeles County. The Office of the Inspector General investigated a complaint that California State Prison, Los Angeles County improperly places inmates who have been recommended by mental health clinicians for single-cell status into double cells. The complaint centered on an inmate in the mental health treatment program who was allegedly murdered by his cellmate in the administrative segregation unit on September 10, 2004. As a result of the investigation, the Office of the Inspector General found that employees in the administrative segregation unit at California State Prison, Los Angeles County violated department policy by failing to complete a cell compatibility form before assigning the murder victim and his alleged assailant in the same cell.

Result: The Office of the Inspector General found that the murder victim and his alleged assailant should not have been celled together because both had long histories of criminal violence and violent behavior toward other inmates. Both had also been diagnosed with serious mental disorders. Investigators identified two other instances in which institution employees failed to complete the cell compatibility form before assigning inmates to the same cell. The Office of the Inspector General also found, however, that the Institutional Classification Committee at California State Prison, Los Angeles County did not violate existing policy when it assigned the murder victim and his alleged assailant to double-cell status.

Recommendations: The Office of the Inspector General recommended that the Department of Corrections investigate the employees who failed to complete the cell compatibility forms in the three instances identified. In addition, the Office of the Inspector General recommended that the Department of Corrections modify the existing double-cell policy to include special consideration for inmates diagnosed with mental illness and also require Institutional Classification Committees to verify the cell status of inmates and review the cell compatibility form for accuracy and completeness.

Status: The Office of the Inspector General referred the case to the Department of Corrections, Office of Investigative Services for investigation of the failure of institution employees to comply with department policy. The Inspector General's Bureau of Independent Review is monitoring that investigation and is also conducting a special review of the department's policy of housing administrative segregation inmates in double cells.

California Institution for Men. The Office of the Inspector General investigated a series of complaints from the family members of an inmate alleging that the inmate suffers from ongoing problems as a result of a hernia operation performed by an outside health care facility while he was in the custody of the Department of Corrections and that he has not received proper treatment from the medical staff at the California Institution for Men. The Office of the Inspector General determined that the institution opened an investigation concerning the inmate's medical care as a result of an appeal filed by the inmate and that the institution has continued to provide medical care. The Office of the Inspector General also found that the inmate has refused treatment in some instances and that he refused a medical evaluation by an outside specialist because of his upcoming release date. The Inspector General's staff worked to facilitate communication between the institution and the inmate's family members.

Result: The Office of the Inspector General determined that the institution is aware of and is monitoring the inmate's medical concerns.

Recommendations: None.

Status: The Office of the Inspector General has received no additional complaints from the inmate or family members concerning this matter in more than 45 days.

Substance Abuse Treatment Facility and State Prison, Corcoran. The Office of the Inspector General investigated a complaint from an inmate at the Substance Abuse Treatment Facility and State Prison that a 72-year-old inmate at the prison died from an apparent hunger strike. The complaint mirrored a complaint received from another source.

Result: The Office of the Inspector General determined the institution had not been monitoring the inmate for weight or fluid loss at the time of his death and that the Department of Corrections, Office of Investigative Services has investigated the circumstances surrounding the death.

Recommendations: The Office of the Inspector General recommended that the Office of Investigative Services provide the Inspector General with a copy of the investigation report when it is released.

Status: The report of the Office of Investigative Services investigation is undergoing review by Office of Investigative Services management. The Office of the Inspector General continues to monitor and track the progress of the Office of Investigative Services investigation.

California State Prison, Corcoran. The Office of the Inspector General conducted an inquiry into a complaint that a staff member at California State Prison, Corcoran used excessive force on an inmate who had been admitted to the acute care hospital because of suicidal ideation. The complainant alleged the inmate was placed in five-point restraints during the incident. The Office of the Inspector General determined from institution records that the inmate had been found to be drunk and out of control and was placed in five-point restraints on the order of a staff psychiatrist. The inmate complained to the medical staff of a swollen left eye and was prescribed eyewash the following day. The inmate informed a nurse that the eye problem began when he was drunk. He was subsequently prescribed antibiotics for an infected eye.

Result: The Office of the Inspector General found no reference to unusual activity and no evidence of use of force. The inmate was subsequently discharged back to the security housing unit and did not file an inmate appeal with the institution.

Recommendations: None.

Status: Case closed.

California State Prison, Los Angeles County. The Office of the Inspector General independently initiated an investigation into the reasons for an inmate's self-imposed hunger strike at California State Prison, Los Angeles County. The inmate's weight had

fallen from 265 pounds in April 2004 to 138 pounds on November 18, 2004. The Office of the Inspector General determined that the inmate had a history of poor health, suffered from diabetes and hypertension, and had told Department of Corrections staff that he no longer wanted to live. The inmate received a court-ordered feeding tube on November 13, 2004, but the court ruled against extending the feeding tube beyond November 17, 2004, when it had been scheduled to be removed. The inmate was transported to Antelope Valley Hospital on November 19, 2004 pursuant to a court order to remove the feeding tube and was returned to California State Prison, Los Angeles County after the feeding tube was removed.

Result: The Office of the Inspector General found that the inmate's hunger strike did not involve a claim of unfair treatment at the institution.

Recommendations: None.

Status: The Department of Corrections advised the Office of the Inspector General that the inmate began eating intermittently after he returned from the hospital. The Office of the Inspector General has closed the case.

Salinas Valley State Prison. The Office of the Inspector General investigated a complaint that correctional employees at Salinas Valley State Prison, Soledad were setting up gladiator-type fights between inmates in one of the yards. The complaint centered on an inmate who alleged that the staff allowed an inmate to enter his cell and attack him. The inmate further alleged the correctional staff assaulted him after he was attacked.

Result: The Office of the Inspector General found the allegations to be unsubstantiated.

Recommendations: None.

Status: Case closed.

El Paso de Robles Youth Correctional Facility. The Office of the Inspector General conducted a preliminary investigation into a complaint filed by the Youth Law Center concerning a ward with mental health disorders who had been on extended lockdown. The complaint, which was filed on behalf of the ward's mother, reported that the ward had previously attempted suicide and had been diagnosed with bipolar disorder, attention deficit, and hyperactivity disorder. The complainant requested that the Inspector General take immediate steps to remove the ward from extended lockdown and ensure that he receives intensive mental health treatment.

Result: The Office of the Inspector General determined that the ward is no longer under the jurisdiction of the California Youth Authority. He was convicted for violation of Welfare and Institutions Code section 1768.8B and was in custody in

the San Luis Obispo County jail awaiting sentencing and subsequent transfer to the Department of Corrections.

Recommendations: None

Status: The Office of the Inspector General has closed the case.

Deuel Vocational Institution. The Office of the Inspector General conducted a preliminary investigation into a complaint filed by a correctional officer alleging that he was illegally placed under surveillance and video-recorded by his sergeant. The correctional officer alleged that a video recording camera was installed in a radio in the office of the Investigations Services Unit security squad to determine whether he was sleeping on duty. The correctional officer was subsequently removed from his position with the security squad. The complainant asked the Office of the Inspector General to review the Category II investigation by the Department of Corrections, Office of Investigative Services into the correctional officer's allegations to determine whether the investigation had been proper and thorough.

Result: The Office of the Inspector General determined that the Office of Investigative Services investigation was properly and thoroughly conducted. The Inspector General concurred with the "not sustained" finding of the Office of Investigative Services. The Office of Investigative Services found no evidence that any of the parties interviewed knew of a camera installed in a radio and found no evidence to support the officer's allegations.

Recommendations: The Office of the Inspector General recommended the Department of Corrections close the case with no further action.

Status: The complainant was informed that the Office of the Inspector General's case has been closed unless and until new evidence is produced.

SUMMARY OF AUDITS AND SPECIAL REVIEWS

The Office of the Inspector General completed one audit and two special reviews during the first quarter of 2005. The audit and special reviews are summarized below.

Accountability Audit: Review of Audits of the California Youth Authority, 2000-2003. In January 2005, the Office of the Inspector General issued a 200-page audit of the California Youth Authority, which assessed the department's progress in implementing recommendations from nine previous audits conducted by the Inspector General. The audit determined that the California Youth Authority had fully implemented only 43 percent of 241 previous recommendations and that many of the remaining deficiencies were central to the department's core mission of providing education and counseling services to the youths in its custody. The full text of the report can be viewed by clicking on the following link to the Inspector General's website: [Accountability Audit: Review of Audits of the California Youth Authority, 2000-2003 \(January 2005\)](#).

Special Review into the Death of Correctional Officer Manuel A. Gonzalez, Jr. In March 2005, the Office of the Inspector General completed a special review into the circumstances surrounding the January 10, 2005 stabbing death of Correctional Officer Manuel G. Gonzalez, Jr. at the California Institution for Men. The review determined that numerous security problems at the institution led up to the attack and that the failure of correctional officers, including the victim, to follow security requirements may have contributed to the incident. The full text of the special review can be viewed by clicking on the following link to the Inspector General's web page: [Special Review into the Death of Correctional Officer Manuel A. Gonzalez, Jr. on January 10, 2005 at the California Institution for Men \(March 2005\)](#).

Special Review of the Board of Prison Terms Interpretation Services Procedures. In March 2005, the Office of the Inspector General completed a special review into the procedures used by the Board of Prison Terms to secure the services of foreign language interpreters. The review followed an investigation by the Office of the Inspector General into the case of a foreign language interpreter who was found to have received payment from the Board of Prison Terms for \$11,862 in fraudulent claims. The special review determined that the board routinely paid invoices from interpreters without confirming that the services had been provided or checking to determine whether the invoice had already been paid. The review also found that the board did not fully specify in writing the terms of the agreement when it arranged for interpretation services. In response to the special review and the Office of the Inspector General's recommendations, the Board of Prison Terms developed a comprehensive corrective action plan. The full text of the special review and the corrective action plan submitted by the Board of Prison Terms can be viewed by clicking on the following links to the Inspector General's web page: [Special Review of the Board of Prison Terms Interpretation Services Procedures \(March 2005\)](#) and [Response of the Board of Prison Terms to the March 2005 Special Review \(April 2005\)](#).

CONCLUSION

A second quarterly report covering the period April through June 2005 will be released and posted to the Inspector General's website in July 2005, followed by a third quarterly report in October 2005 and a 2005 annual report in January 2006.