



July 20, 2006

James E. Tilton, Secretary (A)
California Department of Corrections and Rehabilitation
1515 S Street, Room 502 South
Sacramento, California 95814

Dear Mr. Tilton:

Enclosed is the final report of the Office of the Inspector General's special review into the management of union leave time for employees of the California Department of Corrections and Rehabilitation.

The special review found that the department has failed to account for and control the use of union leave. As a result, the department has mismanaged millions of dollars in public resources. While the department has recently taken positive steps to begin properly managing union leave time, there is still much to do.

The report makes nine recommendations to remedy the problems and deficiencies found during the special review. The key recommendation is that the department develop policies and procedures to accurately record and account for union leave time. In addition, the department should reconcile union leave time internally and work with the California Correctional Peace Officers Association to regularly reconcile the release time bank with the union's records. My office will monitor the department's progress in implementing all recommendations.

The department's written response to the special review appears as an attachment to the report.

Thank you for the cooperation extended to my staff during the course of this review.

Sincerely,

A handwritten signature in black ink that reads "Matthew L. Cate". The signature is written in a cursive, flowing style.

MATTHEW L. CATE
Inspector General

Enclosure

cc: Kim Holt, External Audits Coordinator, Department of Corrections and Rehabilitation


Arnold Schwarzenegger, Governor

OFFICE OF THE INSPECTOR GENERAL

MATTHEW L. CATE, INSPECTOR GENERAL



**SPECIAL REVIEW INTO
MANAGEMENT OF UNION LEAVE TIME
BY THE
CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION**

JULY 2006

STATE OF CALIFORNIA

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EXECUTIVE SUMMARY

This report presents the results of a special review conducted by the Office of the Inspector General of the management of union leave time by the California Department of Corrections and Rehabilitation. The review was conducted under the authority of California Penal Code section 6126, which assigns the Office of the Inspector General responsibility for oversight of the Department of Corrections and Rehabilitation.

California Government Code sections 3512 through 3524 (the Ralph C. Dills Act) require state agencies to allow a reasonable number of representatives of employee unions a reasonable amount of time off without loss of compensation to meet and confer with state representatives on matters within the scope of union representation. The amount and type of union leave time is subject to negotiation between the state and its 21 recognized bargaining units.

With a fiscal year 2005-06 budget of \$7.7 billion, the Department of Corrections and Rehabilitation has 58,600 budgeted employee positions, approximately 49,000 of which are classified as rank-and-file employees affiliated with 19 of the state's bargaining units. About 30,000 of the department's employees are assigned to Bargaining Unit 6, which is represented by the California Correctional Peace Officers Association.

Consistent with the Ralph C. Dills Act, contracts between the state and the department's 19 bargaining units include provisions establishing various types of union leave time. In general, these union leave arrangements fall into five main categories: release time bank; official business-informal; official business-union; union-paid leave; and union activist release time, descriptions of which appear on the following page. Some of the union leave categories provide for the state to absorb the cost of the employee's absence from the job, while others call for the union to compensate the agency for the lost time, either monetarily or through hours donated by union members.

From January 2000 through December 2005, Department of Corrections and Rehabilitation employees used a total of 318,317 hours of union leave time of all types, equating to approximately \$12 million in staff resources.¹ The most significant of the union leave categories for the department is the Bargaining Unit 6 release time bank for rank-and-file members of the California Correctional Peace Officers Association, which accounted for 197,802 hours of union leave time between 2000 and 2005—62 percent of the 318,317 hours of union leave time recorded by department employees during that period.² All of the hours in the Bargaining Unit 6 rank-and-file release time bank are donated by the union's members for the use of its members.

¹ The \$12 million figure is based on a rate of \$37.66 per hour, which averages the salary and associated employee benefits for a mid-step correctional officer for fiscal years 1999-00 and 2005-06.

² Data obtained from the California Leave Accounting System maintained by the State Controller's Office.

UNION LEAVE CATEGORIES

Release time bank. Employees donate accrued vacation, annual leave, and other leave time to allow union members to be released from their jobs to conduct union work without loss of compensation. The Bargaining Unit 6 contract provides for a release time bank for rank-and-file members of the California Correctional Peace Officers Association. The California Correctional Supervisors Organization and the California Correctional Peace Officers Association each have separate release time banks for supervisors of Bargaining Unit 6 employees. Bargaining unit contracts with other state agencies also include release time banks. Section 10.13 of the Bargaining Unit 6 contract expressly limits use of the rank-and-file release time bank to 10,000 hours over the six-year life of the contract, but the department has not enforced the cap and its validity is presently under dispute in the courts. Under the terms of the contract, the granting of release time is “subject to the approval of the employee’s supervisor, operational needs, emergencies, or other standards limiting usage.” The contract also provides that the department is not required to release an employee if that release would require filling the employee’s position at time-and-a-half or if the release time bank does not have time credits available at the time of the leave request. The Department of Corrections and Rehabilitation is responsible for tracking overall donations and use of time bank credits, and that data is entered into the California Leave Accounting System managed by the State Controller’s Office. The State Controller’s Office tracks leave balances only of individual members and does not maintain a running balance of release time bank donations and use, although the California Leave Accounting System is capable of reporting cumulative totals by special query. According to the State Controller’s Office, the supervisors’ time banks accounted for 24,687 union leave hours from January 2000 through December 2005, 7.8 percent of the total hours used by department employees during that period for all types of union leave, while the Bargaining Unit 6 rank-and-file release time bank accounted for 197,802 hours — 62 percent of the total union leave hours.³

Official Business – Informal. Allows union members release time to provide individual union members with preparation and representation during supervisory interviews, investigatory interviews, grievance conferences, *Skelly* hearings, and State Personnel Board hearings. The state absorbs the cost and the Department of Corrections and Rehabilitation does not track the time involved. All of the state’s 21 recognized bargaining units are allowed some form of informal leave for union business.

Official Business – Union. Allows union members to participate in official union business, including labor-management meetings, arbitration hearings, and state contract negotiations without loss of compensation. This provision applies to all of the state’s unions pursuant to the Ralph C. Dills Act. The Bargaining Unit 6 contract with the California Correctional Peace Officers Association allows three of the union’s executive vice presidents to be released full time for union activities and for the union’s 43 chapter presidents to be released for union activities one day a week. The state’s contracts with the CAUSE Statewide Law Enforcement Association and the Fire Protection Firefighters union also provide release for union executives. The department tracks the time involved, but the state absorbs the cost of the lost time and therefore incurs additional costs for any relief coverage needed. Accounted for 2.5 percent of union leave time used by department employees from January 2000 through December 2005.

Union-Paid Leave. Allows union members to participate in union functions not approved by the Department of Personnel Administration as official union business. The union bears the cost. The department must track the time and bill the union for the employee’s salary and benefits. All but three of the state’s 21 bargaining unit contracts include this provision. Accounted for 2 percent of union leave time used by department employees from January 2000 through December 2005.

Union Activist Release Time. Allows rank-and-file members of the California Correctional Peace Officers Association to attend the union’s annual conference without loss of compensation. The department has been funded \$368,000 annually to pay for associated costs and must track to avoid exceeding that amount. No other union contracts contain this provision. Accounted for 0.2 percent of union leave time used by department employees from January 2000 through December 2005.

³ Usage percentages have been corrected to account for errors identified in data submitted by the department to the State Controller’s Office and therefore do not total 100 percent.

The Office of the Inspector General found from the review that the Department of Corrections and Rehabilitation has failed to provide adequate oversight of union leave time in accordance with state law, wasting potentially millions of dollars in public resources and creating an operational burden on state correctional institutions. The department's failure in this regard violates the Financial Integrity and State Manager's Accountability Act of 1983, which requires state agencies to maintain systems of internal accounting and administrative control to safeguard assets, maintain data accurately and reliably, and to minimize fraud, errors, abuse, and waste of government funds.

While the Office of the Inspector General was able to estimate the fiscal impact of specific union leave accounting errors, the department's failure to maintain accurate and reliable records on union leave precluded the Office of the Inspector General from quantifying the total fiscal impact of the department's mismanagement of union leave or identifying monies that may be owed to the state as a result.

Specifically, the review determined the following:

- ***The department did not establish sound accounting for the release time bank.***
The department did not plan for implementation of the rank-and-file release time bank and failed to develop the checks and balances necessary to accurately track time donated and used, leaving it unable to accurately reconcile its internal release time bank records. Failure to do so violates provisions of the Financial Integrity and State Manager's Accountability Act of 1983. The department also has only recently instituted standardized coding procedures to ensure that release time bank donations and usage are accurately recorded and has not adequately trained staff responsible for entering the data. As a result, the records are laden with errors and there are vast discrepancies between the department's release time bank records and those of the State Controller's Office.
- ***Errors make it impossible to tell whether the release time bank is overdrawn.***
Because of errors in the department's coding of union release time and because the department has not effectively tracked donations and use, it is not possible to tell for certain whether the release time bank is overdrawn. According to State Controller's Office figures, rank-and-file release time bank usage for the period January 2000 through December 2005 exceeded time donations by 30,373 hours — the equivalent of \$1.1 million in staff resources. It is possible, however, that the excessive use of time donations may have resulted from the department erroneously charging other types of union leave time to the release time bank and that no deficit actually exists.
- ***The department cannot reconcile its time bank records with those of the union.***
Since at least 1992, the Bargaining Unit 6 union contract has required the department to reconcile its release time bank records with the union's records as often as the department and the union agree is necessary, although no more often than once a quarter. The California Correctional Peace Officers Association

reports that the department and the union performed quarterly reconciliations under the previous administration, and the department reports that its former labor chief met with the union at least once a year to reconcile the release time bank records. Yet, the department's Office of Labor Relations told the Office of the Inspector General during this review that the department began monthly reconciliations to track donations and use only with the period beginning July 2005 and did not continuously track donations and use before that time. Moreover, differences in the way the department and the union record and track donations and usage make reconciliation impossible. According to the Office of Labor Relations, the department tracks the time after it has been used, while the California Correctional Peace Officers Associations tracks usage at the time it is requested. The union also complains that the department delays posting donations to the release time bank, sometimes for months, but charges for release time bank usage immediately. In any case, the department cannot successfully reconcile its records with those of the union until it can achieve an accurate internal reconciliation.

- ***The department did not enforce the release time bank cap.*** Current language in section 10.13 of the Bargaining Unit 6 contract expressly limits the use of the rank-and-file release time bank to 10,000 hours over the six-year life of the contract. Yet, the department did not raise the issue of the cap until 2005, four years into the contract and after Bargaining Unit 6 members had used 122,367 hours from the release time bank. The California Correctional Peace Officers Association maintains, and the Department of Personnel Administration's chief negotiator testified regarding the 2001 contract, that the intention of the parties during negotiations was to eliminate the cap and that it remained in the contract by error. An arbitrator ruled, therefore, that the presence of the 10,000-hour cap in the contract was due to a transcription error. The arbitrator's decision was subsequently vacated by the court, and the California Correctional Peace Officers Association in a separate action is seeking removal of the cap. Because of the pending litigation, the department continues to grant time from the release time bank without regard to the cap.
- ***The department has failed to manage the supervisors' release time banks.*** The Office of the Inspector General found that until recently the Department of Corrections and Rehabilitation mistakenly believed that the Department of Personnel Administration was responsible for monitoring the release time banks established for supervisors affiliated with the California Correctional Peace Officers Association or the California Correctional Supervisors Organization. As a result, the department did not attempt to track time donations and usage to the supervisors' release time bank or to reconcile the release time bank records. The Department of Personnel Administration informed the department this year, however, that it does not monitor the release time bank and lacks the ability to do so because it does not have the necessary personnel time records. Accordingly, the department's Office of Labor Relations has now begun to track the

supervisors' release time bank donations and usage and reported a positive leave balance of 3,602 hours for the period July 2005 through January 2006. The Office of the Inspector General found that the California Leave Accounting System shows 29,389 hours in donations and 24,687 hours of usage in the supervisors' release time banks for the period January 2000 through December 2005, resulting in a positive balance of 4,702 hours, if the figures are accurate.

- ***The department has allowed release time without verifying authorization.*** The department has allowed a significant number of employees to be released indefinitely from job assignments to conduct union functions without supporting documentation to verify that the time was authorized. In an October 28, 2004 memorandum, the department's Financial Services Division identified 19 employees who had been released full-time or part-time for union activities and who had used the largest amount of union leave time. Although three of the employees were entitled to full-time release under the union contract, evidence of release authorization for some of the other employees was lacking. For one employee, the department was unable to provide documentation either of a request for release from the union or an authorization for release from the state. For another employee, the department provided evidence of release authorization for only 712 hours for official business and 1,576 hours from the union for use of release time bank credits, leaving 2,738 hours with no evidence of release authorization.
- ***The department has not consistently charged time to the release time bank.*** In checking the personnel records of nine of the 19 employees described above, the Office of the Inspector General found that 14,707 hours reported as release time bank hours during the period reviewed were not shown as charged to the release time bank in the State Controller's Office records. The value of the time lost in that instance is estimated at \$554,000.
- ***In some instances, the department has failed to account for time at all.*** In the sample of the nine employees described above, the Office of the Inspector General found that 10,970 hours — the equivalent of approximately \$413,000 — were not charged to either work time or any other type of leave.
- ***The department has not controlled the individual use of union release time.*** The department has not controlled the individual use of union release time despite language in the Bargaining Unit 6 contract providing for limits on some types of union release time where necessary to prevent hardship to the department. In one instance, for example, the department allowed an employee to continue on full-time release for union activities for 6½ years even though the institution to which he has been assigned reported that it had raised objections about the situation every year since 1999. Although the employee was on the institution's payroll the entire time, he had never worked at the institution.

- ***The department has not required timesheets for employees on union leave.*** According to the department's Office of Labor Relations, the union interpreted a side letter to the Bargaining Unit 6 agreement to mean that rank-and-file employees on union leave were not required to submit monthly timesheets. The department disagreed, and the issue is still under dispute. The Office of the Inspector General found that as a result, some employees on union leave did not submit timesheets and others submitted timesheets several months late and without a supervisor's signature to verify the accuracy of the information. This practice allows employees on union leave to report they worked on holidays without verification that they actually did so and to not report the use of sick leave, vacation time, or annual leave. Employees are thereby able to collect holiday pay and credit in addition to regular pay and to accrue large leave balances from unused vacation and sick time, which creates a fiscal liability for the state when the employees separate from state service.

For example, two of the nine employees discussed earlier submitted no timesheets for any of the 29 months reviewed, while the employee described above, who was on union leave for 6 ½ years, submitted some timesheets months late and without a supervisor's signature. That employee reported no sick leave or vacation time for the entire 6 ½ year period and claimed to have worked every holiday since April 1999 even though the union request for the release time specifically excluded holidays. As a result, he had received his regular pay, eight hours of holiday credit, and four hours of holiday pay for all of those holidays, which, in 2005 alone, according to the hiring authority, resulted in compensation totaling \$8,000 and 104 hours of holiday credit. He had also accumulated a leave balance for unused vacation time of 2,376 hours by November 2005, which if unchanged, would result in a lump sum payment at retirement of \$116,000. Without an effective time-accounting system, it is not possible to verify that the employee validly claimed that time and was entitled to the resulting compensation.

- ***The department has failed to consistently bill for reimbursable union leave time.*** The Office of the Inspector General found instances in which the department may have failed to bill the union to obtain reimbursement for union-paid leave, although because of coding errors in the department's records it is not possible to determine for certain whether all of the time in question was billable. In attempting to verify payments for a sample of 1,620 hours recorded as union-paid leave, the Office of the Inspector General found that the department had billed for only 354 hours, 21.9 percent of the 1,620 hours in question — a loss of up to \$48,000. Staff from one of the department's eight regional accounting offices told the Office of the Inspector General in the course of the review that the office had never billed the California Correctional Peace Officers Association for union-paid leave.
- ***The department failed to request funding to cover leave for union officials.*** The department has not requested funding to cover union leave time required in the

Bargaining Unit 6 contract to allow three executive vice presidents of the California Correctional Peace Officers Association to be released full-time from their job assignments and for the union's 43 chapter presidents to be released one day a week for union purposes.⁴ Because the activities constitute official union business, either the positions remain unfilled or the cost of providing relief coverage — the value of which in this instance totals more than \$900,000 — is an unfunded obligation borne by the department.

- ***The department has exceeded its funding for the union's annual conference.*** The department has exceeded the \$368,000 provided in its yearly budget to cover the cost of releasing employee delegates to attend the California Correctional Peace Officers Association annual conference. According to records obtained from the department's Office of Labor Relations, the costs exceeded the budgeted amount for the annual conferences from 2002 through 2005 by more than \$400,000. The Office of the Inspector General found evidence, moreover, that the \$400,000 figure may be understated because annual conference release time may have been incorrectly coded by the department as deductible from the rank-and-file release time bank.

The Office of the Inspector General has issued the following nine recommendations to correct these and other deficiencies identified in the review.

RECOMMENDATIONS

In order for the California Department of Corrections and Rehabilitation to correct the deficiencies in its management of union leave time, the Office of the Inspector General recommends that the department take the following actions:

- **Reconcile union leave time internally on a monthly basis. Include in the reconciliation the authorization of release time for union business and any other documentation that would capture the time authorized, used, and billed.**
- **In conjunction with the California Correctional Peace Officers Association, develop uniform policies and procedures that facilitate reconciling the release time bank balance each quarter with the union's records.**
- **Standardize the policies and procedures used for approving union leave time and processing transactions and distribute those policies and procedures throughout the department.**

⁴ According to the Office of Labor Relations, during the negotiations over this provision, the Department of Personnel Administration had identified the necessary funds to cover leave for union officials.

- **Establish policies and procedures for accurately recording union leave time throughout the department. Provide training throughout the department on the use of timekeeping codes.**
- **Conduct periodic audits to ensure that time is recorded accurately and union leave time is reconciled monthly.**
- **To minimize fiscal and operational impacts, negotiate and enforce a reasonable annual cap on release time bank usage with the California Correctional Peace Officers Association.**
- **Enforce the requirement that all employees, unless specifically exempted under labor contracts, submit monthly attendance sheets to account for any absences and time worked. In the alternative, obviate the need for monthly time reporting by negotiating a new leave system wherein state employees working full time on union business neither accrue nor use sick leave and vacation time, with the understanding that the state may need to compensate the employees for the loss of those benefits. As a third alternative, work with the unions to develop another solution that provides the necessary accountability.**
- **Collect full reimbursement, including benefits where applicable, when union employees are released from work to perform union activities unless the release is specifically addressed in labor contracts or requested by the state.**
- **Request funding from the Legislature for union issues addressed in labor contracts, such as compensation for Bargaining Unit 6 executive vice-presidents and chapter presidents.**

INTRODUCTION

This report presents the results of a special review conducted by the Office of the Inspector General into the management of union leave time for employees of the California Department of Corrections and Rehabilitation. The review was conducted under the authority of California Penal Code section 6126, which assigns the Office of the Inspector General responsibility for oversight of the Department of Corrections and Rehabilitation.

BACKGROUND

California Government Code sections 3512 through 3524 (the Ralph C. Dills Act) provide a means of resolving disputes concerning wages, hours, and other conditions of employment between the state and public employee unions. Section 3518.5 of the California Government Code requires a reasonable number of employee representatives to be allowed a reasonable amount of time off without loss of compensation to formally meet and confer with representatives of the state on matters within the scope of representation. The amount and type of release time allowed is subject to negotiation with individual public employee unions. Employees may also use their own leave credits or take leaves of absence for union activities.

The Public Employment Relations Board, which oversees administration of the Ralph C. Dills Act, has designated 21 bargaining units for represented state employees. Issues relating to union members' wages, hours, and terms and conditions of employment are negotiated between the Department of Personnel Administration and union representatives for each bargaining unit. The negotiations result in a memorandum of understanding (contract), which is presented to the Legislature for approval. After the contract is approved, the members of the public employee union and the state employer must abide by the provisions specified in the contract.

With a fiscal year 2005-06 budget of \$7.7 billion, the Department of Corrections and Rehabilitation has 58,600 budgeted employee positions encompassing numerous trades and professions. Approximately 49,000 of the positions are classified as rank-and-file and are affiliated with 19 of the state's 21 recognized bargaining units. About 30,000 of the department's employees are assigned to Bargaining Unit 6, which is exclusively represented by the California Correctional Peace Officers Association.

Consistent with the Ralph C. Dills Act, the contracts with the 19 bargaining units representing Department of Corrections and Rehabilitation employees define arrangements for union leave time. These arrangements fall generally into five main categories or types: release time bank; official business-informal; official business-union; union-paid leave; and union activist release time. Under some of the arrangements, the department absorbs the cost of the employee's absence from the job; in others, the union compensates the department for the lost time either monetarily or in time returned. From January 2000 through December 2005, the department's employees used 318,317 hours

of union leave time in all categories — equating to approximately \$12 million in staff resources.⁵

By far the most significant of the union leave categories for the Department of Corrections and Rehabilitation is the Bargaining Unit 6 release time bank, which applies to rank-and-file members of the California Correctional Peace Officers Association and which has accounted for 62 percent of the hours used by department employees for union activities over the past six years.

OBJECTIVES, SCOPE AND METHODOLOGY

The purpose of this special review was to assess whether the Department of Corrections and Rehabilitation adequately manages the union leave time used by its employees and whether the department has been adequately reimbursed for the time involved. The review concentrated primarily on use of the release time bank for rank-and-file members negotiated by the department with the California Correctional Peace Officers Association because that release time bank accounts for most of the union leave time affecting the department, but the review also examined the department's controls over other types of union leave used by the department's other bargaining units. To this end, the Office of the Inspector General examined the department's management of and controls over the rank-and-file release time bank and other types of union leave, the department's management of its fiscal resources, and its management of other administrative functions. The review did not include an examination of the Department of Personnel Administration's role, if any, in the administration of union leave. The review concerned only the actions of the California Department of Corrections and Rehabilitation. The Office of the Inspector General did not audit any of the bargaining units or their records.

During the course of the special review, the Office of the Inspector General performed the following procedures:

- Conducted site visits at one juvenile and two adult institutions to gain an understanding of the procedures practiced at institutions.
- Conducted site visits at department headquarters for both juvenile and adult programs to gain an understanding of procedures and controls used to manage union leave time.
- Interviewed various headquarters and institution staff in the areas of labor relations, personnel, financial services, and institution services.
- Interviewed staff of other agencies, including the State Controller's Office, to gain an understanding of the capabilities available in existing systems used to manage and report on employee pay and leave data.

⁵ The \$12 million figure is based on a rate of \$37.66 per hour, which averages the salary and associated employee benefits for a mid-step correctional officer for fiscal years 1999-00 and 2005-06.

- Met with the California Correctional Peace Officers Association leadership to discuss issues related to union leave.
- Reviewed budgetary documents, accounting reports, timekeeping reports, leave reports, payroll information, union agreements, arbitration reports, legal decisions, a June 2005 report of an investigation by the Bureau of State Audits on union leave issues, and other pertinent documents.
- Calculated the monetary equivalent of staff hours for various transactions. Depending on the circumstances, the calculations were based on the average of a mid-level correctional officer's salary and benefits, a current year mid-level correctional officer's salary and benefits, or the actual salary of a particular employee.
- Reviewed internal automated systems related to timekeeping and external systems related to payroll and leave information as well as the reporting capabilities of the systems.
- Analyzed the information gathered, reconciled selected transactions, and conducted testing as appropriate to formulate conclusions.

While the Office of the Inspector General was able to estimate the fiscal impact of specific union leave accounting errors, the department's failure to maintain accurate and reliable records on union leave precluded the Office of the Inspector General from quantifying the total fiscal impact of the department's mismanagement of union leave or to identify monies that may be owed to the state as a result.

Throughout the special review, the Office of the Inspector General received excellent cooperation and assistance from the department and its staff and other stakeholders.

FINDING

The Office of the Inspector General found that the California Department of Corrections and Rehabilitation has mismanaged millions of dollars in public resources and created an operational burden on itself and the institutions by failing to accurately control and account for union leave time.

According to State Controller's Office records, Department of Corrections and Rehabilitation employees used 318,317 hours of union leave time from 2000 through 2005, the equivalent of approximately \$12 million in staff resources. Yet, the department has done a poor job of overseeing union leave time use — failing to set up a sound and accurate accounting system for the rank-and-file release time bank; failing to track and control the time used; failing to collect reimbursements owed to the state; failing to enforce or clarify the 10,000-hour cap on release time bank usage; and failing to request funding for state-paid union leave time required under the Bargaining Unit 6 contract. It also appears that the department may have allowed the release time bank to be overdrawn by the equivalent of approximately \$1.1 million in staff resources, but coding errors in the department's records make it impossible to know for certain, and, in fact, the deficit may not exist. The department also has not controlled the use of union release time to prevent hardship to the department despite language in the bargaining unit contracts allowing it to do so. The Office of the Inspector General found numerous other problems in the department's management of union leave time, most of them attributable to the failure on the part of the department to make sound and timely decisions concerning union leave.

The failure to adequately manage union leave time has imposed direct costs on the department, adding to the department's overall fiscal problems and wasting potentially millions of dollars in state resources, although the precise amount involved is not quantifiable because of the department's inadequate record keeping. The failure to manage and control union leave time has also created an operational burden on institutions and on the department as a whole.

State law requires state agencies to maintain accounting and administrative controls. The Financial Integrity and State Manager's Accountability Act of 1983, codified in California Government Code sections 13400 through 13407, requires that state agencies establish and maintain systems of internal accounting and administrative control to safeguard assets, maintain data accurately and reliably, promote operational efficiency, and encourage adherence to prescribed managerial policies. Section 13401 specifically requires that the systems of internal accounting and administrative control be evaluated on an ongoing basis and that weaknesses be corrected promptly when they are detected. Section 13401 further provides that "all levels of management of the state agencies must be involved in assessing and strengthening the systems of internal accounting and administrative control to minimize fraud, errors, abuse, and waste of government funds."

Despite those requirements, the Department of Corrections and Rehabilitation has failed to establish the internal accounting and administrative controls necessary to accurately and effectively manage the union leave of its employees. The Office of the Inspector General found that the department has repeatedly delayed addressing issues related to union leave when such issues were brought to its attention by legislators, a federal court monitor, the Bureau of State Audits, and others. When it has acted, the department has made numerous poor decisions and errors in planning for and managing union leave time.

The Office of the Inspector General found the following:

- ***The department did not establish an accounting system for the release time bank.*** According to State Controller's Office records, the department's employees used 197,802 hours from the Bargaining Unit 6 rank-and-file release time bank from January 2000 through December 2005, accounting for 62 percent of all types of union release time used by department employees during that period. The approximate value of that time amounts to \$7.4 million. Yet, when the release time bank was established in the Bargaining Unit 6 contract, the department did not plan for its implementation and failed to establish a sound accounting system for accurately tracking donations and usage, including developing the checks and balances necessary to enable it to reconcile its internal release time bank records. Failure to do so violates provisions of the Financial Integrity and State Manager's Accountability Act of 1983.
- ***The department delayed issuing coding procedures needed to ensure accuracy.*** The department delayed issuing standardized coding procedures to ensure that union leave time of all types is recorded accurately and consistently, finally issuing the procedures in February 2006. Training for staff on coding procedures has also been lacking. The absence of policies and procedures and the lack of training have caused the coding to be inconsistent and error-laden. For example:
 - ***Different codes are used for juvenile and adult institutions.*** Juvenile facilities and adult institutions use different codes to designate leave time. The juvenile facilities reviewed by the Office of the Inspector General use two codes in their internal time-keeping systems and cannot further differentiate union leave types, while adult institutions use six codes.
 - ***Leave time for annual union conferences was coded incorrectly.*** The Office of the Inspector General found that leave time for annual union conferences was not coded correctly and was therefore under-reported in the State Controller's Office California Leave Accounting System. One institution used a variety of codes to record union annual conference time, none of them correct. And while the California Leave Accounting System showed only 587 hours recorded as union conference time for the 14 months from August 2004 through September 2005, which included two annual conferences, requests from the union for annual conference release time for 11 institutions for the

August 2005 conference alone totaled 2,252 hours, an average of 205 hours per site. Applying this average to the department's 41 institutions, the total would come to 16,800 hours for the two conferences, far more than the 587 hours reported in the system. The Office of the Inspector General also found evidence that annual conference leave time may have been incorrectly coded as deductible from the rank-and-file release time bank.

- ***Union leave usage codes differ by facility.*** The Office of the Inspector General found that different facilities used different codes for the same type of union leave. Some institutions used the correct code for union conference time, while others used incorrect codes.
- ***Personnel staff and supervisors used incorrect codes.*** The Office of the Inspector General found instances in which supervisors used the wrong code on daily timesheets to record an employee's absence for union leave, but because the code was valid for other types of union leave, the system accepted it. In other instances, personnel staff failed to enter correct codes from attendance sheets. In one case, for example, a personnel timekeeper entered into the system the code "DD," designating "detached duty," even though other documentation showed that the code "UTB," designating the release time bank, should have been used.
- ***Errors make it impossible to tell whether the release time bank is overdrawn.*** Because of errors in the department's coding of union release time and because the department has not effectively tracked donations and use, it is not possible to tell for certain whether the rank-and-file release time bank is overdrawn. According to the State Controller's Office records, rank-and-file members of the California Correctional Peace Officers Association donated 167,429 hours to the release time bank between January 1, 2000 and December 31, 2005, but used 197,802 hours, resulting in a negative balance for that period of 30,373 hours. If accurate, that negative balance is the equivalent of \$1.1 million in staff resources. A review of more recent figures revealed a similar deficit. Again, according to State Controller's Office records, from August 2004 through February 2006, hours used from the release time bank appear to have exceeded donations by 19,105 hours, the equivalent of \$719,000 in staff resources. But the Office of the Inspector General found numerous coding errors in the department's records that may have caused other types of union leave time to be erroneously charged to the release time bank. During the review, for example, the Office of the Inspector General found that 80,888 hours of union leave time used by non-Bargaining Unit 6 employees had been erroneously charged to release time banks. Although the Office of the Inspector General corrected for those hours in calculating the 30,373-hour release time bank deficit, that error and other coding errors identified during the review open the possibility that the deficit may not exist or may be offset by other errors.

- ***The department cannot reconcile its time bank records with those of the union.*** Since at least 1992, Section 10.13 of the contract between the state and the California Correctional Peace Officers Association has required the release time bank of the department and the union to be reconciled — compared, verified, adjusted, and corrected — as often as the parties agree is necessary, although not more than once per quarter. The process is meant to ensure that donations and usage are accurately recorded and are consistent within the two systems. The California Correctional Peace Officers Association reports that the department and the union performed quarterly reconciliations under the previous administration, and the department reports that its former labor chief met with the union at least once a year for that purpose. Yet, the department's Office of Labor Relations told the Office of the Inspector General during this review that the department began monthly reconciliations to track donations and use only with the period beginning July 2005 and did not continuously track donations and use before that time. Moreover, differences in the way the department and the union record and track donations and usage make reconciliation impossible. The department compares authorization slips completed by employees when they donate time to the employee's available leave balance and then compares the release time bank requests from the union to the usage data posted in the California Leave Accounting System at the State Controller's Office. According to the Office of Labor Relations, the union instead records the leave usage at the time it requests the leave. In effect, the department tracks usage after it has been used, while the union tracks usage before it has been used. The union has also complained that the department delays posting donations to the release time bank, sometimes for months, but charges for release time bank usage immediately. Until those differences are resolved, it will not be possible to reconcile the leave balances between the two entities. In any case, the department cannot successfully reconcile its records with those of the union until it can achieve an accurate internal reconciliation.
- ***The department's records conflict with those of the State Controller's Office.*** Widespread errors in the department's union leave records and in its coding of release time bank donations and usage not only make the department's data unreliable, but result in vast discrepancies between the department's release time bank records and those of the State Controller's Office. When the department made its first attempt to reconcile the release time bank records, it was obliged to begin with a July 2005 balance provided by the California Correctional Peace Officers Association — 17,254 hours — because it lacked data of its own. As it attempted the reconciliation, the department found the task to be nearly impossible because of errors in the way usage of union release time had been recorded. For example, in January 2006, beginning with the union's reported balance of 17,254 hours for rank-and-file employees, adding time donations of 8,324 hours, and deducting usage of 17,346 hours, the department reported a positive release time bank balance of 8,232 hours. Yet, the State Controller's Office data for the same period reported release time bank usage to be more than

26,500 hours — 53 percent higher than the department's usage total. As a result, again beginning with the union's reported balance of 17,254 and using the State Controller's Office data, the release time bank would reflect a negative balance of 1,087 hours as of January 2006, instead of the positive balance of 8,232 hours calculated by the department.

- ***The department did not enforce the release time bank cap.*** Current language in section 10.13 of the Bargaining Unit 6 contract expressly limits the use of the rank-and-file release time bank to 10,000 hours over the six-year life of the contract. Yet, the department did not raise the issue of the cap until 2005, four years into the contract and after Bargaining Unit 6 members had used 122,367 hours from the release time bank. The California Correctional Peace Officers Association maintains, and the Department of Personnel Administration's chief negotiator testified regarding the 2001 contract, that the intention of the parties during negotiations was to eliminate the cap and that it remained in the contract by error. An arbitrator ruled, therefore, that the presence of the 10,000-hour cap in the contract was due to a transcription error. The arbitrator's decision was subsequently vacated by the court, and the California Correctional Peace Officers Association in a separate action is seeking removal of the cap. Because of the pending litigation, the department continues to grant time from the release time bank without regard to the cap.
- ***The department has failed to manage the supervisors' release time banks.*** The Office of the Inspector General found that until recently the Department of Corrections and Rehabilitation mistakenly believed that the Department of Personnel Administration was responsible for monitoring the release time banks established for supervisors affiliated with the California Correctional Peace Officers Association or the California Correctional Supervisors Organization. As a result, the department did not attempt to track time donations and usage to the supervisors' release time bank or to reconcile the release time bank records. The Department of Personnel Administration informed the department this year, however, that it does not monitor the release time bank and lacks the ability to do so because it does not have the necessary personnel time records. Accordingly, the department's Office of Labor Relations has now begun to track the supervisors' release time bank donations and usage and reported a positive leave balance of 3,602 hours for the period July 2005 through January 2006. The Office of the Inspector General found that the California Leave Accounting System shows 29,389 hours in donations and 24,687 hours of usage in the supervisors' release time banks for the period January 2000 through December 2005, resulting in a positive balance of 4,702 hours, if the figures are accurate.
- ***The department has allowed release time without verifying authorization.*** The department has allowed a significant number of employees to be released indefinitely from job assignments to conduct union functions without supporting documentation to verify that the time was authorized. In an October 28, 2004

memorandum, the Financial Services Division of the Department of Corrections and Rehabilitation called attention to the fact that 19 department employees, including two executive vice presidents of the California Correctional Peace Officers Association and one former executive vice president, had been granted full-time or part-time release to conduct union business. Although the union executive vice presidents were entitled to full-time release under the union contract, evidence of release authorization for some of the other employees was lacking. For one employee, the department was unable to provide documentation either of a request for release from the union or an authorization for release from the state. For another employee, the department provided evidence of release for only 712 hours for official business and 1,576 hours from the union for use of release time bank credits. The department had no documents showing authorization for the release of the employee's remaining 2,738 hours and it did not record any of the employee's time because the employee submitted no timesheets.

- ***The department has failed to properly account for some union leave time.*** In some instances, the department has simply failed to account for union release time at all. In a sample of nine of the 19 employees described above, the Office of the Inspector General found that 10,970 hours — the equivalent of approximately \$413,000 — were not charged to either work time or any other type of leave. Over the 29-month period reviewed from May 2003 through September 2005, regular work time would have totaled approximately 5,026 hours per employee, or a total of 45,234 hours for all nine employees. Yet only 34,264 hours (76 percent) of the 45,234 hours were accounted for. The department recorded 4,139 hours (9 percent) as time worked on the employees' state jobs; 28,867 hours of release time were authorized for union activities; and 1,258 hours were used for holidays, sick leave, or vacation, leaving 10,970 hours of release time unaccounted for.
- ***The department has not consistently charged hours to the release time bank.*** In checking the personnel records of the nine employees described above for the period May 2003 through September 2005, the Office of the Inspector General found that 14,707 hours that should have been reported in the records as release time bank hours were not recorded in the California Leave Accounting System. The timesheets of one of the employees alone reported 4,528 hours as used from the release time bank, but none of that time was recorded in the State Controller's Office records. The value of the 14,707 hours not properly charged to the release time bank in this instance totaled \$554,000.
- ***The department has not controlled individual use of union leave time.*** The Office of the Inspector General found that the department continues to grant union leave time without regard to provisions in the Bargaining Unit 6 contract providing for limits where necessary. In one such example, the department allowed an employee to continue on full-time release for union activities for 6 ½

years even though the institution to which he was assigned reported it had raised objections about the situation at every fiscal review since April 1999. In that case, the employee was added to the payroll of an adult institution on a 90-day temporary assignment, but was immediately released by the department to work full-time on union business. The employee was still on the institution's payroll 6 ½ years later in March 2006 even though he had never worked at the institution.

- ***The department has not required timesheets for employees on union leave.*** According to the department's Office of Labor Relations, the union interpreted a side letter to the Bargaining Unit 6 agreement to mean that rank-and-file employees on union leave were not required to submit monthly timesheets. The department disagreed, and the issue is still under dispute. The Office of the Inspector General found that as a result, some employees on union leave did not submit timesheets and others submitted timesheets several months late and without a supervisor's signature to verify the accuracy of the information. This practice allows employees on union leave to report they worked on holidays without verification that they actually did so and to not report the use of sick leave, vacation time, or annual leave. Employees are thereby able to collect holiday pay and credit in addition to regular pay and to accrue large leave balances from unused vacation and sick time, which creates a fiscal liability for the state when the employees separate from state service.

For example, two of the nine employees discussed earlier submitted no timesheets for any of the 29 months reviewed, while the employee described above, who was on union leave for 6 ½ years, submitted some timesheets months late and without a supervisor's signature. That employee reported no sick leave or vacation time for the entire 6 ½ year period and claimed to have worked every holiday since April 1999 even though the union request for the release time specifically excluded holidays. As a result, he had received his regular pay, eight hours of holiday credit, and four hours of holiday pay for all of those holidays, which, in 2005 alone, according to the hiring authority, resulted in compensation totaling \$8,000 and 104 hours of holiday credit. He had also accumulated a leave balance for unused vacation time of 2,376 hours by November 2005, which if unchanged, would result in a lump sum payment at retirement of \$116,000. Without an effective time-accounting system, it is not possible to verify that the employee validly claimed that time and was entitled to the resulting compensation.

- ***The department appears to have failed to bill for reimbursable union leave time.*** The Office of the Inspector General found instances in which the department may have failed to bill the union to obtain reimbursement for union-paid leave, although, again, because of coding errors in the department's records it is not possible to determine for certain whether all of the time in question was billable. In one example, the Office of the Inspector General attempted to verify payments for a sample of 1,620 hours recorded in the California Leave Accounting System as union-paid leave and found that the regional accounting

offices had billed for only 354 hours, 21.9 percent of the hours in question. Although the Office of the Inspector General found some coding errors, the remaining 1,266 hours, for which the department did not bill, amounts to almost \$48,000. Staff from one regional accounting office told the Office of the Inspector General in the course of the review that the office had never billed the California Correctional Peace Officers Association for union-paid leave. When the Office of the Inspector General pointed out that error, the regional accounting office billed and received from the union almost \$23,000, but miscalculated the amount owed by failing to include employee benefits. The actual amount owed totaled more than \$25,000.

- ***The department failed to request funding to cover leave for union officials.***
The Bargaining Unit 6 contract provides for three executive vice presidents of the California Correctional Peace Officers Association to be released full time from their job assignments to conduct union business—a provision similar to those found in other agreements with state safety and fire protection labor organizations. In addition, effective June 30, 2004, the 43 chapter presidents of the California Correctional Peace Officers Association are allowed one day a week off for union purposes. Because the activities constitute official union business, either the positions remain unfilled or the cost of providing relief coverage — the value of which in this instance totals more than \$900,000 — is an unfunded obligation borne by the department because it failed to request the necessary funds.⁶
- ***The department has exceeded its funding for the union’s annual conference.***
Since fiscal year 2003-04, the department has been funded with \$368,000 annually to cover the cost of releasing the California Correctional Peace Officer Association’s delegates to attend the union’s annual conference. Records from the department’s Office of Labor Relations, however, show that for the 2002 through 2005 conferences, the costs have exceeded the budgeted amount by more than \$400,000. The Office of the Inspector General found evidence, moreover, that the \$400,000 figure may be understated because annual conference release time may have been incorrectly coded by the department as deductible from the rank-and-file release time bank.

⁶ According to the Office of Labor Relations, during the negotiations over this provision, the Department of Personnel Administration had identified the necessary funds to cover leave for union officials.

RECOMMENDATIONS

To correct the deficiencies in the management of union leave time, the Office of the Inspector General recommends that the California Department of Corrections and Rehabilitation take the following actions:

- Reconcile union leave time internally on a monthly basis. Include in the reconciliation the authorization of release time for union business and any other documentation that would capture the time authorized, used, and billed.
- In conjunction with the California Correctional Peace Officers Association, develop uniform policies and procedures that facilitate reconciling the release time bank balance each quarter with the union's records.
- Standardize the policies and procedures used for approving union leave time and processing transactions, and distribute those policies and procedures throughout the department.
- Establish policies and procedures for accurately recording union leave time throughout the department. Provide training throughout the department on the use of timekeeping codes.
- Conduct periodic audits to ensure that time is recorded accurately and union leave time is reconciled monthly.
- To minimize fiscal and operational impacts, negotiate and enforce a reasonable annual cap on release time bank usage with the California Correctional Peace Officers Association.
- Enforce the requirement that all employees, unless specifically exempted under labor contracts, submit monthly attendance sheets to account for any absences and time worked. In the alternative, obviate the need for monthly time reporting by negotiating a new leave system wherein state employees working full time on union business neither accrue nor use sick leave and vacation time, with the understanding that the state may need to compensate the employees for the loss of those benefits. As a third alternative, work with the unions to develop another solution that provides the necessary accountability.
- Collect full reimbursement, including benefits where applicable, when union employees are released from work to perform union activities

unless the release is specifically addressed in labor contracts or requested by the state.

- **Request funding from the Legislature for union issues addressed in labor contracts, such as compensation for Bargaining Unit 6 executive vice-presidents and chapter presidents.**

**RESPONSE OF THE CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION**

Memorandum

Date : July 14, 2006

To : Matthew L. Cate, Inspector General
Office of the Inspector General
PO Box 348780
Sacramento, CA 95834-8780

Subject: **RESPONSE TO THE OFFICE OF THE INSPECTOR GENERAL'S SPECIAL REVIEW INTO MANAGEMENT OF UNION LEAVE TIME BY THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION**

This memorandum is prepared as the California Department of Corrections and Rehabilitation's (CDCR) response to the Office of the Inspector General's (OIG) Special Review into the Management of Union Leave Time. After careful review and much discussion, CDCR concurs with the overall findings and the intent of the recommendations.

The CDCR has been proactive during the course of this audit and has already taken steps to address and correct the deficiencies in areas where significant improvement in oversight is necessary. CDCR began a multi-faceted plan which, when modified to accommodate the OIG recommendations and when fully implemented, will provide for accurate tracking and reporting of all union leaves provided for in the labor agreements and Government Code sections. This process was initially broken into 10 overall steps that are identified below:

1. In partnership with the State Controller's Office (SCO), transaction coding methods needed to be developed to allow for the tracking of each type of union leave.
2. Modify the CDCR Personnel Post Assignment System (PPAS) to allow for the recording and tracking of each type of union leave usages.
3. Develop an internal tracking system of the various types of union leave to be used as an auditing tool against the SCO and PPAS tracking systems. This system should also allow for the lag in reporting of the SCO and PPAS Systems.
4. Develop a statewide CDCR policy on the proper procedures for requesting, reporting, utilizing, and reimbursement (where appropriate) of union leaves.
5. Develop worksheets to be utilized throughout the process from initial request for leave usages, recording leave, reporting, and reimbursement (if available).
6. Provide official notification, and meet and confer with the respective exclusive representatives and bonified organizations as provided for under the Dills Act and the various labor agreements.
7. Begin implementation of the new process.

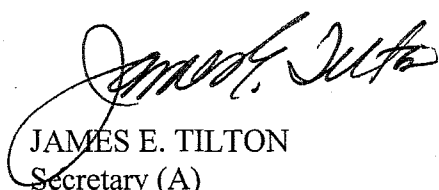
8. Provide training to the entire CDCR of the new policy/process and its use.
9. Reestablish a formalized process for seeking reimbursement of Union paid leave and accurately tracking the reimbursement for such leave.
10. Reevaluation and modification of these processes as implementation continues.

Since 2005 the CDCR has been actively working to complete this 10 step plan. As of the date of this report, the Department has successfully reached Step 7 (Implementation) and is in the process of implementing Step 8 (Training) of this plan.

Based on the OIG's recommendations the CDCR is now in the process of incorporating the OIG recommendations which is not a part of CDCR's original action plan. For example, regular and specific auditing tools will need to be incorporated into out action plan.

It should be noted that in order to complete several of the OIG recommendations it will be necessary to have the cooperation of the various labor organizations representing State employees, as well as the Department of Personnel Administration and the SCO. The CDCR will be contacting and attempting work in partnership with these groups to make the necessary modifications.

We would like to thank the OIG for its continued professionalism and guidance in CDCR's efforts to improve its operations. Should you have any questions or concerns, please contact me at (916) 323-6001.



JAMES E. TILTON

Secretary (A)

California Department of Corrections and Rehabilitation