

Investigations of Improper Activities by State Employees

Delay in Reassigning an Incompetent Psychiatrist, Misuse of State Resources, Failure to Protect the Security of Confidential Documents, Theft of Registration Fees, and Other Violations of State Law

January 2011 Report I2010-2



Independent NONPARTISAN
TRANSPARENT **Accountability**

The first five copies of each California State Auditor report are free. Additional copies are \$3 each, payable by check or money order. You can obtain reports by contacting the Bureau of State Audits at the following address:

California State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, California 95814
916.445.0255 or TTY 916.445.0033

OR

This report is also available on the World Wide Web <http://www.bsa.ca.gov>

The California State Auditor is pleased to announce the availability of an on-line subscription service. For information on how to subscribe, please contact the Information Technology Unit at 916.445.0255, ext. 456, or visit our Web site at www.bsa.ca.gov.

Alternate format reports available upon request.

Permission is granted to reproduce reports.

For questions regarding the contents of this report, please contact Margarita Fernández, Chief of Public Affairs, at 916.445.0255.

Elaine M. Howle
State Auditor
Doug Cordiner
Chief Deputy

CALIFORNIA STATE AUDITOR

Bureau of State Audits

555 Capitol Mall, Suite 300

Sacramento, CA 95814

916.445.0255

916.327.0019 fax

www.bsa.ca.gov

January 18, 2011

Investigative Report I2010-2

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

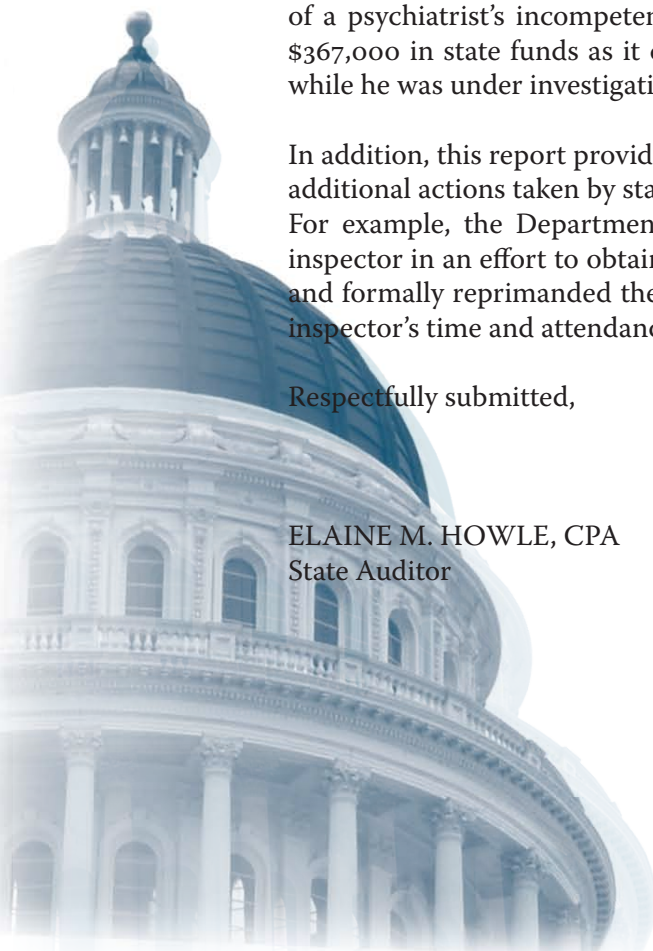
Pursuant to the California Whistleblower Protection Act, the Bureau of State Audits presents its investigative report summarizing investigations completed between January and June 2010 concerning allegations of improper governmental activities.

This report details eight substantiated allegations involving several state departments. Through our investigations, we found patients placed at risk and state funds wasted during the continued employment of an incompetent psychiatrist, misuse of state resources, theft of registration fees, and failure to protect the security of confidential documents. As an example, we found that the Department of Corrections and Rehabilitation failed to promptly investigate allegations of a psychiatrist's incompetence, and in doing so, placed patients at risk and wasted nearly \$367,000 in state funds as it continued to pay the psychiatrist more than \$600,000 in salary while he was under investigation for nearly three years.

In addition, this report provides an update on previously reported investigations and describes additional actions taken by state departments to correct the problems we previously identified. For example, the Department of Industrial Relations filed a civil lawsuit against a former inspector in an effort to obtain reimbursement for \$70,105 in improper payments she received and formally reprimanded the inspector's immediate supervisor for his failure to monitor the inspector's time and attendance.

Respectfully submitted,

ELAINE M. HOWLE, CPA
State Auditor



Contents

Summary	1
Chapter 1	
Department of Corrections and Rehabilitation: Delay in Reassigning an Incompetent Psychiatrist, Waste of State Funds	7
Chapter 2	
California Conservation Corps: Failure to Follow State Contracting Laws	15
Chapter 3	
Department of Corrections and Rehabilitation: Misuse of State Resources, Failure to Appropriately Manage Employees	19
Chapter 4	
Victim Compensation and Government Claims Board: Failure to Protect the Security of Confidential Documents	23
Chapter 5	
Department of General Services: Misuse of State Resources	29
Chapter 6	
California Department of Transportation: Failure to Adhere to Established Work Schedule, Failure to Monitor Employees' Attendance	33
Chapter 7	
Department of Motor Vehicles: Theft of Registration Fees	37
Chapter 8	
Department of Corrections and Rehabilitation: Improper Overtime Reporting	41
Chapter 9	
Update of Previously Reported Issues	
Department of Corrections and Rehabilitation	45
Department of Parks and Recreation	47
Department of Corrections and Rehabilitation	47
Department of Fish and Game, Office of Spill Prevention and Response	48
Department of Corrections and Rehabilitation	50
California State University, Office of the Chancellor	52

Department of Justice	53
Department of Water Resources	54
Department of Motor Vehicles	55
Department of Corrections and Rehabilitation	56
Department of Industrial Relations	56
Department of Consumer Affairs, California Architects Board	57
Appendix	
The Investigations Program	61
Index	65

Summary

Results in Brief

The California Whistleblower Protection Act (Whistleblower Act) empowers the Bureau of State Audits (bureau) to investigate and report on improper governmental activities by agencies and employees of the State of California (State). Under the Whistleblower Act, an *improper governmental activity* is any action by a state agency or employee during the performance of official duties that violates any state or federal law or regulation; that is economically wasteful; or that involves gross misconduct, incompetence, or inefficiency.

Between January 1, 2010, and June 30, 2010, the bureau received 2,444 allegations of improper governmental activities, which required it to determine whether the allegations involved improprieties by state agencies or employees. In response to the allegations, the bureau opened 420 cases, and it reviewed or continued to work on 327 cases it opened previously. For these cases, the bureau completed a preliminary review process and determined which cases lacked sufficient information for an investigation. The bureau also referred cases to other state agencies for action and—either independently or with assistance from other state agencies—conducted investigations of cases.

This report details the results of eight particularly significant investigations completed by the bureau or undertaken jointly by the bureau and other state agencies between January 1, 2010, and June 30, 2010. This report also outlines the actions taken by state agencies in response to the investigations into improper governmental activities described in this report and in prior reports. The following paragraphs briefly summarize these investigations and the state agencies' actions, which individual chapters discuss more fully. For more information about the bureau's investigations program, please refer to the Appendix.

Department of Corrections and Rehabilitation

The Department of Corrections and Rehabilitation (Corrections) placed patients at risk by not relieving a psychiatrist of his duty to treat patients until four months after it learned of allegations of his incompetence. In addition, Corrections took 35 months to complete its investigation. By not promptly conducting an investigation, Corrections wasted at least \$366,656 in state funds by continuing to pay the psychiatrist more than \$600,000 in salary throughout

Investigative Highlights . . .

State employees and agencies engaged in improper activities, including the following:

- » *By not conducting a timely investigation of a psychiatrist's competence, the Department of Corrections and Rehabilitation wasted at least \$366,656 in state funds by continuing to pay him more than \$600,000 in salary throughout the investigation.*
- » *Evading competitive bidding requirements to make purchases costing \$64,666 from a single vendor, and failing to obtain from the same vendor the required price quotes for later purchases totaling \$19,812.*
- » *Allowing a subordinate employee to take two-hour breaks nearly every day for three years at an estimated cost of \$23,937.*
- » *Failing to take appropriate steps to prevent an employee from improperly removing confidential documents from her workplace, and thus failing to promptly process \$10,567 in compensation claims.*
- » *Improperly using state vehicles for daily commutes, which cost the State an estimated \$12,379 over a three-year period.*
- » *Paying two employees a total of \$2,080 for hours they did not work.*
- » *Stealing \$448 in vehicle registration fees.*

the investigation. This included two merit-based salary increases as well as an additional \$29,149 in accrued leave that Corrections paid to him upon his termination.

California Conservation Corps

The California Conservation Corps evaded competitive bidding requirements by splitting contracts to purchase uniforms costing \$64,666 from a single vendor. It also did not obtain required price quotations for two later uniform purchases totaling \$19,812 from the same vendor.

Department of Corrections and Rehabilitation

A supervisor at Kern Valley State Prison allowed an employee to take two-hour breaks nearly every day for more than three years. The State paid the employee an estimated \$23,937 for 1,160 hours during which he was not performing his job duties.

Victim Compensation and Government Claims Board

An employee of the Victim Compensation and Government Claims Board (claims board) improperly removed confidential documents from her workplace, and the claims board failed to take appropriate steps to prevent these actions. Consequently, the security of personal information of victims of violent crimes was compromised and the claims board failed to promptly process \$10,567 in compensation claims from these victims.

Department of General Services

A manager with the Department of General Services improperly used state vehicles for his daily commute for nine years. The misuse that occurred from July 2006 through July 2009—the three years for which complete records are available—cost the State an estimated \$12,379.

California Department of Transportation

Two electrical engineers at the California Department of Transportation (Caltrans) each missed 24 hours of work, costing the State \$2,080, when they repeatedly left work early over a six-week period to teach classes at a local community college. Their supervisor failed to monitor their attendance even though Caltrans had reprimanded them previously for similar actions.

Department of Motor Vehicles

An employee of the Department of Motor Vehicles (Motor Vehicles) stole at least \$448 in registration fees from Motor Vehicles. After completion of our investigation, the employee was convicted of one count of misdemeanor theft. Motor Vehicles subsequently terminated the employee.

Department of Corrections and Rehabilitation

Corrections improperly compensated an employee \$446 in overtime pay for responding to building alarm activations that never occurred. After discovering the misconduct, Corrections failed to establish controls, discipline the employee, or seek repayment.

Update on Previously Reported Issues

In addition to conveying our findings about investigations completed from January through June 2010, this report summarizes the status of issues described in our prior reports. Chapter 9 details the actions taken by the respective agencies for 12 previously reported issues. The following paragraphs briefly summarize two of these prior issues and the status of corrective action taken by the agencies.

In September 2005 we reported that Corrections did not track the total number of hours available in a release time bank (time bank) composed of leave hours donated by members of the California Correctional Peace Officers Association (union) so that union representatives could cover union business. Our investigation revealed 10,980 hours that three union representatives used from May 2003 through April 2005 but that Corrections failed to charge against the time bank, costing the State \$395,256. Following our report, Corrections did not attempt to obtain reimbursements for the time that the three employees spent on union activities in May and June 2005, resulting in an additional cost to the State of \$39,151. Corrections later informed us that it was unable to reconstruct an accurate leave history for any period before July 2005 for the three union representatives. Consequently, Corrections will not seek reimbursements totaling \$434,407. Instead, Corrections billed the union but was not reimbursed \$1,078,193 for union work performed by the employees from July 2005 through June 2010.¹ In January 2010 the State formally demanded that the union reimburse it for the compensation paid to these and other employees who

¹ One of the three employees returned to full-time work at a correctional facility in January 2008.

performed full-time union work. In June 2010 Corrections reported that it had initiated litigation against the union for the cost of all unreimbursed union work since July 2005.

In June 2010 we reported that an inspector for the Department of Industrial Relations (Industrial Relations), Division of Occupational Safety and Health (Cal/OSHA), misused state resources and improperly engaged in dual employment during her state work hours, during which she received a total of \$70,105 in inappropriate payments. In addition, we reported that Cal/OSHA management failed to implement controls that would have prevented the improper acts. Subsequently, Industrial Relations informed us that the inspector had resigned from state service. It also stated that it conducted its own investigation of the inspector's improper activities, and in August 2010 it filed a civil lawsuit against the former inspector in an effort to obtain reimbursement from her. In addition, through a comprehensive survey of its employees, Industrial Relations determined that the former inspector's improper conduct was an aberration. Further, Industrial Relations reported that it gave a formal reprimand to the inspector's direct supervisor in October 2010. Finally, it stated that it retrained Cal/OSHA supervisors in October 2010 to ensure that they understood and complied with the policies and rules for accurate time reporting, and it reiterated proper controls to ensure that employees do not determine their own work hours and make up time informally.

Table 1 displays the issues and the financial impact of the cases in this report, the months in which we initially reported on the cases, and the status of any corrective actions taken.

Table 1
The Issues, Financial Impact, and Status of Corrective Actions for Cases Described in This Report

CHAPTER	AGENCY	DATE OF OUR INITIAL REPORT	ISSUE	COST TO THE STATE AS OF JUNE 30, 2010	STATUS OF CORRECTIVE ACTIONS			
					FULLY CORRECTED	PARTIALLY CORRECTED	PENDING	NO ACTION TAKEN
New Cases								
1	Department of Corrections and Rehabilitation	January 2011	Delay in reassigning an incompetent psychiatrist, waste of state funds	\$366,656			●	
2	California Conservation Corps	January 2011	Failure to follow state contracting laws	84,478		●		
3	Department of Corrections and Rehabilitation	January 2011	Misuse of state resources, failure to appropriately manage employees	23,937	●			
4	Victim Compensation and Government Claims Board	January 2011	Failure to protect the security of confidential documents	NA	●			
5	Department of General Services	January 2011	Misuse of state resources	12,379		●		

CHAPTER	AGENCY	DATE OF OUR INITIAL REPORT	ISSUE	COST TO THE STATE AS OF JUNE 30, 2010	STATUS OF CORRECTIVE ACTIONS			
					FULLY CORRECTED	PARTIALLY CORRECTED	PENDING	NO ACTION TAKEN
6	Department of Transportation	January 2011	Failure to adhere to established work schedule, failure to monitor employees' attendance	2,080	●			
7	Department of Motor Vehicles	January 2011	Theft of registration fees	448	●			
8	Department of Corrections and Rehabilitation	January 2011	Improper overtime reporting	446				●
Previously Reported Cases								
9	Department of Corrections and Rehabilitation	September 2005	Failure to account for employees' use of union leave	1,512,600		●		
9	Department of Parks and Recreation	March 2007	Misuse of state resources, failure to perform duties adequately	NA	●			
9	Department of Corrections and Rehabilitation	October 2008	Improper payments for inmate supervision	16,530	●			
9	Department of Fish and Game, Office of Spill Prevention and Response	April 2009	Improper travel expenses	71,747		●		
9	Department of Corrections and Rehabilitation	November 2009	Improper payments for inmate supervision	34,512	●			
9	California State University, Office of the Chancellor*	December 2009	Improper and wasteful expenditures	152,441	●			●
9	Department of Industrial Relations	June 2010	Misuse of state time and resources, incompatible activities, inadequate administrative controls	70,105	●			
9	Department of Corrections and Rehabilitation	June 2010	Misuse of state employees' time, waste of state funds	110,797	●			
9	Department of Consumer Affairs, California Architects Board	June 2010	Fictitious claim, improper gifts, incompatible activities	392	●			
9	Department of Justice	June 2010	Failure to report absences accurately, inadequate administrative controls	2,605	●			
9	Department of Water Resources	June 2010	Improper gifts	1,840	●			
9	Department of Motor Vehicles	June 2010	Failure to follow personnel rules	NA	●			

Source: Bureau of State Audits.

NA = Not applicable because the situation did not involve a dollar amount or because the findings did not allow us to quantify the financial impact.

* The California State University, Office of the Chancellor, has completed corrective action on two of the five recommendations. However, it has taken no action on the three remaining recommendations.

Blank page inserted for reproduction purposes only.

Chapter 1

DEPARTMENT OF CORRECTIONS AND REHABILITATION: DELAY IN REASSIGNING AN INCOMPETENT PSYCHIATRIST, WASTE OF STATE FUNDS

Case I2009-0607

Results in Brief

The Department of Corrections and Rehabilitation (Corrections) placed parolees at risk by allowing a psychiatrist to continue to treat them for four months after it received allegations of his incompetence. In addition, Corrections wasted at least \$366,656 in state funds by not conducting a timely investigation of the allegations. Because it identified the investigation as low priority, Corrections took 35 months to complete it, resulting in the psychiatrist performing only administrative duties for 31 months before being discharged. Nonetheless, during the 35-month investigation, he received over \$600,000 in salary, including two separate merit-based salary increases of \$1,027 and \$818 per month, and he also accrued 226 hours of leave for which Corrections paid him an additional \$29,149 upon his termination.

Background

The mission of Corrections is to enhance public safety through the safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies that help offenders successfully reintegrate into communities upon their release. Corrections employs physicians, including psychiatrists, to ensure that inmates and parolees receive adequate health care.

When Corrections becomes aware of alleged misconduct by an employee, it assesses the alleged misconduct and, if warranted, conducts an investigation of the matter based on procedures found in its operations manual. A complaint of misconduct generally starts at the department level and from there may be sent to Corrections' Office of Internal Affairs (Internal Affairs). Internal Affairs reviews the complaint and determines if it should investigate. If it decides to investigate, it assigns an investigator to the case. The investigator, along with Internal Affairs management, sets a date for the completion of fieldwork and issuance of the investigator's final report. If the investigation substantiates the employee's misconduct, the initiating department and Corrections' legal unit proceed with a disciplinary action against the employee.

California Code of Regulations, title 15, section 3360, subdivision (a), mandates that Corrections is responsible for providing necessary mental health services to persons on parole. Numerous court decisions, including *Hoptowit v. Ray* (1982) 682 F.2d 1237, have found that Corrections has a duty to ensure that the care it provides is competent. Further, section 8547.2 of the Government Code requires that Corrections avoid being wasteful or inefficient when providing care.

When we received a complaint that Corrections had continued paying a psychiatrist his full salary even though it had prohibited him from treating patients due to concerns about his competency, we initiated an investigation.

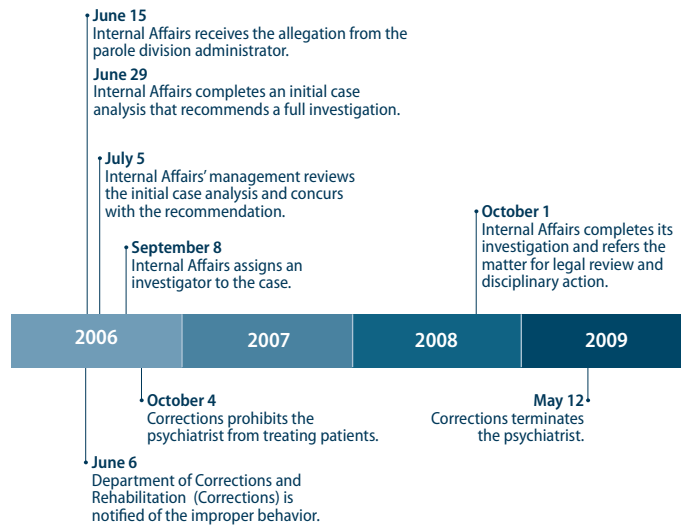
Facts and Analysis

Corrections' investigation of the serious misconduct of one of its staff psychiatrists took 35 months. As a result of its delays, Corrections placed patients at risk and wasted state funds. In June 2006 it became aware of issues regarding the work performance of the psychiatrist in question. Corrections sent an allegation to its Internal Affairs in June 2006 that the psychiatrist had falsified records and was unfit for duty. In September 2006 Internal Affairs assigned an investigator to the matter and set February 8, 2007, as the expected date for completing the investigation. In early October 2006 Corrections relieved the psychiatrist of his duty to treat patients and gave him alternate administrative duties after Internal Affairs determined that he had negligently failed to prescribe, overprescribed, and inappropriately prescribed medications to patients, thereby placing them at risk of physical harm. After repeated delays, Internal Affairs completed its investigation in October 2008 and referred the matter for legal review and disciplinary action against the psychiatrist. Corrections finally terminated the psychiatrist in May 2009. Figure 1 provides a timeline of the events in the case.

Because Corrections took 35 months to complete its investigation, it placed patients at risk of physical harm.

At the time the investigation began, Corrections was paying the psychiatrist a salary of \$20,247 per month. Over the ensuing 35-month period, while it was investigating his competency and taking actions to terminate his employment, Corrections not only continued to pay the psychiatrist this monthly salary, but increased it by giving him two merit-based salary increases of \$1,027 and \$818 per month, respectively. In total, Corrections paid the psychiatrist over \$600,000 in salary, as well as an additional \$29,149 upon his termination for 226 hours of accrued leave during the period.

Figure 1
Timeline of the Department of Corrections and Rehabilitation's Investigation



Source: Bureau of State Audits' review of Corrections' investigation report and case management system.

Corrections Placed Parolees at Risk by Allowing the Psychiatrist to Treat Patients for Four Months After Learning of Allegations of His Incompetence

By allowing the psychiatrist to continue to treat patients for four months after learning of circumstances suggesting he was unfit for duty, Corrections unnecessarily placed parolees at risk. As discussed previously, Internal Affairs' management decided after three weeks that an investigation was necessary, and then took nine weeks to assign the matter to an investigator.

According to Corrections, the nature of the case caused the general delays that plagued the investigation. It stated that the case was complex because it involved issues of dishonesty, inexcusable neglect of duty, and other failures of good behavior. It also explained that Internal Affairs had been required to consult with both Corrections' Employment Advocacy and Prosecution Team and the Inspector General's Bureau of Independent Review throughout all phases of the investigation because these two entities were monitoring the case. According to Corrections, this significantly increased the time needed to complete the investigation.

The long period that elapsed before Corrections took action to protect patients from the dangers of incompetent treatment indicates that Corrections either lacks an efficient process for

responding in a timely manner to allegations of incompetency or that it does not prioritize these cases appropriately in light of the associated risk.

Corrections Wasted State Funds by Assigning a Low Priority to an Investigation Involving a High-Salaried Employee

Because Internal Affairs assigned a lower priority to the investigation into the psychiatrist's competency than it did to other matters, it extended its date for completing the investigation several times. As a result, the psychiatrist remained in his position for at least 20 months longer than he might have had Internal Affairs stuck to its original timeline. Between October 2006 and May 2009 he received full salary despite performing only administrative tasks that staff at a much lower pay scale could have performed. According to our calculations, the amount of salary Corrections paid the psychiatrist during this period exceeded the value of the administrative duties he performed by \$366,656.

When asked about the delays, an Internal Affairs official explained that Internal Affairs had assigned a higher priority to other cases, including criminal investigations, investigations involving sworn peace officers, and investigations involving high-level but not necessarily high-salaried employees. The official also informed us that when Corrections removes an employee from his or her regular duties and assigns them alternate duties, investigators tend to accelerate their investigation of the employee. However, in this case, Internal Affairs was aware that Corrections relieved the psychiatrist of his duty to treat patients in October 2006 but did not take steps to accelerate the investigation in response. According to time entries in Corrections' case management system, investigators, supervisors, and other staff (excluding legal counsel) spent 516 hours working on the case from July 2006 through October 2008.² As shown in Figure 2, these hours ranged from none to 88 hours per month, and averaged only 18.5 hours per month. For 7 of the 28 months, staff did not spend even an hour on the case.

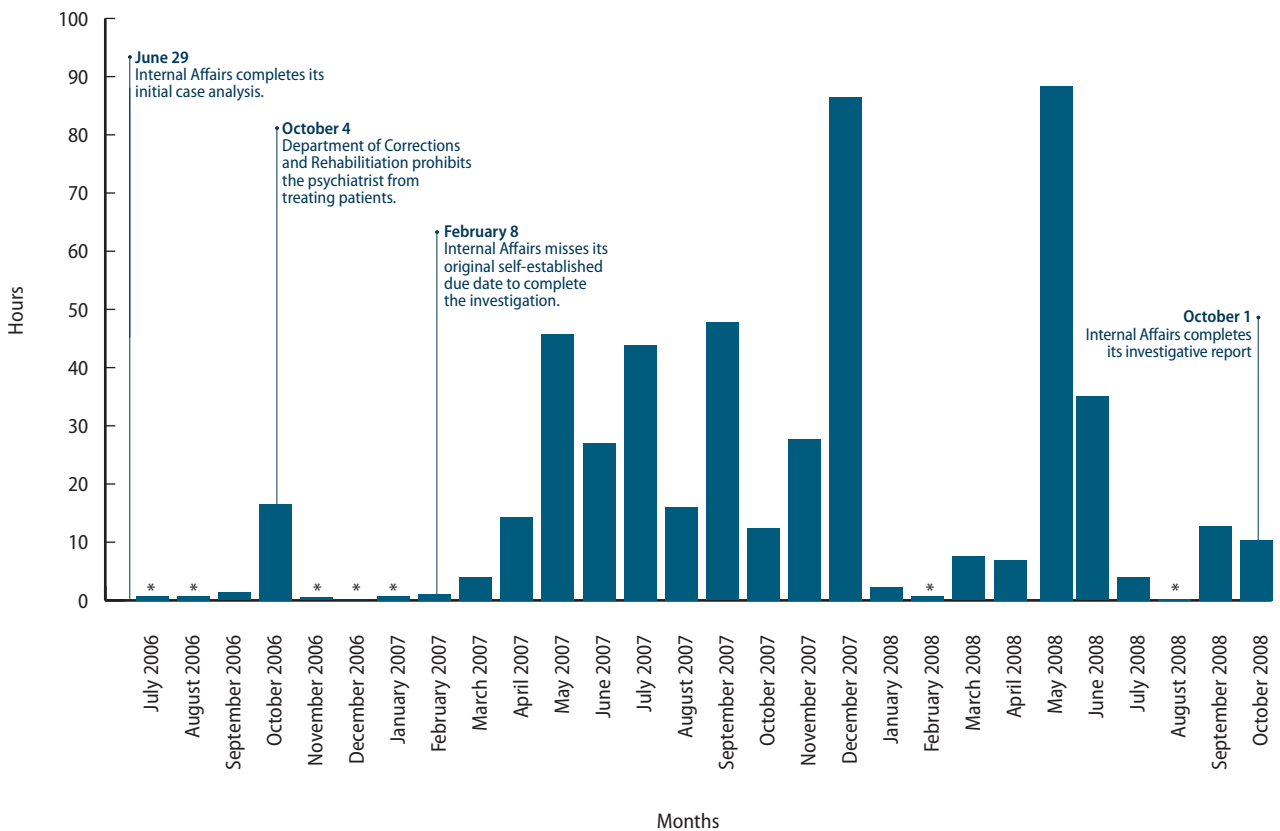
For 7 of the 28 months from July 2006 through October 2008, Corrections' staff did not spend even an hour on the case.

Although Internal Affairs could have saved \$366,656 in state funds by completing its investigation of the psychiatrist within the eight months it originally allotted, it could have saved additional state funds had it initiated and completed the investigation even more expeditiously. Further, if Corrections had terminated the psychiatrist more promptly after Internal Affairs completed its

² We obtained all entries made by legal counsel in Corrections' case management system; however, they had not recorded their time spent on the case. According to a Corrections attorney, the previous version of the case management system did not require its legal counsel to enter time worked on specific tasks.

investigation, rather than taking almost seven and a half months to do so, its savings would have been even greater. In short, a more timely response to the psychiatrist’s alleged incompetence would have resulted in increased safety to patients and significant savings to the State.

Figure 2
Hours Internal Affairs Spent on the Investigation
July 2006 Through October 2008



Source: Department of Corrections and Rehabilitation’s case management system.

* Month in which investigators, supervisors, and other staff (excluding legal counsel) spent less than one hour on the case.

Recommendations

Corrections should take the following actions to ensure that it provides inmates and parolees with competent health care and that it minimizes the waste of state funds:

- Establish a protocol to ensure that upon receiving credible information that a medical professional may not be capable of treating patients competently, it promptly relieves that professional from treating patients, pending an investigation.

- Increase the priority Internal Affairs assigns to the investigation of high-salaried employees.
- Develop procedures to ensure that Internal Affairs assigns a higher priority for completion of investigations into employee misconduct involving employees who have been assigned alternate duties.

Agency Response

In December 2010 Corrections reported that it recognized the need to review its policies and procedures to ensure that patients are treated by competent professionals and that state funds are not wasted. Nevertheless, it disagreed with the findings of our investigation. Corrections asserted that patients' safety was not jeopardized when it waited four months after receiving the allegations to remove the psychiatrist from duties that involved treating patients. It stated that it must substantiate the facts of an allegation and receive enough proof before taking action. Corrections also stated that once it reviewed the findings, it took immediate action to remove the psychiatrist from his regular duties, pending the final personnel outcome. However, as we point out in our report, Corrections removed the psychiatrist from treating patients well before its investigation was completed but four months after it received the allegations. We contend that when Corrections receives from a credible source serious allegations of behavior that could jeopardize the safety of patients or others, it should not postpone reassigning the employee to alternate duties, even if only temporarily. Thus, its failure in this case to respond promptly to serious and credible accusations put the safety of the psychiatrist's patients at risk.

In addition, contrary to our findings, Corrections stated that its investigation was timely and consistent with its policies and state law. It cited Government Code section 19635, which provides that an adverse action against a state employee is valid if it is served to the employee within three years after the cause for discipline first arose. Although Corrections served the psychiatrist with adverse action within the three-year limit imposed by state law, no law or regulation prevented it from assigning a higher priority to the case and completing it sooner. Had Corrections completed the investigation and subsequently terminated the psychiatrist promptly, it would have saved significant state funds that it paid to the psychiatrist while he performed administrative duties of little value.

Even though Corrections disagreed with our findings, it reported that it would take some steps to implement our recommendations. Corrections stated that it was discussing our recommendation to establish a protocol for promptly relieving medical professionals from treating patients upon receiving credible information that a professional may not be capable of treating patients competently. However, it did not indicate whether it planned to implement the recommendation. In addition, Corrections stated that Internal Affairs would communicate with the proper authorities to determine whether an employee under investigation has been removed from primary duties and would consider expediting the completion of investigations involving high-salaried staff assigned alternate duties in order to reduce the fiscal impact on the State. Finally, Corrections included in a training presentation a discussion of the need for staff involved in the disciplinary process to consult with Internal Affairs when employees are placed on administrative leave or removed from their primary duties.

Blank page inserted for reproduction purposes only.

Chapter 2

CALIFORNIA CONSERVATION CORPS: FAILURE TO FOLLOW STATE CONTRACTING LAWS Case I2008-1021

Results in Brief

The California Conservation Corps (Conservation Corps) evaded competitive bidding requirements by splitting contracts to purchase uniforms costing \$64,666 from a single vendor. In addition, the Conservation Corps did not properly obtain required price quotations when approving two other uniform purchases totaling \$19,812 from the same vendor.

Background

State law created the Conservation Corps in 1976 as a workforce development program for young men and women it calls corpsmembers. The corpsmembers respond to natural disasters and provide environmental conservation services to the State. The Conservation Corps hires approximately 3,300 young men and women each year to accomplish its mission.

When purchasing uniforms for its corpsmembers, the Conservation Corps must abide by the purchasing provisions in state law. Public Contract Code section 10302 requires competitive bidding for the purchase of goods in excess of \$25,000, and section 10301 requires that all contracts for the acquisition of goods amounting to \$25,000 or more be entered into with the lowest responsible bidder. In addition, section 10329 states that it is unlawful to willfully split a single transaction into a series of transactions to evade competitive bidding requirements. Notwithstanding these sections, Government Code section 14838.5 allows state agencies to forgo competitive bidding requirements when procuring goods with an estimated value between \$5,000 and \$100,000³ from a certified small business or a disabled veteran business enterprise as long as the agencies obtain price quotations from two or more certified small businesses or disabled veteran business enterprises.

When we received information that the Conservation Corps violated state contracting laws when it purchased uniforms from a small business, we initiated an investigation.

³ The law changed effective January 1, 2010, to increase the upper limit of the estimated value to \$250,000. However, during the relevant period for the transactions investigated, the estimated value could not exceed \$100,000.

Facts and Analysis

Our investigation revealed that when purchasing uniforms for its corpmembers, the Conservation Corps evaded competitive bidding requirements and did not properly obtain price quotations as required by state law. Specifically, the Conservation Corps contracted with a certified small business by issuing three purchase orders dated July 1, 2007, for a total of \$110,400 worth of clothing and boots. If the Conservation Corps had used a single purchase order for the full amount of \$110,400, it would have exceeded the small business exception to competitive bidding authorized by Government Code section 14838.5. Conservation Corps staff improperly split the contract into three purchase orders, two for \$50,000 and the third for \$10,400, and proceeded to purchase its uniforms without engaging in competitive bidding. Table 2 shows the date and amount of the purchase orders as well as the amounts the Conservation Corps eventually paid for purchases associated with each purchase order.⁴

Table 2
Improper Purchase Orders in July 2007

DATE OF PURCHASE ORDER	AMOUNT OF PURCHASE ORDER	AMOUNT OF PURCHASE ORDER PAID TO VENDOR
July 1, 2007	\$50,000	\$46,002
July 1, 2007	50,000	18,289
July 1, 2007	10,400	375
Totals	\$110,400	\$64,666

Source: California Conservation Corps accounting records.

Our review of the Conservation Corps' accounting records indicated that it paid the vendor \$64,666 for the uniforms it purchased, using the improper purchase orders when recording the purchases. Moreover, we determined that the Conservation Corps failed to use consistent accounting practices in recording the purchases.⁵ Thus, the \$64,666 may not encompass all expenditures related to the three purchase orders. Because the Conservation

⁴ The purchase order amounts represent the amounts set aside to pay for future purchases. The amounts paid represent the actual costs of the purchases.

⁵ Some staff members failed to include the purchase order numbers in the appropriate data field when entering transaction data into the accounting system. We found one instance in which accounting staff did not properly record a \$3,859 purchase related to the July 2007 purchase orders. We are uncertain as to whether other such errors exist.

Corps originally estimated the total value of the goods at \$110,400, it violated state law by splitting the purchases into a series of contracts, regardless of the final amount paid.

In two more instances nearly a year later, we found that the Conservation Corps did not properly obtain price quotations from two or more small businesses prior to making other purchases totaling \$19,812 from the same vendor that it used in July 2007. The procurement files for the purchase orders contained price quotations from three vendors, including the selected vendor. However, the two alternate vendors were not certified small businesses as required by Government Code section 14838.5. In addition, the price quotations from all of the vendors for one of the purchase orders were dated nearly two months after the purchase order's date. Thus, the Conservation Corps could not have used these price quotations as the basis for the purchase order.

Our investigation determined that the improper purchase orders resulted from failures at several levels within the Conservation Corps. Specifically, the manager who approved the three purchase orders totaling \$110,400 told us that she believed a former employee, who prepared the purchase orders, received inadequate training and created the purchase orders to set aside funds for future uniform purchases in the Conservation Corps' accounting system. The manager acknowledged that she should not have approved the purchase orders and expressed regret for her actions. A second manager told us that he did not believe that the employee and the approving manager intended to circumvent the proper protocols but simply wanted to expedite the purchase of uniforms, which generally is a time-sensitive task. Another employee apparently failed to obtain the required quotes from two certified small businesses for each of the two additional purchase orders totaling \$19,812. The Conservation Corps headquarters staff members who were responsible for processing all of the purchase orders discussed in this report did not detect any of these violations.

Recommendations

To address the improper acts we identified and prevent similar acts in the future, the Conservation Corps should take the following actions:

- Take appropriate corrective action against the employees responsible for the improper purchases.

The improper purchase orders were the result of failures at several levels within the Conservation Corps.

- Implement controls to ensure that staff do not split contracts to evade competitive bidding requirements and that staff obtain and document in the procurement file the appropriate number of price quotations from certified small businesses prior to purchasing goods.
- Provide adequate training to staff responsible for preparing and approving purchases.
- Correct inconsistent accounting practices and require staff to associate expenditures directly with the purchase orders that authorized the expenditures.

Agency Response

The Conservation Corps reported in December 2010 that it had issued a corrective action memorandum to each employee responsible for the improper purchases. In addition, the Conservation Corps reported that to strengthen its controls, it had developed a process in October 2008 to ensure that staff follow the proper procedures regarding bidding documents and price quotations, but it did not elaborate on what the process entails. The Conservation Corps also told us that it had audited purchase orders from 2007 through the current fiscal year, but it did not indicate the results of the audit. In addition, it stated that it holds quarterly meetings with its business services officers to discuss procurement matters, including new policies and procedures. Further, the Conservation Corps stated that it had provided procurement training to its staff in 2007, 2008, and 2009. It also stated that it planned to offer additional training in March 2011, focusing on proper bidding procedures and other procurement activities. Finally, to correct inconsistent accounting practices, the Conservation Corps reported that it planned to provide additional training to supervisors who authorize purchasing documents to ensure consistency in basic accounting principles.

Chapter 3

DEPARTMENT OF CORRECTIONS AND REHABILITATION: MISUSE OF STATE RESOURCES, FAILURE TO APPROPRIATELY MANAGE EMPLOYEES Case I2008-0820

Results in Brief

A supervisor at Kern Valley State Prison within the Department of Corrections and Rehabilitation (Corrections) allowed an employee to take two-hour breaks at the end of his shifts from June 2006 through August 2009. We estimate that as a result, the State paid the employee \$23,937 for 1,160 hours during which he was not performing his job duties.

Background

The mission of Corrections is to enhance public safety through safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies that help offenders successfully reintegrate into communities upon their release.

Corrections' employees are required to comply with laws regarding misuse of state resources. California Government Code section 11813 declares that waste and inefficiency in state government undermine Californians' confidence in their government. Further, section 13401 of the Government Code declares that all levels of management within state agencies must be involved in assessing and strengthening the systems of administrative control to minimize fraud, errors, abuse, and waste of government funds.

When we received an allegation that a Corrections employee regularly took two-hour breaks at the end of his shifts, we contacted Corrections and requested its assistance in conducting an investigation.

Facts and Analysis

The investigation revealed that for more than three years the employee, with full knowledge of his supervisor, had frequently taken two-hour breaks at the end of his shifts. The employee's duties included delivering goods from a warehouse to other areas of the facility. When interviewed, the employee acknowledged that he usually stopped work approximately two hours before

The employee admitted that he usually stopped working approximately two hours before his shift ended.

his shift ended and went to a prison receiving area to sit out the remainder of the time. He explained that because of shift changes and potential traffic within the facility, he was unable to make deliveries after 2 p.m. Other employees stated that they witnessed the employee sitting in the receiving area for these two-hour periods “almost daily” or approximately three to four times a week. Two witnesses indicated that they sometimes observed the employee sitting with his eyes closed, apparently sleeping. However, the employee denied sleeping in the receiving area.

The supervisor, who acknowledged being aware that the employee was not working during these breaks, failed to manage the employee in a manner consistent with the efficient use of state resources. During the investigation, the employee’s supervisor stated that he did not believe the employee’s two-hour daily breaks were improper. The employee confirmed that his supervisor was aware that he did not make deliveries for the last two hours of his shift and stated that if his supervisor had assigned him additional duties to perform, he would have complied. By permitting the employee to regularly take two-hour breaks, the supervisor allowed the employee to waste state time. The supervisor’s manager denied knowing about the afternoon breaks. However, witnesses interviewed during the investigation contradicted that assertion. The supervisor’s manager also failed to take action when notified of the hours of state time wasted nearly every day.

Through their inaction, the supervisor and manager failed to fulfill their responsibilities to manage employees appropriately and minimize the waste of state resources. Because of the supervisor’s and manager’s failure to take appropriate action, we estimated that the employee wasted 1,160 hours of state time from June 2006 through August 2009 at a cost to the State of \$23,937.

Recommendations

To address the supervisor’s and manager’s waste of state resources and failure to manage the employee appropriately, Corrections should do the following:

- Take appropriate disciplinary action against the supervisor and manager.
- Evaluate the employee’s position, duties, and workload to determine how best to avoid the waste of state time in the future. For example, an earlier start time might allow the employee to make deliveries throughout his entire shift. Other options might include converting the position to part-time or assigning other tasks to the employee for the last two hours of his shift.

Agency Response

In November 2010 Corrections reported that the facility's business manager reiterated to staff the expectation that employees should report to a supervisor when they have completed tasks or duties to receive new assignments. In addition, Corrections stated that it had revised the employee's duty statement to include additional duties consistent with State Personnel Board guidelines and that it had changed the employee's work schedule to an earlier start time. Corrections reported in December 2010 that, based on its review of the findings, it did not find any misconduct on the part of the supervisor or the manager. Therefore, it declined to take any disciplinary action against them. Instead, Corrections provided to these and other employees on-the-job training relevant to the issues in the investigation. Nevertheless, Corrections did not provide us any information or evidence that would call into question the accuracy of our findings.

Blank page inserted for reproduction purposes only.

Chapter 4

VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD: FAILURE TO PROTECT THE SECURITY OF CONFIDENTIAL DOCUMENTS

Case I2008-1229

Results in Brief

An employee at the Victim Compensation and Government Claims Board (claims board) improperly removed hundreds of confidential documents from her workplace. Despite a history of misconduct on the employee's part, the claims board failed to take appropriate steps to monitor her actions and protect the security of the documents. Her removal of the documents compromised the security of victims' personal information and resulted in the claims board failing to promptly process \$10,567 in compensation claims from victims of violent crimes.

Background

The claims board provides compensation for eligible services to Californians who have been victims of violent crimes, including domestic violence, child abuse, sexual and physical assault, homicide, robbery, and vehicular manslaughter. The claims board reimburses victims who have been injured or threatened with injury for the costs associated with medical and dental care, mental health services, income loss, funeral expenses, rehabilitation, and relocation. In the course of receiving and processing claims for reimbursement, staff at the claims board regularly handle documents containing victims' confidential and personal information, including medical and mental health reports, crime reports, and medical and mental health bills.

Employees at the claims board are required to follow state laws governing the storage and protection of state records. Specifically, Government Code section 6200, subdivision (a), prohibits any employee from willfully stealing, removing, or secreting any document filed with his or her office. In addition, Civil Code section 1798.3, which is a part of California's Information Practices Act, requires each state agency to establish appropriate and reasonable administrative, technical, and physical safeguards to ensure the security and confidentiality of records, and to protect against anticipated threats or hazards to their security or integrity. Pursuant to that mandate, the claims board has adopted explicit policies stating that all materials in victims' claim files are confidential, employees must protect the confidentiality of the

information contained in the claim files, and employees may not disclose the information in the claim files unless authorized to do so by law.

When we received an allegation that an employee at the claims board had removed confidential documents from the claims board's offices and left those documents at an unsecured location, we asked the claims board to assist us with an investigation.

Facts and Analysis

The investigation revealed that during a three-year period from 2004 through 2007, a claims board employee removed hundreds of confidential documents from the claims board's offices and stored the documents at her residence. During this period, management at the claims board became aware of documents disappearing, was alerted that the employee had an alcohol abuse problem, and even found the employee hiding documents in her desk. Yet, the claims board failed to monitor the employee's work activities in a manner that would have revealed the extent of her improper conduct.

The Employee Improperly Removed Confidential Documents From the Workplace

The investigation found that the employee had stored hundreds of documents related to victims' compensation claims in the garage of what had been her residence for many years.⁶ An inventory of the stored items identified 468 confidential documents related to victims' compensation claims. The documents included the names of 348 victims and the Social Security numbers of 160 victims. Although the claims board did not uncover any incidents of identity theft or other improper use of the victims' personal information during the investigation, claims board staff alerted the victims to this possibility so they would remain vigilant. The claims board determined that because the employee had removed these documents from its offices, it had not processed 23 applications for compensation within the time period prescribed. In addition, it had failed to pay 27 invoices for medical or mental health services in a timely manner. These 27 invoices totaled \$10,567.

When questioned during the investigation, the employee denied taking any documents home and asserted that her former spouse had taken them from her work location when he visited her. However, the investigation found no evidence to support

The employee removed hundreds of confidential documents from the claims board's offices and stored the documents at her residence.

⁶ At the time of our investigation, the employee had moved out of the house.

this assertion. The employee's spouse lacked the opportunity to remove so many confidential documents covering such a broad time period. The employee's supervisor told us he believed the employee may have removed the documents from the workplace to avoid doing work associated with them.

By removing claim documents from the workplace, the employee violated Government Code section 6200, subdivision (a), governing the custody of documents submitted to a state agency. Further, she compromised the security of victims' personal information, including their names, Social Security numbers, and health information, by failing to protect the confidentiality of that information as required by claims board policies enacted pursuant to the California's Information Practices Act.

The Claims Board Failed to Monitor the Employee's Actions Properly Despite Her History of Misconduct

During the period when the employee was removing documents from the workplace, management at the claims board had ample evidence suggesting the need to more closely monitor her actions. A review of the employee's work history revealed that in 2006 and 2007, the employee was involved in six separate incidents at work that appeared to have been related to the abuse of alcohol, including three incidents in which the employee was found sleeping in a restroom. More significantly, claims board management discovered in June 2006 that the employee had hidden 788 pieces of unopened mail in her desk. The employee's supervisor stated that when he confronted the employee about the discovery, the employee told him that she had forgotten about the documents. However, the documents found in the employee's desk were dated from April 2005 to June 2006, indicating that the problem was ongoing and not due to a single incident of forgetfulness.

During the investigation, the employee's supervisor admitted that it was common for documents to be missing from victims' case files, but he stated that this occurred so regularly that it did not cause him to suspect the employee might be taking documents home. The claims board referred the employee to the state's Employee Assistance Program for help with alcohol abuse, but did not take any action to watch for or prevent the employee—or any other claims board employee—from improperly storing work-related documents. Instead, the employee's supervisor merely sent an e-mail to all of his subordinates informing them that the claims board had a legal right to look in their desk drawers and that they should lock up their personal possessions. Given the employee's history of misconduct, the employee's supervisor should have implemented controls, including checking the employee's desk

The employee may have removed the documents from the workplace to avoid doing work associated with them.

drawers, that would have alerted him that the employee was hiding documents and removing them from the workplace, but he did not do so.

At the conclusion of the investigation, the claims board dismissed the employee.

Recommendations

To ensure that it effectively protects confidential documents related to victims' claims, the claims board should take the following actions:

- Provide training to its employees, emphasizing the need to protect confidential information from misuse and reiterating that employees are prohibited from hiding documents or storing them at home.
- Implement a protocol that requires management and staff to search for and locate missing claim files and file documents immediately after the discovery of them missing.
- Take appropriate disciplinary action against the employee's supervisor for failing to monitor the employee's actions after becoming aware that the employee had hidden claims board documents.

Agency Response

The claims board reported in December 2010 that it provides training to its employees emphasizing the need to protect confidential information when it annually reviews with staff its policies related to the protection of confidential information. It also reported that it has incorporated the importance of maintaining the confidentiality of claims board information and documents as a regular part of its new staff training. In addition, the claims board stated that it regularly discusses information security issues at manager and all-staff meetings.

In response to our recommendation that it locate missing claim files and file documents immediately after they are discovered missing, the claims board reported that in 2008 it implemented an automated claims processing system. In this system, claims board staff in its scan unit scan all documents into the system and electronically transmit them as files are assigned to individuals for processing. The claims board also stated that it maintains hard copies of the files in a secure room separate from claims processing

staff. Further, it stated that its scan and intake units maintain and report daily statistics about mail received and processed. Thus, the claims board indicated that it identifies, investigates, and takes appropriate action for any fluctuations. Consequently, the claims board stated that, under its automated processing system, an employee would neither have access to nor be able to accumulate mail as the employee in this investigation did.

Finally, the claims board responded that it takes a proactive approach in addressing personnel issues, including disciplinary matters, through risk management meetings. It also stated that it holds its managers accountable for their actions or lack of action. Despite these statements, the claims board failed to take any disciplinary action against the supervisor for his inadequate monitoring of the employee after he learned that she had hidden confidential claims board documents.

Blank page inserted for reproduction purposes only.

Chapter 5

DEPARTMENT OF GENERAL SERVICES: MISUSE OF STATE RESOURCES CASE I2008-1024

Results in Brief

A manager with the Department of General Services (General Services) improperly used state vehicles for his daily commute for nine years. The cost of the misuse from July 2006 through July 2009, the three years for which complete records are available, totaled an estimated \$12,379. Because the records were not retained, we were not able to accurately estimate the cost to the State for the remaining six years.

Background

General Services provides a variety of services to other state agencies, including administering the State's vehicles. Its Office of Fleet and Asset Management owns about 6,000 vehicles that it leases to other state agencies for use by state employees while conducting official state business. As part of its administration of these vehicles, General Services operates five garages statewide that maintain and service the vehicles.

General Services' employees are required to comply with laws that govern proper use of state resources, including state vehicles. Specifically, section 8314 of the Government Code prohibits state employees from using public resources, including state vehicles, for personal purposes. Section 19993.1 of the same code mandates that employees may use state-owned vehicles only when conducting state business. California Code of Regulations, title 2, section 599.802, further clarifies that using a state vehicle to travel to or from an employee's home is a misuse of state resources unless specific requirements are met. A related regulation, section 599.803, states that an employee is liable to the State for the actual costs attributable to misuse of a state-owned vehicle.

Upon receiving an allegation that a General Services manager had used state vehicles for personal purposes, we initiated an investigation.

Facts and Analysis

Our investigation revealed that the General Services manager improperly used various state vehicles to commute to and from work over a nine-year period. When we interviewed the manager, he acknowledged that four to five days a week he had driven state vehicles home, stored them overnight, and then returned them to the state garage the next day. The manager justified his use of the vehicles by stating that he needed to take the vehicles home to test-drive them for safety and to drop them off at vendor shops where he would pick up other state vehicles that had been repaired. However, an administrator in the manager's division informed us that while the manager may have had a legitimate reason to occasionally take a vehicle home, it was inappropriate for the manager to take vehicles home as frequently as he did.

We estimate that the cost to the State for the three years of misuse that occurred and for which records were available—from July 2006 through July 2009—totaled \$12,379. We restricted our examination of the cost associated with the manager's misuse of vehicles during this time period because records for prior periods were not complete. Table 3 displays our estimate of the number of miles the manager improperly commuted in state vehicles and the associated costs, which we determined by the number of days the manager worked each month and the applicable mileage reimbursement rates in effect at the time. However, because the manager acknowledged that he used state vehicles to commute to work for about the past nine years, the total cost to the State of his misuse is significantly higher.

Table 3
Estimated Commute Miles the Manager Drove in State Vehicles and the Associated Costs
July 2006 Through July 2009

TIME PERIOD	ESTIMATED NUMBER OF COMMUTE MILES	AVERAGE REIMBURSEMENT RATE PER MILE	ESTIMATED COST OF MISUSE
July through December 2006	3,667	\$0.4450	\$1,632
January through December 2007	8,010	0.4850	3,885
January through December 2008	8,295	0.5440	4,512
January through July 2009	4,272	0.5500	2,350
Estimated number of commute miles and cost of misuse	24,244	\$0.5106	\$12,379

Sources: Bureau of State Audits' analysis of the manager's time sheets, home location, sworn statement, and applicable mileage reimbursement rates.

The manager retired from state service shortly after we interviewed him. He was still under investigation at the time of his retirement.

Recommendations

To address the manager's improper acts and prevent similar acts from occurring, General Services should take the following actions:

- Seek reimbursement from the manager for the costs associated with his misuse of state vehicles.
- Issue a memorandum regarding the appropriate use of state-owned vehicles to all division employees with access to state vehicles.

Agency Response

In December 2010 General Services reported that it planned to seek reimbursement from the retired manager for the costs associated with the misuse. In addition, it stated that in March 2010, prior to the completion of our investigation, it issued a number of operating policies to its employees that prohibit the use of state-owned vehicles for travel to and from an employee's home without express permission.

Blank page inserted for reproduction purposes only.

Chapter 6

CALIFORNIA DEPARTMENT OF TRANSPORTATION: FAILURE TO ADHERE TO ESTABLISHED WORK SCHEDULE, FAILURE TO MONITOR EMPLOYEES' ATTENDANCE Case I2008-1046

Results in Brief

Over a six-week period in June and July 2008, two electrical engineers at the California Department of Transportation (Caltrans) repeatedly left work early to teach classes at a local community college. As a result, the engineers each missed 24 hours of work, at a total cost to the State of \$2,080. Their supervisor failed to monitor their attendance even though Caltrans had previously reprimanded both engineers for similar actions.

Background

Caltrans is responsible for designing, building, operating, and maintaining California's state highway system, bridges, and intercity rail passenger services. Caltrans employs engineers to perform a variety of electrical and electronic engineering work in office and field settings.

As state employees, Caltrans employees are subject to the provisions of section 8314 of the Government Code, which prohibits employees from using public resources, including state-compensated time, for their personal enjoyment or private gain. In addition, section 19990 of the same code prohibits state employees from engaging in any employment, activity, or enterprise that is clearly inconsistent, or in conflict with, their duties as state employees. Section 13401 of the same code declares that all levels of management at state agencies must be involved in assessing and strengthening administrative controls to minimize fraud, errors, and waste of government funds. Finally, California Code of Regulations, title 2, section 599.665, requires departments to keep complete and accurate time and attendance records for each employee.

When we received an allegation that two Caltrans engineers had repeatedly left work early over a six-week time period, we asked Caltrans to assist us with the investigation.

The two engineers each failed to account for 24 hours of absences when they left work early to teach classes at a community college.

Facts and Analysis

Our investigation found that two Caltrans engineers failed to properly account for their absences when they left work early without approval in June and July 2008 to teach classes at a local community college. As a result, they each failed to account for 24 hours, at a total cost to the State of \$2,080.

Caltrans had investigated the two engineers for similar behavior in 2005 and found that their work at the college conflicted with their state work schedules. As a result, Caltrans formally reprimanded the two engineers in May 2006 and provided them and other employees in their unit with a workplace expectations memo in June 2007. The 2006 reprimands directed both engineers to adhere to their work schedules. It specifically stated that if in the future the two engineers left work to teach on state time, Caltrans would consider them absent without leave, and they would therefore be subject to adverse action. The 2007 workplace expectations memo, which both engineers signed, required that they seek and receive permission from their supervisor if they wanted to alter their schedules in any way.

During our investigation of the allegations involving June and July 2008, the two engineers admitted that they had left work early to accommodate their teaching schedules without obtaining approval from their supervisor. The engineers' work schedules required them to work Monday through Friday from 6 a.m. to 2:30 p.m. However, during the 2008 summer term, both taught classes that started at 3:00 p.m. at a college that is located 31 miles from their headquarters. Our investigation determined that the commute time between the two locations averages between 34 and 45 minutes. Thus, the two engineers violated the conditions of their May 2006 reprimands and the workplace expectations memo. The two engineers asserted that they had made up the time that they were not at work, either by working additional time not captured on their time sheets or by skipping lunch. However, both engineers acknowledged that they had not always notified their supervisor of their actions.

The supervisor of the two engineers failed to show the diligence necessary to ensure that they were not leaving work early. When questioned, the supervisor stated that he allowed his employees flexibility in adjusting their work schedules as long as they informed him. However, as we noted previously, the two engineers failed to notify the supervisor when they left work early to teach at the college. The supervisor also stated that he was at times unable to monitor his employees because he had to attend meetings outside the office. Nevertheless, he was unable to explain why he was not aware that the two engineers had left early during the six-week

period under investigation. The supervisor stated that he had not known of his employees' teaching schedules because he considered that activity to be taking place on their own time. However, we believe that he should have been more proactive in this instance, given that he had previously admonished these two engineers for leaving work early. Thus, under these circumstances, he failed to show the diligence necessary to ensure that they were not again leaving work early.

Both engineers stated they believed they had worked full 40-hour weeks during the six-week period in question. However, the investigation found that they had not adhered to their official work schedules, had not obtained permission from their supervisor to leave work early, had violated the provisions of the workplace expectation memo, and had failed to follow the directives outlined in their 2006 reprimands. Based on the findings, Caltrans again issued written reprimands to each of the engineers and required each one to charge 24 hours as absent without leave to compensate for the work they had missed.

Recommendations

To ensure that the engineers adhere to their established schedules and that the supervisor adequately monitors his subordinates' attendance, Caltrans should take the following actions:

- Verify that the two engineers follow the directives outlined in their reprimands.
- Require that the supervisor establish practices that enable him to ensure that his subordinates work their entire shifts.
- Take appropriate adverse or corrective action against the supervisor for his failure to adequately monitor his subordinates' attendance.

Agency Response

Caltrans reported in December 2010 that the supervisor and his manager established a plan to verify that the employees are following the directives outlined in their reprimands. It also stated that the supervisor established practices to ensure that his subordinates work their entire shifts. Finally, Caltrans stated that it verbally reprimanded the supervisor for his failure to adequately monitor his subordinates' attendance and gave him a "letter of warning" for his poor performance.

Blank page inserted for reproduction purposes only.

Chapter 7

DEPARTMENT OF MOTOR VEHICLES: THEFT OF REGISTRATION FEES Case I2009-0832

Results in Brief

An employee of the Department of Motor Vehicles (Motor Vehicles) stole at least \$448 in registration fees from Motor Vehicles. After properly charging customers for transactions, the employee altered records to waive late fees and to show that lesser amounts were paid. The employee stole the late fees paid by the customers and forged documents to make the alterations appear legitimate. After the completion of our investigation, the employee was convicted of one count of misdemeanor theft.

Background

The employee's duties at Motor Vehicles included interpreting provisions of the State's Vehicle Code, regulations, and policies pertaining to the registration of motor vehicles and the licensing of drivers. She was also responsible for issuing driver's licenses and vehicle registrations and for processing fees collected during those transactions.

Penal Code section 484 defines theft as the taking of personal property of another person. Government Code section 19572, subdivision (f), mandates that state employees have a duty to behave honestly with their state employers and that acts of dishonesty may be cause for disciplinary action.

When we received an allegation that the Motor Vehicles employee was stealing transaction fees, we contacted it and asked for assistance with our investigation. Motor Vehicles had already begun investigating the employee's conduct, and we provided it with additional evidence that it used to substantiate the allegation.

Facts and Analysis

On at least six occasions between April and October 2009, the employee properly collected transaction and late fees from cash-paying customers, entered the amounts paid into Motor Vehicles' computer system, and then provided the customers with new registrations. However, after completing the transactions, the employee altered the information in Motor Vehicles' computer

system by waiving the late fees and adjusting the amounts paid by the customers to match the amounts due after the late fees were waived. The employee then pocketed the difference, in effect stealing the late fees paid by the customers. On at least two of these occasions, the employee also forged documents in an effort to make the altered transactions appear legitimate.

When confronted by investigators, the employee admitted to stealing late fees collected from customers. The investigation revealed that the employee had stolen at least \$448. The employee was convicted of one count of misdemeanor theft in March 2010, and Motor Vehicles terminated her effective June 2010.

After we concluded our investigation, Motor Vehicles informed us that when an employee waives a fee or makes an adjustment, the transaction is included in an exception report. Motor Vehicles' policy states that a manager or other designee should review this exception report within two working days of the transaction. However, the employee's manager appears to have failed to follow this practice consistently.

Recommendations

To prevent the future theft of transaction fees by its employees, Motor Vehicles should take the following actions:

- Ensure that managers or their designees review exception reports within two working days, as required by Motor Vehicles' policy.
- Determine whether corrective or disciplinary action is necessary for the employee's manager.

Agency Response

Motor Vehicles reported in July 2010 that it had issued a counseling memo to the employee's manager regarding her failure to properly adhere to the exception report review process. In addition, Motor Vehicles stated that it had given the manager's designee, another supervisor, a memo of discussion since the designee had been inconsistent in her review of exception reports. Motor Vehicles stated that it had provided training to the manager and the designee to ensure that the proper review of exception reports occurs in the future. Further, Motor Vehicles temporarily assigned the supervisor to another Motor Vehicles field office to receive additional training regarding her role as a supervisor in overseeing the exception report review process.

In December 2010 Motor Vehicles reported that it agreed with our recommendation to ensure that managers or their designees review exception reports within two working days. Specifically, it stated that it would provide additional training to all of its field supervisors to ensure compliance with its exception report review policies.

Blank page inserted for reproduction purposes only.

Chapter 8

DEPARTMENT OF CORRECTIONS AND REHABILITATION: IMPROPER OVERTIME REPORTING Case I2007-0887

Results in Brief

An employee with the Department of Corrections and Rehabilitation (Corrections) improperly reported 16 hours of overtime for responding to building alarm activations that never occurred. Because Corrections did not have adequate controls to detect the improper reporting, it compensated the employee \$446 in overtime pay she did not earn. After discovering the employee's misconduct, it failed to take appropriate actions to establish controls, discipline the employee, or collect the improper pay.

Background

The mission of Corrections is to enhance public safety through safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies that help offenders successfully reintegrate into communities upon their release. Corrections ensures that its nonprison facilities remain secure by using alarm systems and subscribing to monitoring services. In some instances, Corrections assigns employees to respond when building alarms are triggered to confirm that the locations are secure and to reset the alarms.

When Corrections requires an employee to respond to an alarm outside of normal business hours, the employee is typically entitled to receive credit for four hours of work. For example, the collective bargaining agreement between the State and Bargaining Unit 4 states that when an employee has completed a normal work shift and is then ordered back to work, the employee must be credited with a minimum of four hours of work.

California Code of Regulations, title 2, section 599.665, requires each state agency to keep complete and accurate time and attendance records for each of its employees. Consistent with this regulation, Corrections requires that its employees certify the accuracy of their time sheets and that its managers and supervisors approve time sheets submitted by their subordinates only after ensuring that those time sheets are accurate. Further, Government

Code section 19572, subdivision (f), provides that state employees have a duty to behave honestly with their state employers and that acts of dishonesty may be cause for disciplinary action.

After receiving a complaint that a Corrections employee had claimed overtime for responding to building alarm activations that had not occurred, we contacted Corrections and requested its assistance in conducting an investigation.

Facts and Analysis

Our investigation revealed that the employee improperly reported and received compensation for 16 hours of overtime that she did not earn. From March 2007 through June 2007, the employee recorded on her monthly time sheets that she responded to a total of seven separate building alarm activations. On each occasion, she recorded four hours of overtime as specified by her union's bargaining agreement. However, the alarm company's records indicated that on five of these occasions no building alarms had been activated. The employee explained that the alarm company's practice was to call her cell phone when an alarm was activated, yet the employee's cell phone records indicate that in four of the five instances the alarm company did not call her. As a result of the employee's misconduct, the State improperly compensated her approximately \$446.⁷

Corrections lacked controls to ensure the legitimacy of the overtime recorded on the employee's time sheets and failed to take appropriate action when it discovered the employee's misconduct. Because the time recorded by the employee for responding to building alarm activations occurred after regular business hours, the employee's supervisor should have verified the legitimacy of the overtime with the alarm company. However, the supervisor did not follow this practice and thus failed to ensure that the employee's time and attendance records were accurate. As of February 2010 Corrections still had not implemented a similar control to ensure that overtime related to building alarm activations is accurately recorded on time sheets.

In August 2009—during our investigation—Corrections took steps to remove the employee's responsibility to respond to building alarm activations. However, it deemed that corrective action was not warranted to address the 16 hours of overtime the employee improperly reported. As a result, Corrections allowed the employee to retain compensation that she did not earn.

⁷ The employee elected to receive compensating time off in lieu of cash for some of the overtime hours claimed.

Recommendations

To address the employee's misconduct and to ensure the accuracy of employee time sheets in the future, Corrections should take the following actions:

- Take appropriate disciplinary actions against the employee and pursue collection efforts for the compensation she did not earn.
- Obtain monthly logs from the alarm company and verify that overtime reported for responding to building alarm activations is consistent with the logs.

Agency Response

Corrections reported in December 2010 that, based on its review of the findings, the employee did not engage in any misconduct. Therefore, it has declined to implement our recommendations. However, Corrections did not provide us any information or evidence that would call into question the accuracy of our findings.

Blank page inserted for reproduction purposes only.

Chapter 9

UPDATE OF PREVIOUSLY REPORTED ISSUES

Chapter Summary

The California Whistleblower Protection Act requires an employing agency or appropriate appointing authority for the State to report to the Bureau of State Audits (bureau) any corrective action or disciplinary action that it takes in response to an investigative report. The agency or authority must submit information regarding its corrective actions to the bureau no later than 60 days after the bureau notifies it of the improper governmental activities. If the agency or authority has not completed its corrective action within this time frame, it must submit monthly reports to the bureau until it completes that action. This chapter summarizes corrective actions agencies and authorities took on 12 previously reported issues.

Department of Corrections and Rehabilitation Cases I2004-0649, I2004-0681, and I2004-0789

On September 21, 2005, we reported that the Department of Corrections and Rehabilitation (Corrections) had failed to adequately manage a release time bank (time bank) composed of leave hours donated by members of the California Correctional Peace Officers Association (union) for use by union representatives performing union business. Specifically, Corrections did not track the total number of hours available in the time bank and consequently released employees to work on union-related activities without knowing whether the bank had sufficient balances to cover these releases. In addition, the reports that Corrections used to track time-bank charges did not capture 10,980 hours that three union representatives used from May 2003 through April 2005. Corrections appears to have paid these hours through regular payroll at a cost to the State of \$395,256. Following our report, Corrections did not attempt to obtain reimbursement for hours the three representatives spent conducting union activities in May and June 2005, resulting in an additional cost to the State of \$39,151. In total, Corrections inappropriately paid these representatives \$434,407 from May 2003 through June 2005.

Corrections subsequently reported that due to inadequacies in its retention of records, it had been unable to reconstruct an accurate leave history for the three union representatives prior to July 2005. Thus, it had decided it would not seek recovery for the \$434,407 it improperly paid the representatives before this date. Instead, it had directed its efforts toward the period beginning in July 2005,

billing the union \$1,021,168 for unreimbursed union work the three employees performed from July 2005 through December 2009.⁸ In March 2010 Corrections informed us that it had improved its processes for reconciling, tracking, and billing union-paid leave. In June 2010 Corrections notified us that it had initiated litigation against the union regarding the unpaid leave.

Updated Information

Corrections has provided monthly updates regarding the cost of union work hours for which it has billed the union but not yet received reimbursement. As shown in Table 4, Corrections' most recent update shows that it failed to collect \$1,512,600 for union activities conducted by the three representatives from May 2003 through June 2010.

Table 4
Cost of Unreimbursed Union Leave From
May 2003 Through June 2010

TIME PERIOD	COST
May 2003 through June 2005: Union work hours for which the Department of Corrections and Rehabilitation (Corrections) failed to seek reimbursement	\$434,407
July 2005 through December 2009: Union work hours billed but not reimbursed to the State	1,021,168
January through June 2010: Union work hours billed but not reimbursed to the State	57,025
Total	\$1,512,600

Sources: Bureau of State Audits' analysis, State Controller's Office records, and invoices provided by Corrections.

Note: The cost of union work hours for which Corrections failed to seek reimbursement represents the three union members' salaries. The cost of union work hours billed but not reimbursed includes the union members' salaries plus benefits as prescribed in the collective bargaining agreement with the union. The total unpaid cost of union-related activities for all Corrections employees on full-time union leave—including the three union representatives in our report—for the period from July 2005 through June 2010 was \$4,414,666. In January 2010 the State formally demanded that the union reimburse it for the compensation paid to employees who conducted full-time union work.

⁸ In January 2008 one of the three union representatives returned to his full-time assignment at a correctional institution, thus ending his full-time union leave.

**Department of Parks and Recreation
Case I2005-1035**

On March 22, 2007, we reported that an employee with the Department of Parks and Recreation (Parks and Recreation) had repeatedly misused state resources and failed to adequately perform his duties. Over a 13-month period, the employee made more than 3,300 personal calls on his state-issued cellular telephone. In addition, he made hundreds of calls to what appeared to be other state employees' cellular telephones when in fact the State had not assigned these numbers to its employees. This discovery raised questions about the assignment of the wireless phones, which was part of the employee's duties, as well as the appropriateness of the employee's calls.

At the time of our report, Parks and Recreation stated that it had conducted a corrective interview with the employee and submitted a draft departmental notice updating its policy for staff use of personal communication devices. Parks and Recreation subsequently reported that in order to ensure the segregation of the procurement, billing, and inventory of its personal communication devices, it had assigned three staff to perform the duties that the employee had performed previously. Parks and Recreation also stated that as of May 2010 it had submitted to its management a draft employee handbook and a revised policy concerning the use of personal communication devices.

Updated Information

In July 2010 Parks and Recreation issued the personal communication device handbook and policy to its employees.

**Department of Corrections and Rehabilitation
Case I2006-0826**

On October 2, 2008, we reported that Corrections had improperly paid nine office technicians a total of \$16,530 from January 1, 2005, through February 29, 2008, for supervising inmates when the technicians had not met the necessary criteria for this additional pay. Corrections had not maintained adequate accounting and administrative controls that would have prevented improper payments.

In response to our investigation, Corrections reported in April 2009 that it had drafted procedures detailing the proper methods for monitoring and requesting inmate supervision pay. It also stated that it intended to establish accounts receivable for \$11,210 of the

\$16,530 we identified in our investigation as being improperly paid.⁹ In May 2009 Corrections suspended its overpayment recovery efforts because a number of employees had filed grievances and the Department of Personnel Administration (Personnel Administration) had indicated that it would issue a ruling regarding the employees' contract provisions regarding inmate supervision. When Personnel Administration issued its ruling in October 2009, Corrections established a task force to review the findings. In February 2010 Corrections reported that it was reviewing Personnel Administration's findings and that it had collected just \$2,090 of the improper payment as of that date.

Corrections reported that in May 2010 it issued a departmentwide operational procedure that clarified and defined the criteria for receiving inmate supervision pay, identified documentation and training needs, and established an internal audit process. Corrections further informed us that it had decided not to pursue collection efforts against the employees whom we had identified as receiving improper payments. It explained that it did not believe it would prevail in an arbitration hearing, since it had not established a formal operating procedure at the time of our investigation and it lacked documentation to demonstrate that the payments were improper.

Updated Information

Corrections reported that in June 2010 it conducted training with its personnel officers and staff regarding its new departmentwide procedure. In November 2010 it stated that it was developing an internal audit process to examine compliance with the operating procedure and that it anticipated scheduling its first annual audit between July and September 2011.

Department of Fish and Game, Office of Spill Prevention and Response Case I2006-1125

On April 28, 2009, we reported that Official A, formerly a high-level official with the Office of Spill Prevention and Response (spill office) of the Department of Fish and Game (Fish and Game), had received reimbursements to which she was not entitled for commute expenses between her official headquarters in Sacramento and her Southern California residence. Despite lacking the necessary

⁹ Corrections determined that it could not recover the remaining \$5,320 for a variety of reasons, including the fact that some of the payments had occurred more than three years before it initiated recovery efforts.

authority, former officials for the spill office permitted Official A to identify her home as her headquarters and to claim expenses when traveling to Sacramento. Fish and Game allowed her to use state vehicles or state-funded flights for commutes between her Southern California home and her Sacramento headquarters, and to claim lodging and per diem expenses when she stayed in Sacramento. In addition, Fish and Game violated state travel regulations by reimbursing Official A for lodging and meal expenses incurred near her Sacramento headquarters and her residence. In total, Fish and Game improperly reimbursed Official A \$71,747 from October 2003 through March 2008.

At the time of our report, we recommended that Fish and Game either seek to recover the amount it had reimbursed Official A for her improper travel expenses or explain and document its reasons for not seeking recovery. In addition, we made several recommendations for Fish and Game to improve its accounting office's review process for travel claims.

Fish and Game notified us subsequently that it had completed a review of Official A's expenses but stated that it had yet to determine if it would seek to recover reimbursement from Official A for the improper commute and travel expenses. In addition, Fish and Game reported that it had instructed its accounting staff and supervisors to identify and resolve concerns related to discrepancies in travel expense claims. In January 2010 Fish and Game informed us that it had updated its employee training to ensure that employees identify the addresses of their headquarters and the purposes of their trips on travel expense claims. However, in our June 2010 report we expressed serious concerns about the lack of oversight in Fish and Game's process for determining the headquarters designations for its employees.

Updated Information

In November 2010 Fish and Game reported that it would not seek to recover reimbursement from Official A for her improper commute and travel expenses, because former Fish and Game officials had informed her that she would receive such reimbursements and had honored these "agreements" throughout her employment with the spill office. However, Fish and Game stated that it has since directed staff to implement more effective internal controls to ensure that any assignment of an employee's home as his or her headquarters is based on established criteria and approved by a Fish and Game deputy director or higher-level official.

Fish and Game will not seek reimbursement from Official A for her \$71,747 in improper expenses because former officials had told her she could receive the reimbursements.

In addition, Fish and Game reported that it had provided ongoing training to accounting staff to ensure that they use a checklist when processing travel claims. The checklist requires staff to identify the addresses of employees' residences and headquarters. Fish and Game stated that when an employee's residence and headquarters have the same address, the staff must ensure that the employee has included a form with the travel claim that explains the criteria for the headquarters designation and demonstrates that the designation has been approved by executive management.

Finally, Fish and Game reported that by February 2011 it would provide us with a list of employees whose headquarters differ from their established positions, including those who identify their residences as their headquarters.

Department of Corrections and Rehabilitation Case I2009-0702

On November 17, 2009, we reported that Corrections had overpaid employees for inmate supervision from March 2008 through February 2009 at five of six correctional facilities we visited. These findings were similar to those of our October 2008 investigation, which we discussed previously. The improper payments, which 23 of the 153 employees we examined received, totaled \$34,512. We identified these employees by sampling inmate supervision payments at the facilities. Based on our sample, we estimated that Corrections may have improperly paid as much as \$588,376 to its employees statewide during the 12-month period we reviewed. These improper payments occurred because Corrections lacked the controls necessary to ensure that its employees satisfied all of the requirements for receiving the extra pay. We also found that, except in a few instances, Corrections had not initiated collection efforts to recover the improper payments it identified during its follow-up to our previous investigation on this same issue.

We recommended that Corrections initiate accounts receivable for the employees who received improper payments and begin collection efforts for these accounts. In addition, we recommended that Corrections require employees at all of its facilities to submit copies of supervised inmates' time sheets each month along with their own so that personnel staff could verify the employees' eligibility to receive the extra pay. We also recommended that Corrections take steps to specifically define what constitutes "regular" supervision of inmates. Finally, we recommended that Corrections provide adequate training and instruction to

its personnel staff and to its employees who supervise inmates regarding the requirements for receiving the payments and for ensuring proper documentation.

At the time of our report, Corrections stated that we had applied the requirements for receiving these payments too strictly, basing its opinion on information it had received from Personnel Administration. However, we concluded that much of the information from Personnel Administration did not contradict or affect our findings, and also disagreed with a Personnel Administration opinion that inmates did not need to work the required number of hours for the supervising employees to qualify for the extra pay. Corrections stated that it had set up a task force of key staff to fully review the information received from Personnel Administration and to establish necessary guidelines and internal controls. It informed us that it would recover the funds it had improperly paid to its employees once the task force had completed its assigned responsibilities.

Corrections reported that in May 2010 it issued a departmentwide operational procedure that clarified and defined the criteria for receiving inmate supervision pay, identified documentation and training needs, and established an internal audit process. Corrections further informed us that it had decided not to pursue collection efforts against the employees whom we had identified as receiving improper payments. It explained that it did not believe it would prevail in an arbitration hearing since it had not established a formal operating procedure at the time of our investigation and it lacked documentation to demonstrate that the payments were improper.

Updated Information

Corrections reported that in June 2010 it had conducted training with its personnel officers and staff regarding its new departmentwide procedure. In November 2010 it stated that it was developing an internal audit process to examine compliance with the operating procedure and that it anticipated scheduling its first annual audit between July and September 2011.

California State University, Office of the Chancellor Case I2007-1158

On December 2, 2009, we reported that the Office of the Chancellor for the California State University (university) system had improperly reimbursed a former official¹⁰ \$152,441 from July 2005 through July 2008 for unnecessary expenses that did

A Former University Official's Improper Expense Reimbursements

- \$39,135 in unnecessary travel costs that appeared to offer the university few tangible benefits and that were not in the State's best interest.
- \$26,455 in reimbursements that exceeded the amounts allowed for the official to organize, host, and attend business meals.
- \$43,288 in commute expenses that violated university policies.
- \$17,053 for personal expenses that the official incurred while purportedly conducting university business from his home in Northern California.
- \$24,676 related to monthly payments for long-term living expenses the employee received for 33 months but for which he did not qualify.
- \$1,834 in duplicate reimbursements and overpayments to the official.

Source: Bureau of State Audits.

not reflect the best interests of the university or the State. The text box explains these improper reimbursements in detail. The former official's supervisor and the university failed to review the official's reimbursement claims sufficiently or to follow long-established policies and procedures designed to ensure the accuracy and adequate control of expenses. In addition, the lack of clarity in university policies regarding business meals contributed to the waste of public funds, as did the university's failure to place limits on lodging expenses.

We recommended that the university take several actions, including the following:

- Recover from the official the duplicate payments and overpayments.
 - Reexamine its review process for preapproving and reimbursing high-level university employees for their expenses.
 - Terminate informal agreements that allow university employees to work at locations other than their headquarters.
- Establish maximum limits with regard to business meals and specify when these policies apply.
 - Establish maximum limits for lodging costs and create controls that allow for exceptions to such limits only in specific circumstances.

At the time of our report, the university agreed that it would seek repayment from the official for any duplicate reimbursements or overpayments and would reexamine its reimbursement procedures for high-level employees. However, it did not agree that it would terminate informal agreements regarding work locations, stating

¹⁰ The official left the university in July 2008.

that it needed flexibility to recruit and retain highly skilled employees. The university failed to indicate whether it would specify in its policies monetary limits for business meals and clarify when specific policies apply. Finally, the university stated that establishing defined limits for reimbursing the costs of lodging would be “impractical.” The university stated that instead it asked its employees who travel frequently to “pay careful attention to lodging choices” and requested that its managers “scrutinize travel claims for wasteful expenditures.”

Subsequently, the university collected from the official \$1,903—consisting of \$1,834 we identified and \$69 the university identified later—in duplicate payments and overpayments. In addition, the university reported that it sent a memorandum to its vice chancellors informing them that international travel must be preapproved by the chancellor. However, the university took no specific actions with regard to our other recommendations. Thus, it did not terminate its informal agreements that allowed employees to work at locations other than their headquarters, it did not clarify its reimbursement policies for business meals, and it did not establish limits on lodging costs. In fact, university administrators informed us that the university does not need to take further action on these recommendations.

Updated Information

In November 2010 the university reported that it needed to take no further corrective action. This lack of corrective action will allow it to engage in the activities we identified that are not in the State’s best interest: to enter into informal agreements concerning employee workplace locations that do not provide effective safeguards for controlling university employees’ travel costs, to retain reimbursement policies for business meals that fail to provide sufficient clarity, and to place no limits on the lodging costs of its employees even though these costs can be excessive.

Department of Justice Case I2008-0637

On June 29, 2010, we reported that a Department of Justice (Justice) employee had failed to report 82 hours of leave she took from February 2007 through March 2008 and that the employee’s manager had not ensured that she reported her time accurately. Consequently, Justice did not charge the employee’s leave balances for these absences and instead paid her \$2,605 for hours she did not work. We recommended that Justice charge the employee’s leave

The university reported that it will take no further action, thus allowing it to engage in activities that are not in the State’s best interest.

balances for the hours she did not work and that it provide training to the manager and his staff regarding policies and procedures for time reporting.

At the time of our report, Justice stated that the employee had amended her time sheets to account for the 82 hours of leave and that it had established an accounts receivable so the employee could reimburse the State for the hours she did not work. In addition, Justice reported that it planned to provide training to the manager and his staff about time reporting and leave usage.

Updated Information

Justice reported that in July 2010 it conducted training for the manager and his staff—including the employee—about its policies and procedures for proper leave use and time reporting.

Department of Water Resources Case I2008-0644

On June 29, 2010, we reported that a supervisor with the Department of Water Resources (Water Resources) had received at least \$1,840 in gifts from a vendor with which the supervisor contracted during the course of his duties as a state employee and under circumstances indicating that the gifts were a reward for his doing business with the vendor. In addition, the Water Resources field division office (division office) lacked sufficient administrative controls to ensure that an appropriate separation of duties existed to protect the integrity of its purchasing process. As a result, the supervisor was able to enter into contracts with the vendor without complying with state contracting rules.

We recommended that the Water Resources division office require its purchasing staff to comply with state contracting rules and to document the steps involved in their compliance. We also recommended that the division office provide additional training to its warehouse staff about their roles in ensuring that division office staff follow the purchasing process.

At the time of our report, Water Resources informed us that it had implemented practices to address concerns about its purchasing process. It also reported that it was making changes to its purchasing software to ensure an appropriate separation of duties. Water Resources stated that it would reinforce with division staff their responsibilities in the purchasing process and that it would counsel the supervisor about his incompatible activities.

Updated Information

Water Resources reported that it changed its purchasing software in July 2010 to ensure segregation of duties among its employees. That same month it provided a memorandum to management, purchasing, and warehouse staff in the division office that identified their responsibilities in the purchasing process, and it sent a similar memorandum to its other employees throughout the State who perform related tasks. Water Resources also provided the supervisor with a corrective memorandum to counsel him about his incompatible activities.

Water Resources reported that it changed its purchasing software to ensure segregation of duties among its employees.

**Department of Motor Vehicles
Case I2008-0908**

On June 29, 2010, we reported that the Department of Motor Vehicles (Motor Vehicles) had allowed one of its employees to perform duties outside his job classification and that consequently the employee failed to perform his assigned responsibilities. We recommended that Motor Vehicles monitor the employee's work to ensure that he was completing only those duties assigned to his classification and that it distribute to its managerial staff a memorandum reminding them that employees must perform only work within their job classifications.

At the time of our report, Motor Vehicles stated that the employee's manager and supervisor were routinely monitoring the employee to ensure that he was performing only the duties assigned to his job classification. Motor Vehicles also informed us that it would issue a memorandum first to managerial staff in the employee's division and then departmentwide reminding staff to ensure that employees perform duties only within their job classifications.

Updated Information

In July 2010 Motor Vehicles issued a memorandum to managerial staff in the department reiterating the need to ensure that employees perform duties only within their job classifications.

**Department of Corrections and Rehabilitation
 Case I2008-0920**

On June 29, 2010, we reported that a supervisor at Corrections' Herman G. Stark Correctional Facility (facility)¹¹ had misused the time of two psychiatric technicians by assigning them to perform clerical and administrative duties rather than to provide direct care to the facility's patients. The supervisor's misuse of the employees' time resulted in a loss to the State of \$110,797 for direct psychiatric technician services not rendered. We recommended that Corrections formally remind the supervisor of the duties delineated by job classifications for employees that he oversees and that it seek corrective action against the supervisor for his misuse of the two employees' time.

At the time of our report, Corrections reported that it would review the allegations and, if warranted, take administrative steps that might lead to disciplinary action. Corrections acknowledged that it had disciplined the supervisor previously; however, it did not specify the cause for discipline.

Updated Information

Corrections reported that in June 2010 it provided the clinical administrator overseeing the supervisor with a directive to ensure that all staff in medical classifications perform their assigned duties. Corrections stated that rather than pursue disciplinary action, it had verbally chastised the supervisor for his misuse of the employees' time. Further, Corrections stated that its juvenile division management would conduct periodic checks to ensure that staff are assigned to tasks within their job classifications.

Corrections stated that it would conduct periodic checks to ensure staff are working on tasks within their job classifications.

**Department of Industrial Relations
 Case I2008-1066**

On June 29, 2010, we reported that an inspector for the Department of Industrial Relations (Industrial Relations), Division of Occupational Safety and Health (Cal/OSHA), had misused state resources and improperly engaged in dual employment during her state work hours. Because Cal/OSHA management failed to implement controls that would have prevented the inappropriate acts, it improperly paid her a total of \$70,105.

¹¹ In February 2010 Corrections closed the facility, which served juveniles. The supervisor now works at another Corrections location.

We recommended that Industrial Relations take appropriate corrective action against the inspector and her manager. We also recommended that it evaluate controls designed to ensure that inspectors work the required number of hours and implement changes as necessary to protect against time and attendance abuse. Finally, we recommended that Industrial Relations no longer allow employees to work schedules in which they determine their own hours and in which they track absences and make up hours informally.

At the time of our report, Industrial Relations reported that it had nearly completed its own investigation of the complaint. It stated that the inspector had resigned from state service and that it was reviewing its options for obtaining reimbursement from her. It indicated that it had yet to decide whether it would take action against any individuals involved in the supervision or management of the inspector. It planned to retrain Cal/OSHA supervisors to ensure that they understand and comply with the rules regarding accurate reporting of time and attendance, and it had initiated a comprehensive survey to determine whether the improper conduct was an aberration among its employees.

Updated Information

Industrial Relations reported that in August 2010 it filed a civil lawsuit against the former inspector in an effort to obtain reimbursement from her and that in January 2011 it planned to depose her. In addition, in October 2010 it formally reprimanded the inspector's direct supervisor. It further stated that in October 2010 it provided training to Cal/OSHA supervisors to ensure that they understood and complied with the policies regarding accurate reporting of time and attendance. At this training, it reiterated the need for proper controls to ensure that employees do not determine their own work hours and make up hours informally. Finally, Industrial Relations informed us that it completed its survey and determined that the inspector's improper conduct was an aberration.

Industrial Relations filed a civil lawsuit against the former inspector to obtain reimbursement from her.

Department of Consumer Affairs, California Architects Board Case I2008-1100

On June 29, 2010, we reported that an employee with the California Architects Board (Architects Board) had used fabricated invoices to claim \$392 for lodging and meal expenses she did not incur. In addition, she violated state law by receiving substantial discounts as gifts for personal stays from a hotel she frequently used for state business. Because the Architects Board operates within

the Department of Consumer Affairs (Consumer Affairs), we recommended that Consumer Affairs take appropriate disciplinary steps to deal with the employee's improper actions, require her to repay the State for the expenses that she claimed but did not incur, and reinforce to its staff the existing rules regarding fictitious claims and incompatible activities.

At the time of our report, Consumer Affairs reported that the Architects Board had conducted a preliminary investigation that indicated the employee had fabricated the invoices in part because of a hotel billing error that occurred when the hotel billed the employee for two nights rather than the four that she had stayed there. Consumer Affairs stated also that the Architects Board was investigating whether it could reasonably substantiate that the discounted hotel rate received by the employee for personal stays was a gift intended to reward or influence the employee. Lastly, Consumer Affairs reported that the Architects Board had reinforced existing rules on fictitious claims and incompatible activities by redistributing Consumer Affairs' policies to its staff.

Updated Information

The Architects Board informed the employee via counseling memorandum that it will not tolerate the re-creation or fabrication of invoices in the future.

The Architects Board gave the employee a counseling memorandum in August 2010. The memorandum included a statement of the Architects Board's position that it will not tolerate the re-creation or fabrication of invoices in the future. The memorandum also advised the employee to follow the submittal requirements for travel expense claims, the travel rules against filing fictitious claims, and the rules regarding incompatible work activities.

We conducted this review under the authority vested in the California State Auditor by Section 8547 et seq. of the Government Code and pursuant to applicable investigative standards.

Respectfully submitted,



ELAINE M. HOWLE, CPA
State Auditor

Date: January 18, 2011

Investigative Staff: Russ Hayden, CGFM, Manager of Investigations
Siu-Henh Canimo, CFE
Beka Clement, MPA
Lane Hendricks, CFE
Andrea Javist
Kerri Spano, CPA
Michael A. Urso, CFE

Legal Counsel: Steven Benito Russo, Chief of Investigations
Janis Burnett

For questions regarding the contents of this report, please contact Margarita Fernández, Chief of Public Affairs, at (916) 445 0255.

Appendix

THE INVESTIGATIONS PROGRAM

The California Whistleblower Protection Act (Whistleblower Act) authorizes the Bureau of State Audits (bureau), headed by the state auditor, to investigate allegations of improper governmental activities by agencies and employees of the State. In section 8547.2 of the Government Code, the Whistleblower Act defines an *improper governmental activity* as any action by a state agency or employee during the performance of official duties that violates any state or federal law or regulation; that is economically wasteful; or that involves gross misconduct, incompetence, or inefficiency.

To enable state employees and the public to report suspected improper governmental activities, the bureau maintains a toll-free Whistleblower Hotline (hotline): (800) 952-5665 or (866) 293-8729 (TTY). The bureau also accepts reports of improper governmental activities by mail and over the Internet at www.bsa.ca.gov.

The bureau has identified improper governmental activities totaling \$30.3 million since July 1993, when it reactivated the hotline. These improper activities include theft of state property, conflicts of interest, and personal use of state resources. The investigations have also substantiated improper activities that cannot be quantified in dollars but have had negative social impacts. Examples include violations of fiduciary trust, failure to perform mandated duties, and abuse of authority.

Although the bureau conducts investigations, it does not have enforcement powers. When it substantiates an improper governmental activity, the bureau reports confidentially the details to the head of the state agency or to the appointing authority responsible for taking corrective action. The Whistleblower Act requires the agency or appointing authority to notify the bureau of any corrective action taken, including disciplinary action, no later than 60 days after transmittal of the confidential investigative report and monthly thereafter until the corrective action concludes.

The Whistleblower Act authorizes the state auditor to report publicly on substantiated allegations of improper governmental activities as necessary to serve the State's interests. The state auditor may also report improper governmental activities to other authorities, such as law enforcement agencies, when appropriate.

Corrective Actions Taken in Response to Investigations

The chapters of this report describe the corrective actions that departments implemented on individual cases from September 2005 through June 2010. Table A summarizes all of the corrective actions that departments took between the time that the bureau reactivated the hotline in 1993 until June 2010. The table separately identifies the corrective actions that departments have taken since July 2002, when the law changed to require all state departments to notify their employees annually about the bureau's hotline. In addition to the corrective actions listed, our investigations have resulted in many departments modifying or reiterating their policies and procedures to prevent future improper activities.

Table A
Corrective Actions
July 1993 Through June 2010

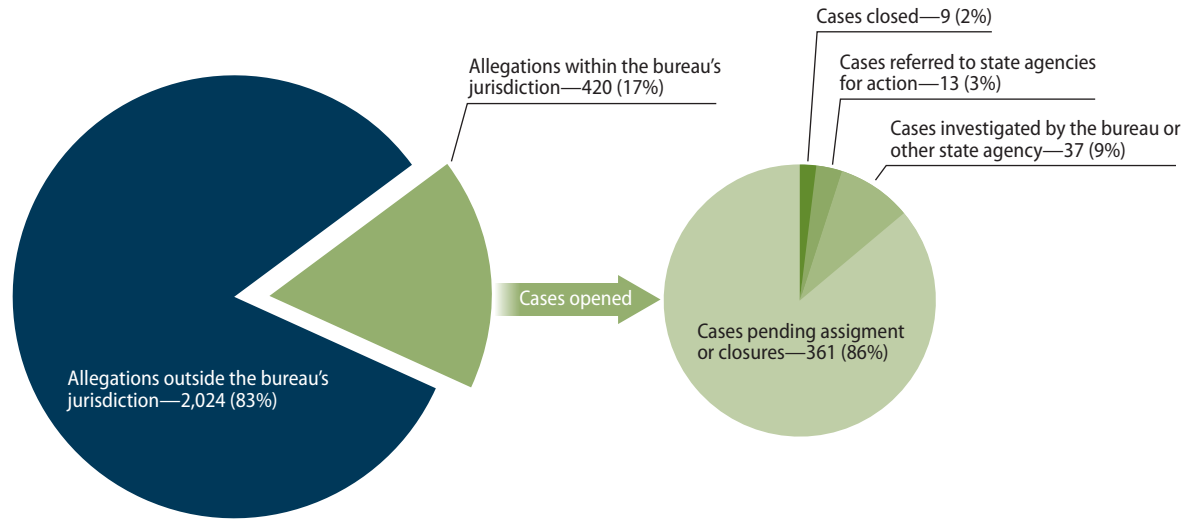
TYPE OF CORRECTIVE ACTION	NUMBER OF INCIDENTS JULY 1993 THROUGH JUNE 2002	NUMBER OF INCIDENTS JULY 2002 THROUGH JUNE 2010	TOTALS
Convictions	7	3	10
Demotions	8	10	18
Job terminations	46	33	79
Pay reductions	10	44	54
Referrals for criminal prosecution	73	6	79
Reprimands	135	158	293
Suspensions without pay	12	12	24
Totals	291	266	557

Source: Bureau of State Audits.

New Cases Opened From January 2010 Through June 2010

The bureau receives allegations of improper governmental activities in several ways. From January 1, 2010, through June 30, 2010, the bureau received 2,444 calls or inquiries. Of these, 1,940 were reported through the hotline, 279 through the mail, and 225 through the bureau's Web site. In response to the 2,444 calls or inquiries, the bureau opened 420 cases, as shown in Figure A.1. The bureau determined that the remaining 2,024 allegations were outside its jurisdiction and, when possible, referred these remaining complaints to the appropriate federal, state, or local agencies.

Figure A.1
Disposition of 2,444 Allegations Received
January 2010 Through June 2010



Source: Bureau of State Audits.

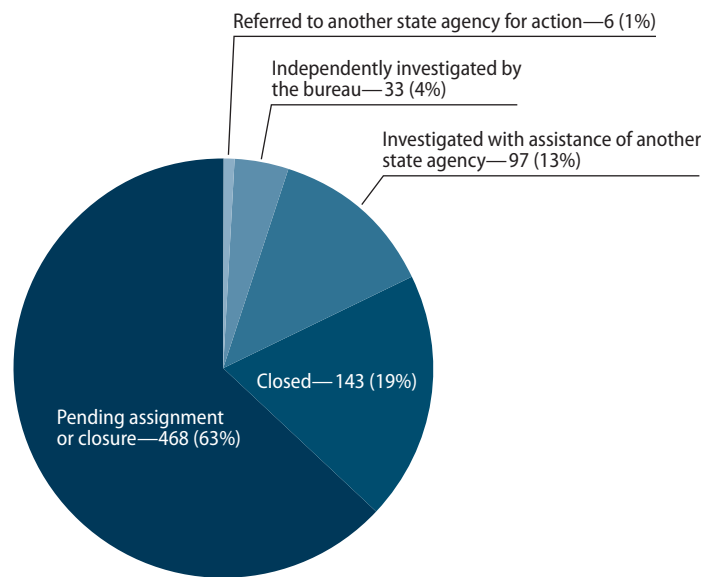
Work on Investigative Cases From January 2010 Through June 2010

In addition to the 420 new cases opened during this six-month period, the bureau reviewed or assigned 186 cases from previous periods. The bureau also continued work on another 141 cases that were still under investigation by this office or other state agencies or that required the completion of corrective action. Consequently, the bureau provided some level of review to 747 cases during this time. After completing a preliminary review process that includes analyzing evidence and calling witnesses, the bureau determined that 143 of the 747 cases lacked sufficient information for an investigation. Figure A.2 on the following page shows the disposition of the 747 cases that the bureau worked on from January 2010 through June 2010.

From January 1, 2010, through June 30, 2010, the bureau independently investigated 33 cases, substantiating allegations for three of the four investigations it completed during the period. The results of the three investigations appear in this report. In addition, the Whistleblower Act specifies that the state auditor can request the assistance of any state entity in conducting an investigation. After a state agency completes its investigation and reports its results to the bureau, the bureau analyzes the agency's investigative report and supporting evidence and determines whether it agrees with the agency's conclusions or whether

additional work must take place. In the six-month period of this report, the bureau conducted analyses of 97 cases that state agencies investigated under its direction; it substantiated allegations in six of the eight cases completed. The results of five of these investigations appear in this report.¹²

Figure A.2
Disposition of 747 Cases Worked on
January 2010 Through June 2010



Source: Bureau of State Audits.

¹² The bureau concluded that the improper activities in one of the investigations did not rise to the level of publicly reporting it.

Index

DEPARTMENT/AGENCY	CASE NUMBER	ALLEGATION	PAGE NUMBER
California Conservation Corps	I2008-1021	Failure to follow state contracting laws	15
California State University, Office of the Chancellor	I2007-1158	Improper and wasteful expenditures	52
Consumer Affairs, Department of, California Architects Board	I2008-1100	Fictitious claim, improper gifts, incompatible activities	57
Corrections and Rehabilitation, Department of	I2004-0649, I2004-0681, I2004-0789	Failure to account for employees' use of union leave	45
Corrections and Rehabilitation, Department of	I2006-0826	Improper payments for inmate supervision	47
Corrections and Rehabilitation, Department of	I2007-0887	Improper overtime reporting	41
Corrections and Rehabilitation, Department of	I2008-0820	Misuse of state resources, failure to appropriately manage employees	19
Corrections and Rehabilitation, Department of	I2008-0920	Misuse of state employees' time, waste of state funds	56
Corrections and Rehabilitation, Department of	I2009-0607	Delay in reassigning an incompetent psychiatrist, waste of state funds	7
Corrections and Rehabilitation, Department of	I2009-0702	Improper payments for inmate supervision	50
Fish and Game, Department of, Office of Spill Prevention and Response	I2006-1125	Improper travel expenses	48
General Services, Department of	I2008-1024	Misuse of state resources	29
Industrial Relations, Department of	I2008-1066	Misuse of state time and resources, incompatible activities, inadequate administrative controls	56
Justice, Department of	I2008-0637	Failure to report absences accurately, inadequate administrative controls	53
Motor Vehicles, Department of	I2008-0908	Failure to follow personnel rules	55
Motor Vehicles, Department of	I2009-0832	Theft of registration fees	37
Parks and Recreation, Department of	I2005-1035	Misuse of state resources, failure to perform duties adequately	47
Transportation, California Department of	I2008-1046	Failure to adhere to established work schedule, failure to monitor employees' attendance	33
Victim Compensation and Government Claims Board	I2008-1229	Failure to protect the security of confidential documents	23
Water Resources, Department of	I2008-0644	Improper gifts	54

cc: Members of the Legislature
Office of the Lieutenant Governor
Milton Marks Commission on California State
Government Organization and Economy
Department of Finance
Attorney General
State Controller
State Treasurer
Legislative Analyst
Senate Office of Research
California Research Bureau
Capitol Press