

California State Auditor

B U R E A U O F S T A T E A U D I T S

California Department of Corrections:

*A Shortage of Correctional Officers, Along
With Costly Labor Agreement Provisions,
Raises Both Fiscal and Safety Concerns and
Limits Management's Control*



July 2002
2002-101

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CALIFORNIA STATE AUDITOR

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July 30, 2002

2002-101

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

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the Bureau of State Audits presents its audit report concerning the ongoing fiscal problems at the California Department of Corrections (department).

This report concludes that a shortage of correctional officers continues to result in high overtime costs, which exceeded \$110 million in the first half of fiscal year 2001–02. We estimate it could take the department until the beginning of 2009 to resolve the shortage. In addition, certain provisions of the new labor agreement between the State and the California Correctional Peace Officers Association increase the department's fiscal burden and limit management's control. We estimate that the department's annual costs related primarily to correctional officers for five new and three continuing provisions of the labor agreement will amount to approximately \$518 million by the end of fiscal year 2006–07.

Respectfully submitted,

ELAINE M. HOWLE
State Auditor

CONTENTS

<i>Summary</i>	1
----------------	---

<i>Introduction</i>	7
---------------------	---

Audit Results

The Unmet Need for More Correctional Officers Continues to Drive the Department's Overtime Costs Higher, Raising Both Fiscal and Safety Concerns	15
--	----

Certain Provisions of the New Labor Agreement Increase the Department's Fiscal Burden and Limit Management's Control	28
--	----

Recommendations	43
-----------------	----

Appendix A

The Department's Prisons Vary in How They Measure and Fill Their Needs for Personnel	47
--	----

Appendix B

The Department's Regional Approach for Providing Medical Care to Inmates Seems Reasonable, Though Some Prisons Incur Added Costs for Medical Transportation	55
---	----

Appendix C

The Department of Personnel Administration Provides Its Perspective on Collective Bargaining and the New Labor Agreement With the California Correctional Peace Officers Association	57
--	----

Responses to the Audit

Youth and Adult Correctional Agency	67
Department of Personnel Administration	71

*California State Auditor's
Comments on the Response From the
Department of Personnel Administration*

	77
--	----

SUMMARY

Audit Highlights . . .

Our review of the California Department of Corrections' (department) ongoing fiscal problems revealed:

- A shortage of correctional officers continues to drive overtime costs higher.*
 - At its current pace of hiring, it may take the department until 2009 to meet its need for additional correctional officers.*
 - Some officers work excessive amounts of overtime while others at the same prison work very little overtime.*
 - Certain provisions in the labor agreement between the State and the California Correctional Peace Officers Association, related primarily to correctional officers, will eventually add about \$518 million to the department's annual costs.*
-

RESULTS IN BRIEF

The largest prison system in the United States, the California Department of Corrections (department) is responsible for controlling and caring for more than 157,000 inmates who have been convicted of serious crimes or admitted to the State's civil narcotics program. About 23,000 custody staff, including 20,000 correctional officers, are responsible for supervising inmates, which often requires that positions be covered on a 24-hour basis. Unable to hire enough correctional officers to meet its prisons' needs, the department often uses costly overtime hours to cover for the shortage of officers. During the first half of fiscal year 2001–02, the department spent more than \$110 million in custody staff overtime—already \$36 million more than its budgeted amount of \$74 million for the entire fiscal year. This adds to the department's fiscal problems, which, as we reported in our 2001 audit, resulted in a budget shortfall of over \$200 million for fiscal year 2000–01. During the period we reviewed as part of our current audit, the department would have had to hire an extra 3,200 staff to work the hours it assigned as overtime to current custody staff. Therefore, if the department could fill its unmet need for officers, it would significantly reduce its fiscal problems.

Although hiring more correctional officers would ease its fiscal problems, the department faces difficulties in attracting and training enough correctional officers to fill its unmet need. Though the department was most recently operating its academy at full capacity, at the current pace of recruiting and training, the department may not fill its need until sometime between the end of 2005 and the beginning of 2009, depending on correctional officer attrition and the department's budget for training new correctional officers. The department's inability to attract and train sufficient numbers of cadets impedes the flow of new correctional officers into the department. Thus, the department needs to be creative in increasing its supply of correctional officers by exploring opportunities to attract more qualified applicants and increase the capacity of its academy to train them, at least until supply catches up with demand. At the request of the Legislature, the department has reviewed several options for increasing the number of new correctional officers, such as operating temporary academies at additional locations.

However, the department also advised us that to date it has not been able to secure additional funding to implement any of these alternatives. If it determines that increasing the supply of correctional officers is not feasible, the department should be realistic in its budget and plan for the overtime hours it will require to cover its unmet need. In the meantime, some prisons can somewhat reduce their use of overtime hours by increasing their use of intermittent officers, who work on an hourly basis to fill in for officers who are absent or to cover other unmet needs.

Also, because excessive overtime can raise health and safety concerns, the department should attempt to even out the amounts of overtime that correctional officers work by assigning academy graduates to prisons experiencing high rates of overtime. For example, the California Institution for Men incurred overtime that was 71 percent higher than the average of all prisons from July to December 2001. Nonetheless, this prison received an allocation of only 5 cadets, whereas Wasco State Prison, which incurred overtime that was 60 percent lower than the average for all prisons, received an allocation of 18 cadets. The department can also address health and safety concerns by monitoring the amounts of overtime that individual correctional officers work. For example, one correctional officer averaged 167 hours of overtime each four-week work period of 168 hours between July and December 2001, the equivalent of working a double shift the entire six months.

Further, in its Institutional Vacancy Plan (vacancy plan), the department intentionally keeps about 1,000 correctional officer positions vacant and uses the funds saved to make up for shortfalls in its budget. The department achieves more savings because it has been unable to hire additional officers or because it does not always consume the full salary budgeted for each correctional officer, for example, as when an officer out on disability receives a reduced salary. However, these savings are not sufficient to meet the budget shortfalls related to underbudgeted full-time and intermittent officer pay and overtime. As a result, the department uses funds from other sources, such as funds not spent due to vacant positions for noncustody staff, to help make up the difference.

As it begins to make up for its shortage of officers, the department should monitor the amount of overtime that officers work and consider filling relief officer positions in the vacancy plan. It should also reassess the number of budgeted full-time positions

at each prison and decide whether reallocations are warranted based on the actual correctional officer hours spent to operate each site.

Certain provisions of the new labor agreement between the State and the California Correctional Peace Officers Association (CCPOA) increase the department's fiscal burden and limit management's control. Ranging from salary increases and enhanced retirement benefits to seniority-based overtime, some of these provisions were included in the prior labor agreement, but many are new to the labor agreement that was ratified in February 2002. The department estimates that the annual cost of provisions in the new agreement will be as high as \$300 million a year by fiscal year 2005–06, the latest year for which it has estimated costs. Focusing on costs related to correctional officers and including the entire term of the labor agreement, we estimate that the department's annual costs for eight provisions of the labor agreement will eventually amount to about \$518 million. Further, several changes in the provisions related to sick leave have likely resulted in additional overtime to cover for correctional officers' increased use of sick leave. Finally, a provision related to how post assignments are made limits the department's ability to assign particular individuals to posts of its choosing.

The department has input into the collective bargaining process but does not control the negotiations between the State and CCPOA. Rather, the Department of Personnel Administration (DPA) negotiates with employee unions on behalf of all state agencies. Although the DPA provided us information and some documents related to the bargaining process, its chief legal counsel informed us that various California statutes protect the following information as confidential:

- Proposals and related agreements exchanged between CCPOA and the DPA during the collective bargaining process.
- Action requests from the department, known as Harvest Memos, which identify issues the department would like the DPA to address during negotiations.
- Cost analyses that quantify the estimated fiscal effect of the labor agreement provisions.

Citing the importance of protecting the integrity of the collective bargaining process, the DPA director informed us that he was not willing to waive the privilege of confidentiality

over the information. However, he did provide us a letter that presents the DPA's perspective on the collective bargaining process that led to the new labor agreement between the State and the CCPOA, including why the DPA chose not to support key department concerns. We include this letter in Appendix C of our report. In general, the DPA director indicated that the State's goal is to enter into long-term agreements that promote stable employer-employee relations without causing disruption in the workplace. Additionally, he said that effective collective bargaining can rarely be achieved as the result of taking back salaries, benefits, or working conditions that employees already enjoy. He believes, therefore, that expiring collective bargaining agreements provide a rough baseline from which bargaining generally begins. In addition, the director indicated that the DPA balances the State's overarching goals against the preferences of departments as the negotiation process unfolds. If a union will not agree with a state proposal, he said that the DPA weighs the value of the proposal against the consequences that can result from intractable bargaining, such as prolonged periods without contracts, disruption of services, and low morale. Finally, in providing perspective on the new agreement, the DPA director pointed out that the parameters of the negotiations were determined from the outset by statutorily expressed policies.

RECOMMENDATIONS

To reduce its use of overtime, the department should do the following:

- Consider the feasibility of further increasing the number of correctional officer applicants and, if warranted, the physical capacity for training them.
- Maximize its use of intermittent officers by either converting them to full time or ensuring that they work as close to the maximum of 2,000 hours a year as possible. For example, the department could preschedule intermittent officers for their maximum allowable time as relief officers to fill the needs currently being met with overtime.
- Fill vacant relief officer positions currently in its Institutional Vacancy Plan once it has filled its positions now vacant because of insufficient staff.

Once it can attract more cadets to the academy than its budgeted positions, the department should pursue funding for additional correctional officer positions it will need in order to reduce its reliance on overtime. Until the department has enough correctional officers to meet its needs and incurs only unavoidable overtime, it should be realistic in its budget and plan for the overtime it will need to cover its unmet need.

To reduce health and safety risks for its employees, the department should do the following:

- Reassess the number of budgeted full-time positions at each prison and decide whether reallocations are warranted because of excessive overtime at specific prisons.
- Pursue options to limit overtime that individuals work so that individuals do not exceed the amount of 80 hours each four-week 168-hour work period considered relevant for health and safety risks.

To better match the supply of correctional officers with the demand for correctional officers that use of overtime hours indicates, the department should consider assigning its academy graduates to those prisons that experience the highest levels of overtime. For example, if it has too many qualified candidates to fill a class, the department could give preference to candidates willing to go to the 10 prisons with the most overtime.

AGENCY COMMENTS

The department generally agrees with the report, and appreciates our recognition of the challenges facing the department in terms of the correctional officer staffing shortage and fiscal ramifications of the recent labor agreement. The DPA believes that the agreement with the correctional officers is not unique and that no department of state government has a greater level of managerial control or more tools for managing its workforce than the department. The DPA also presents some amplifications or additional information related to its position on various matters that we discuss in the report. ■

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INTRODUCTION

BACKGROUND

Established in 1944, the California Department of Corrections (department) operates the country's largest prison system, with more than 157,000 inmates. The department's mission is to control, care for, and treat men and women convicted of serious crimes or admitted to the State's civil narcotics program and placed in the department's Institution, Health Care Services, or Community Correctional programs. The department operates 33 prisons located throughout the State and had an annual budget of about \$4.8 billion for fiscal year 2001–02.

PRIOR AUDITS HAVE ADDRESSED THE DEPARTMENT'S FISCAL PRACTICES

In recent years, the Bureau of State Audits (bureau) has issued two audits on the department's fiscal practices. A January 2000 audit, titled *California Department of Corrections: Poor Management Practices Have Resulted in Excessive Personnel Costs*, concluded that the department had failed to effectively manage sick leave use and its holiday and leave programs, resulting in higher overtime costs. A November 2001 audit, titled *California Department of Corrections: Its Fiscal Practices and Internal Controls Are Inadequate to Ensure Fiscal Responsibility*, reported that the department's fiscal practices and internal controls are inadequate to ensure effective fiscal management. This report identified the department's overtime expenditures resulting from vacancies and excessive use of sick leave as the primary cause of its budget shortfalls. However, we also concluded that the department's poor fiscal practices may have contributed to its significant budget shortfalls, specifically citing inaccurate spending plans, budget cost formulas that were not updated, lack of corrective action on identified budget problems, and inadequate fiscal analyses.

THE DEPARTMENT HAS SPECIAL STAFFING REQUIREMENTS

Of the department's more than 48,000 employees in fiscal year 2001-02, almost 23,000 were custody staff. Custody staff are directly responsible for inmate supervision, which often requires

Custody Staff Base Salary Ranges

Captains	\$6,134-\$6,763 monthly
Lieutenants	\$4,646-\$5,646 monthly
Sergeants	\$4,126-\$5,012 monthly
Correctional Officers	\$2,809-\$4,574 monthly
Intermittent Officers	\$15.43-\$25.13 hourly

that positions be covered around the clock. These positions are generally filled by four classifications of employees: captains, lieutenants, sergeants, and correctional officers. In this report, we focus on the department's correctional officers for three reasons: (1) They make up about 85 percent of the department's custody staff; (2) they account for more than 80 percent of the custody staff overtime; and (3) theirs is the only custody classification covered by the State's labor agreement with the California Correctional Peace Officers Association (CCPOA).

Correctional officers are assigned to work either in particular posts or as relief officers who can work in any post. Prisons receive funding for a certain number of full-time relief officer positions to cover for sick, vacation, and other leave taken by those in posted positions. When not enough relief officers are available, the department employs permanent intermittent correctional officers (intermittent officers), who are paid on an

hourly basis to fill in for absent correctional officers or to meet some other need. However, the current labor agreement covering correctional officers constrains the department's use of intermittent officers by generally limiting the pool to 12 percent of the budgeted full-time correctional officer positions at each prison. The labor agreement also restricts each intermittent employee to working no more than 2,000 hours annually, about 80 hours less than the normal hours that permanent full-time staff work.

Steps in Filling a Posted Position Staffing Need

1. Assign a relief officer at regular pay.
2. Assign an intermittent officer at regular pay.
3. Offer voluntary overtime to custody staff.
4. Assign mandatory overtime to custody staff.

When a relief or intermittent officer cannot fill an absence or vacancy, prisons cover the staffing need by paying correctional officers an overtime rate of 150 percent, generally offering the overtime based on seniority. The department's budget provides limited funding to cover costs for overtime and intermittent officers; to partially offset costs beyond that budget, the department uses salary savings it accumulates throughout the year from not filling all of its authorized custody and noncustody staff positions.

THE DEPARTMENT IMPLEMENTED THE INSTITUTIONAL VACANCY PLAN TO GENERATE SALARY SAVINGS

In an attempt to achieve salary savings¹ and to make up for shortfalls in the funding for correctional officers, the department leaves more than 1,000 of its authorized correctional officer positions vacant under the Institutional Vacancy Plan (vacancy plan). To accomplish these savings, the previous labor agreement covering correctional officers allowed the department to leave up to 12.5 percent of its budgeted officer positions vacant. The actual number of positions is negotiated locally between each prison and the local union chapter. As of September 2001, the department's vacancy plan included about 1,000 positions, with individual prisons leaving between 0 percent to 10 percent of its officer positions vacant. Of the total, about 600 were relief officers, and 400 were posted positions. Under the new agreement, the department will need to gradually fill the vacation and holiday relief positions in the vacancy plan. Appendix A lists the number of these positions by prison as of September 2001. However, as a later section of this report describes, the vacancy plan does not result in net salary savings when we consider the overall funding for correctional officers and overtime.

DETERMINING THE TOTAL PERSONNEL COSTS OF A PARTICULAR PRISON ACTIVITY IS NOT ALWAYS STRAIGHTFORWARD

Because prisons may make varying decisions about how to fill personnel needs, one must look at individual prison practices when assessing the impact that various activities, such as covering for officers out sick or transporting prisoners, have on personnel costs. The total overtime for a prison can vary depending on whether the prison's management fills in for absent employees with posted correctional officers, relief officers, or intermittent officers. For example, as illustrated in Table 1 on the following page, assume that two prisons expect to have at least 15 correctional officers call in sick each day for a particular shift and that each prison has designated 15 of its authorized positions for sick leave relief. However, one prison may hold all 15 positions vacant to achieve salary savings as part of the vacancy plan, and the other may fill all 15 positions with relief officers. If 15 officers actually call in sick, the first prison would need to use intermittent officers or overtime to cover for the

¹ Salary savings reflect personnel cost savings resulting from vacancies in budgeted positions.

absences, whereas the second prison would not, resulting in differing costs to cover the same need. Moreover, management reports track costs for intermittent officers and overtime based on the nature of the absence, but they do not break out the costs for full-time staff in a similar way. Thus, in analyzing the costs for intermittent officers and overtime for the day, we might conclude that sick leave is a problem at the first prison but not at the second, when both prisons actually have the same number of officers out sick.

TABLE 1

Two Approaches for Covering for Absent Correctional Officers

Condition	Approach A	Approach B
15 correctional officers call in sick	This prison has designated 15 of its authorized positions for sick leave relief.	This prison also designated 15 of its authorized positions for sick leave relief.
	Prison elects to create salary savings by holding open the 15 relief positions.	Prison elects to fill the 15 relief positions.
	This prison must use intermittent officers or overtime to cover for absences of regular custody staff.	This prison is not as reliant on intermittent officers or overtime to cover absences of regular correctional officers.

Assessing a prison’s costs for transporting its inmates offers an illustration of the complexity in calculating the cost of a particular prison activity. We assessed the transportation costs at Folsom State Prison (Folsom) from July through December 2001 using data from the prison’s Watch Office Tracking System (WOTS). We found that Folsom has three correctional officers and one sergeant assigned during the second watch (day shift) for the transportation of inmates. We estimate that the full-time efforts of these staff cost more than \$116,000 for the six-month period. However, sometimes these transportation officers worked overtime, adding about \$50,000 to the cost based on the WOTS data. In addition, we added about \$47,000 more to the prison’s transportation costs to account for custody staff who do not normally occupy a transportation post but filled such a post on overtime because of a transportation officer’s absence or an increased need for transportation. Finally, we deducted about \$2,000 from the costs because the transportation officers spent part of their regular

time doing work besides transportation. In total, we estimate that Folsom incurred about \$211,000 in personnel costs to transport inmates over the six-month period.

THE DEPARTMENT OPERATES AN ACADEMY TO TRAIN SUCCESSFUL APPLICANTS AS CORRECTIONAL OFFICERS

To train new correctional officers, the department operates a Basic Correctional Officer Academy (academy), a 16-week residential training program using academic instruction, physical fitness training, use-of-force awareness, group interaction, and communication skills. The department begins the hiring process by screening applications from correctional officer candidates. To enter the academy, candidates who meet the minimum qualifications for correctional officer go through a six-month period of evaluation: They take a written test; undergo various physical abilities tests, a psychological evaluation, and a background investigation; and get a preemployment medical examination, including a drug test.

Before the candidates begin training at the academy, the department's Selections and Standards Branch assigns them to various prisons based on the prisons' needs for full-time and intermittent officers. When making assignments, the department also considers other factors, such as where the candidates live and how well they scored in the qualifying process. The department then mails each candidate a prison assignment. After receiving the notification, a candidate must call the department by a specified date to accept the assignment or to decline and request another assignment. The department may go through several iterations with a candidate before both parties agree to an assignment. After accepting an assignment, the candidate reports to the academy.

THE DEPARTMENT OF PERSONNEL ADMINISTRATION REPRESENTS THE DEPARTMENT IN THE COLLECTIVE BARGAINING PROCESS

The goals and objectives for collective bargaining are summarized in the California Government Code beginning at Section 3512. That section indicates that the purpose of collective bargaining is to promote full communication between the State and its employees by providing a reasonable method

of resolving disputes regarding wages, hours, and other terms and conditions of employment between the State and public employee organizations. The California Government Code also establishes the governor, or an appointed representative, as the party responsible for negotiating labor agreements with state employees on behalf of the State. In turn, the governor has appointed the director of the Department of Personnel Administration (DPA) as the representative in negotiating and establishing labor agreements. Accordingly, the DPA negotiates agreements with 21 different bargaining units, including the unit represented by the CCPOA—the union that represents the department’s correctional officers. The department participates in the collective bargaining process by bringing to the DPA’s attention issues that the department believes are important and by having several representatives attend the negotiations. However, the DPA ultimately exercises control over the State’s side of the negotiation process.

The State and the CCPOA negotiate a new labor agreement generally whenever an existing agreement is about to expire. According to the DPA negotiator involved with the labor agreement for correctional officers, the collective bargaining process begins when the DPA receives word of issues that the department believes collective bargaining should address. These requests—known as Harvest Memos—contain labor agreement changes that the department would like the DPA to seek in its negotiations with the CCPOA. To determine which negotiating positions it feels have merit, the DPA assesses the Harvest Memos and any supporting analysis the department provides. To prepare for negotiations, the DPA also considers other sources of information on the state of the current collective bargaining agreement, including union grievances, to identify potential problem areas with the current agreement. As part of the process, the union presents its general proposal for the provisions it wants to be included in the labor agreement at a public meeting; the DPA presents its own proposal and its response to the CCPOA’s original proposal at its own public meeting.

Once both sides present their original proposals, the bargaining begins with both the DPA and the union setting the ground rules for the negotiation process. After the CCPOA submits a detailed proposal, the DPA responds to the union’s proposal and presents its own proposal. The two parties then work to reach tentative agreements item by item. Once the parties reach a tentative agreement on all items, they formalize a labor agreement as a memorandum of understanding (MOU) between

the State and the union. The DPA presents the MOU to the Legislature for its consideration. Once both the Legislature and the governor approve the MOU and the union membership ratifies it, the agreement becomes final. On December 14, 2001, the DPA announced that the State and the CCPOA agreed on a new five-year labor agreement. As Senate Bill 65, that labor agreement became law on January 16, 2002, and the union's membership ratified it on February 19, 2002.

SCOPE AND METHODOLOGY

The Joint Legislative Audit Committee (audit committee) requested that the bureau conduct an audit of various department fiscal problems. The audit committee expressed particular interest in the collective bargaining process that governs the department's relationship with its correctional officers, the assignment of new cadets from the academy to prisons, the impact of statewide mandated salary savings on correctional officers' use of overtime and sick leave, and the impact of medical transportation costs on the cost of medical care.

Throughout our work, we reviewed documents prepared by the department. We also interviewed key department staff. To identify the impact of the current collective bargaining process on the department's fiscal crisis, we reviewed several provisions from the current and previous labor agreements between the State and the department's correctional officers, and we attempted to identify the provisions' effects on the department. We interviewed staff from the department and the DPA who were involved in negotiating the latest labor agreement, and we reviewed documents related to the negotiations. We also obtained estimates of the department's incremental costs as a result of the new agreement from the department and the DPA.

To review and evaluate the department's process of placing new cadets from its academy into those prisons with the most vacancies, we interviewed the chief of the department's Selection and Standards Branch and reviewed documents related to the prisons' requests for correctional officers in preparation for the academy class that started in November 2001. From these documents, we developed a measure of each prison's unmet need for correctional officers. To determine the amount of the overtime that custody staff at each prison worked from July to December 2001, we obtained data from the state controller's payroll history files. We reviewed this data to find

any correlation between overtime worked and the unmet need for officers. To estimate how long it might take the department to fill its unmet need for correctional officers, we reviewed trends on the number of officers applying to and graduating from past academies, historic attrition rates, and the physical capacity of the department's training academy. We also used payroll data to determine how many officers were working overtime in excess of the recommended cap of 80 hours in a four-week 168-hour work period. To measure the prisons' use of intermittent officers, we determined the number of equivalent full-time positions that each prison could have filled with the hours that intermittent officers did not work.

To determine whether the State's mandated 4.9 percent salary savings requirement contributes to the prisons' excessive use of overtime and correctional officers' use of sick leave, we interviewed staff and reviewed one of the department's budget change proposals. We found that the Department of Finance has eliminated the mandated salary savings requirement on all of the department's posted positions. Therefore, we did not pursue this issue any further.

To determine whether the department considers the cost of guarding inmates who are being transported for medical services (medical transportation) when awarding hospital contracts, we reviewed six of the department's contract analyses. We also reviewed the department's data on inpatient and outpatient services that were provided to inmates at community hospitals to determine whether the department should pursue contracting with additional hospitals near its prisons. Further, we interviewed the president of a community hospital to gain some perspective on the daily volume of patients a hospital might require in order to make contracting with the department worthwhile. Finally, to give perspective on the total burden this activity imposes on a prison, we estimated the total costs that Folsom State Prison incurred for transporting inmates in the first half of fiscal year 2001–02. As described further in Appendix B, we found that although prisons bear some added costs for medical transportation, the department's regional approach for providing medical care to inmates seems reasonable. ■

AUDIT RESULTS

THE UNMET NEED FOR MORE CORRECTIONAL OFFICERS CONTINUES TO DRIVE THE DEPARTMENT'S OVERTIME COSTS HIGHER, RAISING BOTH FISCAL AND SAFETY CONCERNS

The large unmet need for more correctional officers (officers) at the California Department of Corrections (department) continues to drive its overtime costs higher. During the first half of fiscal year 2001–02, the department spent more than \$110 million on custody staff overtime, about \$36 million more than the entire custody staff overtime budget of \$74 million and on track to exceed the \$176 million the department spent on overtime last fiscal year. As we reported in our November 2001 audit, excessive overtime expense is the main cause of the department's budget deficits in recent years. Although filling the unmet need for officers would ease its fiscal problems, the department faces challenges in attracting and training enough officers to begin addressing its large need.

To avoid the overtime incurred between July and December 2001, the department would have needed an additional 3,200 full-time officers, roughly equivalent to the shortage of officers the department experienced during this same time. The main reasons for this unmet need are that until recently the department has failed to attract enough qualified applicants to the correctional officer classification and lacks the capacity at its Basic Correctional Officer Academy (academy) to train sufficient new officers to meet its current needs. In fact, we estimate that it will take between the end of 2005 and the beginning of 2009 to make up for the present shortfall, assuming that the inmate population remains relatively stable, the department continues to enroll full complements of cadets in its academy, and officer attrition remains at recent levels.

Although the department is currently filling its academy, it needs to make sure that future academies are full, and it should explore additional ways to increase its number of new officers. As the department is able to hire additional correctional officers, it will also need to address current shortfalls in its budget, including a funding deficit we estimate to be \$2,550 for each of its more than 17,000 full-time officers, and a shortfall in its

budget for permanent intermittent correctional officers (intermittent officers). We estimate that in fiscal year 2001–02, these shortfalls will amount to \$193 million.

Further, although the department’s intermittent officers generally work many hours, the department could avoid some overtime by increasing the amount of time that intermittent officers work at certain prisons. In the meantime, the department can better match the supply of officers with the demand for officers by considering overtime patterns when placing new officers, and distributing them among prisons that incur relatively large amounts of overtime. In addition, to better ensure the health and safety of its staff, the department should monitor the amount of overtime that officers work in order to identify those who exceed the cap that the labor agreement suggests, diverting this excess to other staff. Finally, once the department has been able to fill the correctional officer positions currently vacant due to insufficient staff, it should consider filling the relief officer positions in its vacancy plan and reevaluate the number of budgeted full-time positions for each prison based on overtime trends.

The Department Pays Large Overtime Costs to Cover for Unmet Correctional Officer Need

The department has been unable to attract and train enough correctional officers to meet its need. As of September 2001, its full-time and intermittent officers numbered only 19,910; its budget and the labor agreement allow a maximum of 23,160 officers. As a result, the department has an unmet need of about 3,250 officers. Table A.2 in Appendix A provides a breakdown of the maximum number of officers allowed and the initial measure of unmet officer need by prison. In fiscal year 2001–02, the department was budgeted for 19,609 full-time and 100 intermittent positions. However, our calculation of the maximum number of officers allowed differs from the budgeted amounts because the department considers the number of officers out on sick leave when it determines its maximum. In addition, the labor agreement covering correctional officers allows the department to hire more intermittent officers than its budget provides for.

During the first half of fiscal year 2001–02, the department spent more than \$110 million on custody staff overtime.

To fill the unmet need, the department has resorted to assigning overtime. During the first half of fiscal year 2001–02, the department spent more than \$110 million on custody staff overtime—already \$36 million more than its overtime budget of \$74 million for the entire fiscal year. As we reported in

our 2001 audit, the department has experienced a series of budget shortfalls; the latest, for fiscal year 2000–01, amounted to more than \$200 million. In that report, we identified the primary cause of the shortfall as the department’s exorbitant use of overtime. With overtime costs continuing to grow, the department’s budget problems will likely continue.

The department’s use of overtime closely correlates with its large unmet officer need. Between July and December 2001, custody staff at the department’s 33 prisons worked almost 2.9 million hours of overtime. To avoid all of that overtime, the department would have needed to hire 3,200 more officers—nearly equal to the unmet need of 3,250 officers as of September 2001. Although custody staff overtime figures include hours worked by sergeants, lieutenants, and captains, as well as by correctional officers, this need must ultimately be met by increasing the number of officers who successfully graduate from the academy. Though we acknowledge that it cannot avoid all overtime, the department should be able to reduce its expense by as much as \$58 million when it is able to fill its unmet need.

Although Academy Classes Have Been Full, Graduating Enough New Correctional Officers to Fill the Department’s Unmet Need May Take Several Years

Unless it can devise some way to attract and train more correctional officers, we estimate the department will not fill its unmet officer need until sometime between the end of 2005 and the beginning of 2009, depending on the number of future academy graduates and the officer attrition rate. Historically, the department’s academy has operated below both physical and budgeted capacity, contributing to the current unmet need. However, according to department officials, the department added more facilities in the fall of 2001 and enhanced its recruiting efforts beginning in fiscal year 2000–01, resulting recently in two full academies of more than 700 cadets each. According to the department’s data, applications to its academy between the first quarter of 2001 and the first quarter of 2002 increased from around 9,000 to over 12,000. However, only a small percentage of applicants are ultimately hired as officers, so the increased number of successful applicants has only roughly equaled the increased physical capacity of the department’s academy. Table 2 on the following page depicts how the department’s screening process narrowed down the number of applicants in fiscal year 2000–01 to the 1,335 who successfully graduated from the academy.

At its current pace, the department will not meet its need for additional correctional officers until sometime between 2005 and 2009.

TABLE 2**Summary of Recruitment Process During Fiscal Year 2000–01**

Phase	Number of Applicants	Percentage of Total Who Applied
Applications received	32,238	
Met initial qualifications	25,665	80%
Succeeded on written test	8,022	25
Passed screening and physical abilities test	5,147	16
Passed background investigation	2,996	9
Passed pre-employment medical exam	1,916	6
Offered appointment	1,756	5
Appointed*	1,356	4
Graduated	1,335	4

* The number of cadets appointed is less than the number offered appointments because some cadets decline appointments altogether.

Table 2 shows that the department's single largest obstacle to finding qualified applicants in fiscal year 2000–01 was the lack of applicants passing its written test. Approximately 15,000 of the applicants did not take the written exam, and 2,000 who took the exam failed.

Two key factors will affect how quickly the department is able to fill its unmet correctional officer need, namely the number of cadets the department trains and the officer attrition rate that the department's prisons experience. The department projects that between September 2001 and September 2002 about 2,180 cadets will enter its academy, which exceeds its budgeted level of 1,930 cadets. According to the deputy director of the department's Financial Services Division, the department is pursuing additional funding to continue training 2,160 cadets a year—the academy's physical capacity. Without the additional funds, the department projects that the number of cadets entering its academy will drop back to the currently budgeted amount of 1,930, although it expects to have a sufficient number of applicants to admit the maximum. If this should occur, it would delay the department's efforts to fill its unmet officer need and continue the department's excessive use of overtime.

Any gains the department makes by hiring new cadets will be offset by the attrition of existing correctional officers, which occurs when officers retire, leave the department, accept promotions

From 1998 to 2001, the average attrition rate for correctional officers was 6 percent.

within the custody staff ranks, or transfer or are promoted to classifications outside the custody ranks. The department estimates that it will lose approximately 5.5 percent of its officers through attrition each year. Our review of the department's number of officers in December of each year from 1997 to 2001 indicated that the attrition rate for 1998 and 1999 was close to the department's estimate, but officer attrition in 2000 and 2001 was higher, resulting in an average officer attrition rate of 6 percent for the four-year period. During 2000, the department experienced attrition of approximately 6.2 percent, and the rate grew to 6.4 percent in 2001. An enhancement in the retirement benefits of its officers may have caused more officers than normal to retire during these years. If the actual officer attrition rate does not soon drop back to the 1998 and 1999 levels, the department could take even longer to fill its unmet need.

Table 3 presents various estimates of when the department may be able to fill its unmet need. All estimates assume that the inmate population, which affects the maximum number of officers allowed, will remain relatively stable. We give separate estimates for the academy's graduation capacity, measured by either the current budget for cadets or the enhanced budget the department intends to propose.

TABLE 3

Unmet Need for Correctional Officers Could Be Filled Between the Fourth Quarter of 2005 and the First Quarter of 2009*

Initial Measure of Unmet Officer Need	Officer Attrition Rate*	Need Met by:	
		Current Training Budget	Enhanced Training Budget
3,250	5.5% [†]	4 th quarter 2006	4 th quarter 2005
3,250	6.0 [‡]	1 st quarter 2008	3 rd quarter 2006
3,250	6.3 [§]	1 st quarter 2009	1 st quarter 2007

* Projections and officer attrition rate based on calendar year.

[†] Department's officer attrition rate.

[‡] Auditor-determined average officer attrition rate for 1998 through 2001.

[§] Auditor-determined average officer attrition rate for 2000 through 2001.

As Table 3 shows, the earliest we estimate the department could fill its unmet correctional officer need is late 2005. This assumes that the department receives the additional funding to operate its academy at capacity and experiences an officer attrition rate

of 5.5 percent, slightly less than the rates for 1998 and 1999. However, if the department does not receive the enhanced funding for the academy and if attrition continues at the average of 6.3 percent experienced in 2000 and 2001, our estimate extends into early 2009. Moreover, recently approved enhancements to the officers' retirement benefits will take effect in January 2006. At that time, the department could face a spike in retirements, which in turn could drive attrition rates higher. If the department does not address its unmet need by then, the problem could intensify.

The department expects to have enough officer applicants to keep its training academy full.

We asked various department officials about the unmet correctional officer need and plans to address it. The chief of the department's Selections and Standards Branch told us that the department expects to receive enough applications each quarter to fill the academy at either the current or the enhanced funding level. In addition, the deputy director of the department's Financial Services Division informed us that the Legislature has asked the department to develop proposals for increasing its academy's physical capacity, conducting nighttime academies, or instituting temporary academies around the State. However, she also told us that the department has not been able to secure the funding necessary to pursue these options.

Savings From Vacant Budgeted Positions Are Insufficient to Finance Shortfalls in the Overall Funding for Correctional Officers and Overtime

As we described in the preceding sections, the department has a large unmet need for correctional officers. The department would appear to achieve salary savings to the extent that it is unable to hire the number of officers it is budgeted for. In addition, as the Introduction described, the department intentionally leaves more than 1,000 of its authorized correctional officer positions vacant under the Institutional Vacancy Plan (vacancy plan), in an attempt to achieve salary savings. Further, the department does not always consume the full salary budgeted for each correctional officer for other reasons, such as when officers out on disability receive less than their full salary. However, these savings do not result in net salary savings because the budget for each officer is not sufficient to meet actual costs when an officer works full time. In addition, the amounts budgeted to pay intermittent officers and to fund overtime for all custody staff fall far short of the actual costs incurred. Therefore, the department must rely on other sources of funding to make up the difference.

As Table 4 shows, we estimate that the department will experience a net deficit of about \$193 million related to its funding of correctional officers and overtime. The department has attempted to compensate somewhat for the funding deficit by leaving about 1,000 positions vacant under its vacancy plan. In addition, we estimate that the department will save some money related to another 1,300 positions because it has been unable to hire the additional officers or because some of the officers have worked less than full-time. We estimate that these savings will amount to \$38 million in fiscal year 2001–02.

TABLE 4

The Department Experienced Deficits in Its Funding for Correctional Officers and Overtime During Fiscal Year 2001–02

	Budgeted		Estimated*		Estimated Surplus (Deficit)	
	Positions†	Dollars (In Millions)	Positions†	Dollars (In Millions)	Positions†	Dollars (In Millions)
Permanent officer working full time	17,300‡	\$ 894	17,300	\$ 938	0	\$ (44)
Permanent officer working less than full time or vacant	2,300‡	119	1,600	81	700	38
Totals for permanent officers	19,600	1,013	18,900	1,019	700	(6)
Intermittent officers	100	4	1,500	57	(1,400)	(53)
Custody overtime		74		208		(134)
Net totals	19,700	\$1,091	20,400	\$1,284	(700)	\$(193)

* Estimated for fiscal year 2001–02 based on payment data for July through December 2001 from the State Controller’s Office payroll files.

† Rounded to the nearest hundred.

‡ The department’s budget includes all permanent officers together. We split the number to show savings attributable to the second group.

According to the deputy director of the department’s Financial Services Division, these savings are needed to compensate for a structural problem in the budget that results in the department receiving insufficient funds to pay for each of its budgeted correctional officer positions. We acknowledged this problem in our November 2001 audit: The department received \$48,300 for each budgeted correctional officer position; its actual costs were \$52,600, a difference of \$4,300. We also reported that this structural problem would result in a budget shortfall of \$116 million if the department filled all of its budgeted officer positions. For

fiscal year 2001–02, we estimate that although the shortfall has decreased to about \$2,550 per officer, the funding disparity will result in a deficit of about \$44 million, which still exceeds the salary savings of \$38 million as shown in Table 4.

However, as we previously discussed, the department’s workload currently exceeds its present supply of correctional officers. As a result, the department’s use of intermittent officers and overtime to fill its unmet needs greatly exceeds its spending authority. In fact, we estimate that in order to meet its needs, the department will exceed its budgets for intermittent officers and custody staff overtime during fiscal year 2001–02 by \$53 million and \$134 million, respectively. As we discussed earlier, we include all custody staff in the overtime total because correctional officers are the largest part of the group, and the need must ultimately be met by hiring new correctional officers. The department will need to draw on other resources, such as noncustody salary savings or requests for additional funding, to make up the difference.

We estimate that the department will exceed its budgets for intermittent officers and custody staff overtime during fiscal year 2001–02 by \$53 million and \$134 million, respectively.

Moreover, as the department begins to fill its unmet need with new correctional officers, it will likely need resources in addition to those currently budgeted as long as the amount budgeted for each officer remains deficient. Additionally, in order to meet its current officer need, the department will need to hire most or all of the 2,350 intermittent officers that the labor agreement covering correctional officers allows. However, because the budget for the 1,500 intermittent officers already employed is insufficient, hiring additional intermittent officers will add to this shortfall. Although the department’s reliance on overtime should decrease as it adds correctional officers, the maximum savings it could achieve by replacing all overtime with regular time assigned to new officers would amount to about \$58 million. This would not be sufficient to cover the deficits it incurs in the other areas.

Although Intermittent Officers Are Generally Working Full Schedules, a Few Prisons Could More Fully Use These Employees

The department could begin to fill its need for additional correctional officers by using more of its intermittent officers’ authorized time. Generally, the department does use most of its intermittent officers’ time. However, the 5 prisons using the least amount of available intermittent time could have saved more than \$1.2 million in overtime costs from July to December 2001 if they had fully used their intermittent officers.

Five prisons could have saved about \$1.2 million in the first half of fiscal year 2001–02 had they fully used their respective pools of intermittent officers.

The department’s overall use of intermittent officers—91 percent of its available intermittent employee time—appears reasonable. Using this staff for all of the authorized time is not reasonable because some intermittent officers may not want to work full-time. However, some of the department’s prisons have much lower use rates than others, which suggests they could lower their overtime costs by using more intermittent officers’ time. As Table 5 shows, 5 of the department’s 33 prisons had unused intermittent time equivalent to the efforts of between 11 to 19 full-time officers. Had these prisons fully used their intermittent officers, they could have avoided more than \$1.2 million in overtime costs from July through December 2001.

TABLE 5

Five Prisons Could Have Saved Up to \$1.2 Million in Overtime Costs by Using More Available Intermittent Officer Time (July Through December 2001)

Prison	Average Number of Intermittent Officers*	Equivalent Number of Unused Intermittent Officers	Potential Amount of Overtime Premium Savings
California Men’s Colony	83	19	\$ 323,000
Avenal State Prison	46	17	288,000
California Institution for Men	94	15	255,000
Deuel Vocational Institution	65	11	187,000
California Rehabilitation Center	89	11	181,000
Total			\$1,234,000

* These figures represent an average over the six-month period. Therefore, they will not necessarily agree with the number of intermittent officers shown in column 6 of Table A.2 in Appendix A.

The 5 prisons in the table each had use rates below the department’s average of 91 percent. Table A.2 in Appendix A presents data on the equivalent number of unused intermittent officers for all 33 prisons.

A More Strategic Assignment of New Cadets to Prisons Would Be Beneficial

Placing new cadets at prisons with higher volumes of overtime could help mitigate potential health and safety concerns.

As we discussed in the Introduction, at the beginning of each academy, the department assigns cadets to prisons with identified openings based on the needs they have for full-time and intermittent officers. However, in assigning cadets, the department should also consider the varying amounts of overtime that officers work at its prisons. Diverting an officer from one prison with a lower volume of overtime to another with a higher volume could better align the supply of and demand for officers. This would not likely save money because the department would simply be shifting the overtime from one prison to another. However, by placing new cadets in prisons with higher overtime volumes, the department could help mitigate potential health and safety concerns that may result from prolonged work schedules.

Table 6 shows the amount of overtime that all custody staff at the department's 33 prisons worked, expressed in the amount of officers that each prison would have needed in order to avoid assigning overtime. The table also shows the initial measure of the unmet need at each prison in September 2001 and the number of officers the department assigned to each prison at the start of the last academy, which began in November 2001 and graduated in March 2002.

The data in Table 6 show no strong correlation between the assignments of new cadets and the amount of overtime at each prison. This is not surprising because the department's budgeted positions per prison are based on factors such as capacity, security level, and inmate count rather than on the equivalent full-time officers needed to avoid overtime. Most prisons with high levels of overtime would benefit from additional full-time or intermittent officers, although a few prisons' missions may not justify the assignment of additional staff because the nature of their overtime is unpredictable. For example, the Sierra Conservation Center and the California Correctional Center, which have the highest volume of overtime as shown in Table 6, are primarily responsible for training and deploying inmates to work on fire crews. Because fighting fires is unpredictable and requires an intensive response, higher volumes of overtime may be unavoidable. However, another prison with a high volume of overtime, the California Institution for Men, seemed to greatly need more staff, incurring overtime that was 71 percent higher than the average of 97 equivalent full-time officers in overtime for all prisons from July through December 2001. Nonetheless,

TABLE 6**Academy Assignments Have Generally Not Gone to the Prisons With Higher Volumes of Overtime**

Prison	Equivalent Full-Time Officers Needed to Avoid Overtime*	Initial Measure of Unmet Officer Need September 2001*	Academy Assignments November 2001†
Sierra Conservation Center	187	65	0
California Correctional Center	184	47	18
Correctional Training Facility	170	306	104
California Institution for Men	166	105	5
California State Prison, Corcoran	162	148	10
California Substance Abuse Treatment Facility and State Prison, Corcoran	151	136	92
California State Prison, San Quentin	145	146	7
Salinas Valley State Prison	134	134	75
California Correctional Institution	123	87	43
Avenal State Prison	117	85	30
California State Prison, Solono	116	86	13
Pelican Bay State Prison	112	181	31
High Desert State Prison	109	95	13
California State Prison, Los Angeles County	108	49	15
R.J. Donovan Correctional Facility	104	102	15
California State Prison, Calipatria	102	170	14
California Medical Facility	99	89	23
Pleasant Valley State Prison	88	120	42
Ironwood State Prison	87	207	41
California State Prison, Sacramento	83	82	21
California State Prison, Centinela	71	136	8
Valley State Prison for Women	68	50	5
Deuel Vocational Institution	67	75	23
California Rehabilitation Center	66	75	12
California Men's Colony	62	101	19
Northern California Women's Facility	58	103	1
Mule Creek State Prison	55	83	18
Chuckawalla Valley State Prison	49	27	1
Central California Women's Facility	48	39	1
Wasco State Prison	39	52	18
Folsom State Prison	33	38	3
California Institution for Women	28	28	2
Northern California Women's Facility	11	6	0
Totals	3,202	3,248	723
Average number	97	98	22

* See Appendix A for explanation of calculations.

† To focus on the department's planning efforts, this column presents the number of cadets assigned at the start of the academy in November 2001 rather than the number who actually graduated in March 2002.

this prison received an allocation of only 5 cadets. On the other hand, Wasco State Prison had an equivalent of only 39 full-time officers in overtime during this period, or 60 percent lower than the average. However, this prison received an allocation of 18 cadets. Had the department assigned new cadets to prisons with higher volumes of overtime, it would have spread the burden of overtime more evenly among its prisons.

The department could also better protect the health and safety of everyone in the prison setting by more evenly distributing the total overtime among individual officers within each prison. Under the current labor agreement, correctional officers are not eligible to accept an additional voluntary overtime shift after working 80 hours of overtime in a four-week period of 168 hours (work period). Although not a rigid cap, this provision generally ensures that officers do not work to the detriment of their health and safety. However, as Table 7 shows, we found that a total of 235 officers at 26 different prisons averaged more than 80 hours of overtime each work period between July and December 2001.

In an extreme example, one officer at California State Prison, San Quentin, averaged 167 hours of overtime each work period during this time. This is equivalent to working a double shift for the entire six-month period. Although much of the overtime is likely voluntary, the department potentially compromises the health and safety of its employees, the prisoners, and the public when it allows its officers to work such extended amounts of time over prolonged periods.

Better Monitoring of Overtime Worked at Each Prison Might Ensure Better Staffing Decisions

As the department is able to fill its unmet need for correctional officers in the future, it should monitor the volume of overtime that correctional officers work as a way to continually reevaluate the appropriate number of officers needed at each prison. As we mentioned previously, the department had an unmet need of about 3,250 officers as of September 2001. This unmet need includes about 1,000 positions that the department leaves vacant in accordance with its vacancy plan, using the budgeted funds to make up for other funding shortfalls. Because the total unmet need well exceeds the number of vacancy plan positions, the fact that the department is intentionally leaving positions vacant does not currently affect overtime. However, if overtime continues to be a problem once the department is able to fill the need for the remaining 2,250 officers, the department could

TABLE 7

**Correctional Officers Averaging More Than 80 Hours
of Overtime Each Work Period Between
July and December 2001**

Prison	Number of Correctional Officers Exceeding 80 Hour Cap
California State Prison, San Quentin	38
California Institution for Men	31
Correctional Training Facility	21
California State Prison, Solano	17
California Medical Facility	16
California Substance Abuse Treatment Facility and State Prison, Corcoran	16
California State Prison, Corcoran	13
Salinas Valley State Prison	12
Pelican Bay State Prison	11
Central California Women's Facility	7
R.J. Donovan Correctional Facility	7
Valley State Prison for Women	7
California State Prison, Los Angeles County	6
California Correctional Institution	5
High Desert State Prison	4
Ironwood State Prison	4
California Rehabilitation Center	4
Mule Creek State Prison	3
California State Prison, Calipatria	3
California State Prison, Sacramento	2
California Men's Colony	2
Pleasant Valley State Prison	2
California State Prison, Centinela	1
California Institution for Women	1
Northern California Women's Facility	1
Chuckawalla Valley State Prison	1
Total	235

avoid overtime and save more money by filling the vacancy plan positions. Even if the budget allocations for paying its officers remain insufficient, any funds the department receives to pay for overtime could be better spent in hiring additional relief officers. This is because having custody staff working straight time is less costly than paying staff an overtime rate of 150 percent. Indeed, as Table A.2 of Appendix A shows, more than 600 of the positions in the vacancy plan are relief officer positions, which are intended to help avoid overtime by covering the absences of other officers who are out on leave. We estimate that if the department were able to fill these relief positions, it would be able to save approximately \$11 million a

The department could save about \$11 million a year if it could train enough cadets to fill its relief officer positions.

year by paying 600 officers at straight time rather than overtime. In fact, as part of the most recent labor agreement with the correctional officers, the department must now begin filling the vacation and holiday relief positions in the vacancy plan. In particular, the agreement required the department to fill 200 such positions by April 2002, and requires it to gradually fill the rest by 2005.

Moreover, as the department is able to fill its unmet officer need, it should periodically validate and reassess its budgeted full-time positions for each prison, taking into consideration the overtime that each incurs. As we mentioned previously, we found that the total number of equivalent full-time officers needed for the department to avoid overtime is roughly the same as the initial measure of the department's unmet officer need. As a result, we believe that the maximum number of officers allowed—both full time and intermittent—may be an appropriate number for the department as a whole. However, we found sharp discrepancies when we compared these figures at specific prisons. For example, as Table A.2 of Appendix A shows, California State Prison, Los Angeles County, experienced the equivalent of 108 full-time officers in overtime costs from July through December 2001. Yet even if the prison were fully staffed, the equivalent of 59 full-time officers would still be needed to cover the additional overtime. On the other hand, Ironwood State Prison experienced overtime equivalent to about 87 full-time officers, yet if it were fully staffed, it would have 120 more officers than needed to avoid overtime. This shows that as the department begins to fill its unmet need for officers, it should consider redistributing budgeted positions among prisons in order to cut back on use of overtime.

CERTAIN PROVISIONS OF THE NEW LABOR AGREEMENT INCREASE THE DEPARTMENT'S FISCAL BURDEN AND LIMIT MANAGEMENT'S CONTROL

The new labor agreement between the State and the California Correctional Peace Officers Association (CCPOA) includes many provisions that either increase personnel costs or create challenges for the department to effectively manage its staff. Ranging from salary increases and enhanced retirement benefits to seniority-based overtime, some of these provisions were included in the prior labor agreement, but many are new to the labor agreement that was ratified in February 2002. The department estimates that the annual cost of new provisions

Department costs related primarily to correctional officers will eventually grow to about \$518 million annually for five new and three continuing provisions of the labor agreement.

in the agreement will be as high as \$300 million a year by fiscal year 2005–06, the latest year for which it has estimated costs. In developing these estimates, the department included classes of employees who are covered by the agreement, such as medical technical assistants and correctional counselors, as well as correctional officers. Focusing mainly on costs related to correctional officers and including the entire term of the labor agreement, we analyzed five new and three continuing provisions of the labor agreement and estimate that the department’s annual costs for these provisions will eventually amount to about \$518 million. Further, several changes in the provisions related to sick leave have likely resulted in additional overtime to cover for the increased use of sick leave. Finally, a continuing provision related to how post assignments are made limits the department’s ability to assign particular individuals to posts of its choosing.

As the Introduction explains, the department has input into the collective bargaining process but does not control the negotiations between the State and CCPOA. Rather, the Department of Personnel Administration (DPA) negotiates with employee unions on behalf of all state agencies. Although the DPA provided us information and various documents related to the bargaining process, its chief legal counsel informed us that various California statutes protect the following information as confidential:

- Proposals and related agreements exchanged between CCPOA and the DPA during the collective bargaining process.
- Action requests from the department, known as Harvest Memos, which identify issues that the department would like the DPA to address during negotiations.
- Cost analyses that quantify the estimated fiscal effect of the labor agreement provisions.

Citing the importance of protecting the integrity of the collective bargaining process, the DPA director informed us that he was not willing to waive the privilege of confidentiality over the items identified above. However, he did provide us a letter that presents the DPA’s perspective on the issues we discuss in this section. In general, he indicated that the State’s goal is to enter into long-term agreements that promote stable employer-employee relations without causing disruption in the workplace. Additionally, he said that effective collective bargaining can rarely be achieved by taking back salaries, benefits, or working

conditions that employees already enjoy. He believes, therefore, that expiring collective bargaining agreements provide a rough baseline from which bargaining generally begins. In addition, the director indicated that the DPA balances the State's overarching goals against the preferences of departments as the process unfolds. If a union will not agree with a state proposal, he said, the DPA weighs the value of the proposal against the consequences that can result from intractable bargaining, such as state employees working prolonged periods without contracts, disruption of services, and low morale. Finally, in providing perspective on the new agreement, the DPA director pointed out that the parameters of the negotiations were determined from the outset by policies in statute. Specifically, California Government Code, Section 19827.1 acknowledges the historic problem of recruitment and retention of correctional officers, and it sets forth a policy that salary for these officers "must be improved and maintained" by taking "into consideration the salary and benefits of other large employers of peace officers in California." The DPA's director indicated that the final agreement on salaries reflects a series of compromises consistent with the legislation.

The DPA director's letter appears in Appendix C of our report. Where relevant, we have also included some of the DPA's perspectives in our discussion of the new and continuing provisions of the labor agreement. Finally, we discuss concerns the department raised in its priority-one Harvest Memos and include the DPA's perspective on why it chose not to support the department's proposals.

New Changes to Labor Agreement Provisions Increase Personnel Costs

We estimate that just five of the new provisions in the labor agreement could cost about \$482 million annually by the end of fiscal year 2006–07.

In its most recent labor agreement with the CCPOA, the State agreed to new provisions that increase the department's costs. The department has estimated that the annual fiscal effects of the new provisions in the contract will reach \$300 million by fiscal year 2005–06, the latest year for which it has estimated costs. We estimate that by fiscal year 2006–07 just five of the new provisions included in the agreement could cost up to \$482 million annually, including \$400 million in pay increases, which amounts to a 37 percent increase over the term of the agreement. Further, several changes in provisions related to sick leave have likely led to additional overtime costs to cover for an

increase in correctional officers' use of sick leave. Table 8 presents six of the key provisions contained in the new agreement and the effect they have on the department. We discuss the ramifications of each of these provisions in the subsections that follow.

TABLE 8

Labor Agreement Provisions Are Costly

Provisions	Maximum Estimated Annual Impact	Time Frame of Impact
General salary increase	\$400 million	Fiscal Year 2006–07
Enhanced retirement benefits	\$22.5 million	January 1, 2006
Decreased work period	\$43.1 million	Fiscal Year 2004–05
Enhanced physical fitness incentive pay	\$14.7 million	Fiscal Year 2003–04
Bereavement leave enhancements	\$1.4 million	February 2002
Loss of Extraordinary Use of Sick Leave Program	Likely but unknown increase in overtime costs	February 2002
Total potential estimated impact	\$481.7 million	

Salary Increases Will Drive Personnel Costs Higher

The new labor agreement provides for a general salary increase beginning on July 1, 2003, and taking place each July 1 thereafter through 2006. According to the DPA negotiator who participated in working out the labor agreement with the CCPOA, the correctional officer salary increase is based on the difference between the weighted average compensation for the department's correctional officers and the weighted average compensation of staff at five law enforcement agencies in the State. Besides base salary, total compensation includes several types of incentive pay, such as physical fitness incentive pay, as well as deductions for retirement contributions made by the employee. An agreed-upon factor is applied to this difference each year to determine the new salary. For example, after the DPA and CCPOA jointly calculate the weighted average compensation figures, correctional officers will receive a salary increase on July 1, 2003, equivalent to 45 percent of the difference between the two weighted averages. We estimate that the general salary increases will result in increased annual costs of up to \$400 million in fiscal year 2006–07. This represents about a 37 percent pay increase over the correctional officer pay before the new labor agreement took effect. The actual amount could be higher because four of the five law enforcement agencies

We estimate that correctional officer pay will grow a total of about 37 percent by fiscal year 2006–07.

whose compensation was factored into the weighted averages do not currently have labor agreements that extend through fiscal year 2005–06. To determine our estimate, we assumed a 4 percent annual pay increase, which is the approximate annual increase included in the labor agreement of the one law enforcement agency that has a labor agreement extending to fiscal year 2005–06. Should the other four law enforcement agencies agree to higher annual pay raises, the department’s costs would be higher.

In providing perspective on the salary increase, the DPA director said that the CCPOA dropped demands for immediate pay parity and agreed to forgo all salary increases for the first two years of the agreement. He indicated that in return negotiators struck a long-term deal that provides pay increases in later years. The formula used to set the increases does not provide full pay parity but takes into account pay levels for California Highway Patrol officers and maintains a historic salary relationship between correctional officers and other California peace officers.

Retirement Enhancements Will Increase Future Costs

Based on an actuarial estimate prepared by the California Public Employees’ Retirement System in August 2001, a new retirement provision will result in an increased employer cost of about \$22.5 million annually. Under the prior labor agreement, covered employees could retire at age 55 with a monthly benefit equal to the number of years of service, multiplied by 3 percent, and then multiplied by their highest average monthly pay rate for a one-year period. However, the new labor agreement allows employees to retire at age 50, beginning January 1, 2006, but still retains the 3 percent-per-year-of-service benefit. Although the provision takes effect in January 2006, the State will not have to actually increase its contribution until July 2007.

A Reduced Work Period Will Increase the Department’s High Overtime Costs

We estimate that beginning July 1, 2004, a new provision to reduce the correctional officers’ work period will increase the department’s costs by approximately \$43.1 million annually based on the officers’ current average salary level over what the costs would have been under the prior agreement. Despite the increase in cost, this provision still represents some cost savings to the State by taking advantage of exceptions to overtime requirements that permit collective bargaining agreements for

law enforcement workers to provide for longer workweeks than for most other state employees. Under the prior labor agreement, a correctional officer worked 13 work periods each year. Each work period was for 168 hours and included 160 hours of regular post duty, 4 hours total for various pre- and postwork activities each day, and 4 hours for training. The new labor agreement provides that beginning July 1, 2004, the work period will be reduced to 164 hours by excluding the 4 hours for training each work period. However, the department is still required to provide at least 52 hours of training annually to each of its correctional officers. Therefore, beginning in July 2004, each correctional officer will work 4 fewer hours each work period to provide an opportunity for the mandatory training. But because the correctional officers' posts must be covered, the department advised us that it will likely need to use overtime to cover the 4-hour periods the officers are in training. We estimate that this will increase overtime costs by at least \$37.5 million annually. Additionally, because the number of hours in the work period will be reduced and the correctional officers' pay will remain the same, the hourly rate paid to correctional officers for overtime will increase, resulting in additional annual costs of about \$4.1 million. This provision will add another \$1.5 million to the department's annual costs because the hourly rate paid to intermittent employees for the regular time they work will also increase.

The director of the DPA indicated that the union flatly refused to continue the 168-hour period in the new agreement.

The director of the DPA indicated that the State agreed to the reduction in the work period to accommodate the union's demand for a shorter work period and to protect the State against new, additional costs for as long as possible. Specifically, under the federal Fair Labor Standards Act, employees must be paid overtime if they work more than 160 hours every 28 days. The law permits an exception for law enforcement personnel if the employees' union agrees. Although the CCPOA agreed to 168-hour work periods in the past, the director of the DPA indicated that the union flatly refused to continue the longer work period in the new agreement. He indicated that the union agreed to defer reducing the work period until July 1, 2004, because of the State's current fiscal situation. The DPA estimates that paying for the 8-hour difference would cost the State about \$120 million each year; whereas it estimates that reducing the work period to 164 hours would cost between \$40 and \$60 million annually. Therefore, the DPA estimates that having an agreement that increases costs is cheaper than having no agreement and paying employees the overtime rate for the extra 8 hours each work period.

Enhanced Physical Fitness Incentive Pay Will Be Costly

The new labor agreement increases the amount that correctional officers receive for meeting certain fitness standards. Under the prior agreement, correctional officers who had been employed for at least 60 pay periods and passed a series of fitness tests received an additional \$65 each pay period as an incentive to remain physically fit. Correctional officers employed fewer than 60 pay periods did not receive any compensation under this provision. However, the new contract provides that, effective July 1, 2002, correctional officers who have been employed fewer than 60 pay periods and successfully complete an annual physical exam will receive an additional \$65 each pay period. Further, correctional officers who successfully complete the physical exam and have been employed for at least 60 pay periods will receive \$130 each pay period.

We estimate that this provision will increase the department's annual costs for correctional officers alone by between \$6 million and \$14.7 million, depending on the number of officers who qualify. Specifically, the department estimates that under the previous program, 58 percent of its correctional officers qualified to receive the payments. If a similar percentage of officers continues to qualify, we estimate the department's costs will increase by \$6 million. However, the department also estimates that 90 percent of its correctional officers will qualify to receive these payments by fiscal year 2003–04. It believes the number of qualifying officers will increase because the officers will no longer have to pass a series of fitness tests—such as sit-ups, running, and jumping—but rather will need only to successfully complete a physical examination conducted by a medical professional. We estimate that if 90 percent of all correctional officers qualify, the department's annual costs will increase by \$14.7 million. According to the DPA's director, this cost is partially offset because the new agreement requires employees to take a medical exam at their own expense instead of the department administering a fitness test.

Officers will no longer need to pass a series of fitness tests to qualify for the added pay; rather they will have to successfully complete a physical exam.

Enhancements to Bereavement Leave May Result in Higher Costs

By expanding the list of qualifying relatives and easing the limits on how often an employee may use bereavement leave, the new benefit may create additional costs. The department assumes that the number of bereavement occurrences will double because of the new provision. If this occurs, we estimate that costs related to correctional officers would increase by about \$1.4 million annually based on leave accounting data for

fiscal year 2000–01. However, if bereavement leave usage continues at the lower level experienced during the first three months that the agreement was in effect, we estimate that the increase would be about \$463,000.

In previous agreements, covered employees were entitled to three days of bereavement leave with pay during each fiscal year for the death of specific relatives or members of the employee’s household. The new agreement expands this benefit by including additional family members and adding domestic partners as qualifying relatives. In addition, the agreement provides that employees are now allowed three days of paid bereavement leave for each occurrence rather than per fiscal year for more immediate family members, such as spouses, children, parents, and siblings. According to the DPA’s director, this change is consistent with current provisions in all 21 bargaining units covering state employees and represents a return to practices in the early 1980s.

Elimination of the Extraordinary Use of Sick Leave Program Has Likely Added to Overtime Costs

Although the previous labor agreement included a management tool called the Extraordinary Use of Sick Leave (EUSL) Program to monitor and discourage the excessive use of sick leave, the new labor agreement eliminated this tool. Further, an additional provision in the new agreement prohibits management from challenging an employee’s use of sick leave based solely on the amount or frequency of use. Although the department director recently clarified that the new agreement still permits management to discipline abusers of sick leave, correctional officers’ use of sick leave has increased dramatically under the new agreement. As a result, overtime costs have likely increased to cover for the added absences.

Correctional officer use of sick leave has increased dramatically since the elimination of the EUSL Program.

The EUSL Program was designed to identify patterns of what might be abuses of sick leave. The agreement defined extraordinary use as follows:

- An employee calls in sick more than five times a year and has nine or more total absences.
- An employee uses sick leave in conjunction with a regular day off three or more times a year.
- An employee has a bona fide pattern of sick leave use during the year.

- An employee uses sick leave on a day for which the department had already denied the use of another type of leave.

Employees who used sick leave in ways that met one of these definitions were placed on a monitoring list for up to six months. During this time, employees were required to furnish medical verification for any subsequent sick leave absence. Coupled with the added provision prohibiting management from challenging an employee's use of sick leave based solely on the amount or frequency of use, the elimination of the EUSL Program seems to have led to a large increase in correctional officers' sick leave use. Specifically, the department indicates that the amount of the officers' use of sick leave has increased on average by 20 percent since the State and the union agreed to a new contract in December 2001. As Figure 1 shows, sick leave use is higher each month from January through April 2002 than in the same months during 2001. This indicates that the EUSL Program may in fact have been successful in holding down excessive sick leave use.

Increases in sick leave use will likely increase overtime costs because of the department's unmet need for officers.

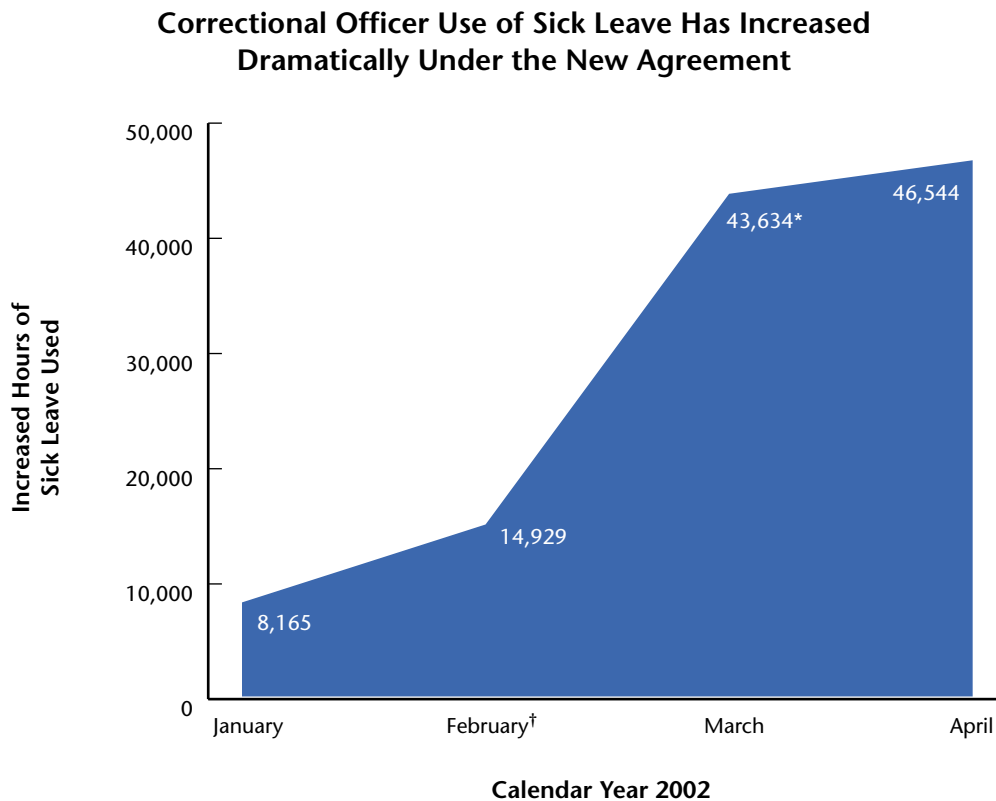
Also, the Legislature requires the department to submit a report annually, describing its effectiveness in reducing sick leave usage. The first report was due in January 2002, but the department has not yet submitted the report. We expect that when the department does submit the required report, the increase in sick leave usage will be apparent. As we discussed earlier in our report, the department has a large unmet need for officers. Therefore, the department will likely cover the increase in sick leave use with overtime.

According to the DPA's director, the union proposed elimination of the EUSL Program because it punishes employees who legitimately use sick leave. He further indicated that the program does so by assuming that employees who are absent a fixed number of times (or under certain circumstances) are abusing their sick leave. In addition, he stated that the program does not consider the facts underlying the absence. As a result, he said, the DPA agreed to end the EUSL Program. However, he also indicated that department management may still deny the use of sick leave, require medical verification, and counsel or discipline employees who misuse sick leave as long as the department considers the facts of each situation. In fact, based on consultation with the DPA's director, the department director issued a memorandum to management in June 2002 to clarify four points:

- The new agreement does not change employees' responsibility to be at work as scheduled unless their absences are approved.
- The agreement does not change the reasons that qualify for the use of sick leave.
- The agreement does not change management's responsibility to ascertain that absences are for an authorized reason before approving sick leave.
- Changes to the agreement bring correctional officers into line with the sick leave policies for all other state employees.

It remains to be seen whether this clarification will result in either an increase in discipline against abusers of sick leave or a reduction in correctional officers' use of sick leave.

FIGURE 1



Source: Department data obtained from the State Controller's Office Leave Accounting System.

* As an example, correctional officers used about 188,000 hours of sick leave in March 2002, compared to 144,000 hours in March 2001. This represents an increase of about 44,000 hours, or 30 percent.

[†] Although the DPA announced that the State and the CCPOA had reached agreement in December 2001, the union membership did not ratify the agreement until February 19, 2002.

Ongoing Labor Agreement Provisions Keep Personnel and Benefit Costs High and Limit Management's Control Over Custody Staff Assignments

We reviewed three provisions that remain unchanged from previous labor agreements and are still adding to the department's already high costs: the awarding of voluntary overtime on a seniority basis, the counting of sick leave used as time worked when determining overtime, and the contributing of funds to a supplemental retirement account. We estimate that these three provisions cost as much as \$36.3 million annually. Also, another existing provision allows custody staff with seniority to choose which posts they will work for up to 70 percent of all available posts. Known as post and bid, this process prevents management from assigning custody staff to posts at its discretion and limits management's ability to discipline or reward staff based on performance.

Assigning Overtime by Seniority Increases Overtime Costs

The labor agreement provision allowing correctional officers to volunteer for overtime based on seniority increases the department's overtime costs because correctional officers with the most seniority are typically paid more than those with less seniority for each overtime hour they work. Based on overtime data from July through December 2001, we estimate that if overtime hours were spread evenly among officers throughout the salary ranges, the department would save about \$4.8 million annually.

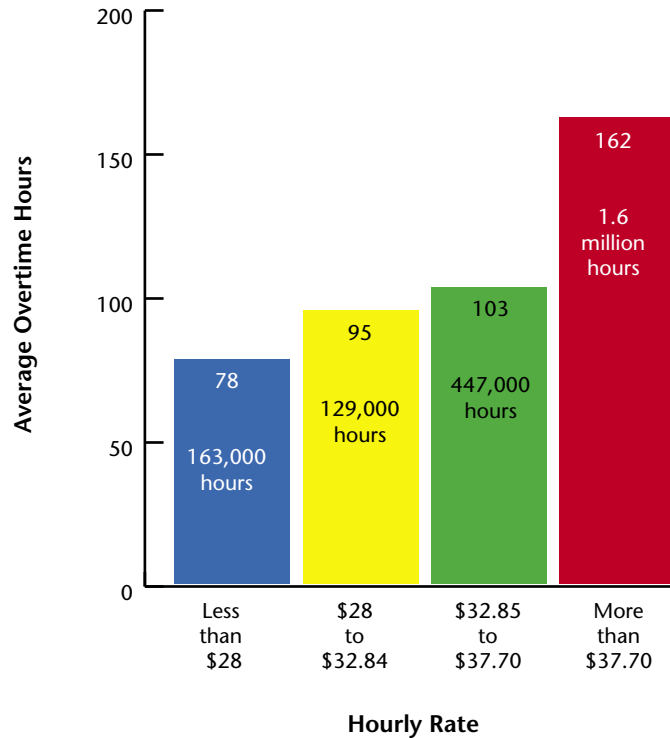
Figure 2 shows the average number of overtime hours that correctional officers worked at the department's 33 prisons from July through December 2001, grouped by the different hourly rates they were paid for the overtime. The averages were computed based on the number of correctional officers who worked at least one hour of overtime during the period, and the figure does not include overtime that any other class of custody staff may have worked.

For the six-month period, the figure shows that correctional officers paid at the highest hourly rates worked the most overtime hours on average, whereas those paid at the lowest hourly rates worked the least overtime hours on average. With the figure based on 2.3 million total overtime hours at the department's 33 prisons, the highest-paid staff worked 69 percent of the hours (1.6 million) yet were only 56 percent of the total correctional officers working overtime during the six months. In contrast, the lowest-paid correctional officers worked only 7 percent

The department could save about \$4.8 million annually by spreading overtime more evenly among officers throughout all salary ranges.

FIGURE 2

**Average Correctional Officer Overtime Hours
by Hourly Pay Rate for July Through December 2001
(2.3 Million Total Overtime Hours Worked)**



of the total hours (163,000) yet were 12 percent of those who worked overtime. Under the seniority-based system, the total overtime hours cost about \$88.5 million over the six-month period. However, if the same 2.3 million hours of overtime were spread evenly among officers throughout the salary ranges, we estimate the department would have saved about \$2.4 million over this six-month period, or \$4.8 million annually.

Including Sick Leave as Time Worked in Calculating Overtime Adds to the Department's Costs

A provision of the prior and current labor agreements allowing sick leave hours to count when determining overtime hours, could be adding as much as \$9.5 million to the department's annual costs. In a prior labor agreement, effective until June 30, 1999, the process for calculating overtime hours excluded sick leave hours as time worked. As a result, correctional officers who used sick leave during a given work period were not entitled to receive overtime pay until they worked,

or were excused from work because of other types of leave, the equivalent of a full four-week 168-hour work period. However, in the previous agreement and continuing in the new agreement, this provision was changed to include sick leave as time worked in calculating overtime. For example, assume that a correctional officer has a normal Monday to Friday day shift and works the whole 168-hour work period except for one Friday when the officer calls in sick. Assume also that the officer works an additional 8-hour shift on a Saturday during the work period. This officer would be entitled to 8 hours of overtime, though the actual number of hours worked does not exceed a normal full-time schedule. Under the earlier agreement, the officer would not have been entitled to the overtime. The department estimates that costs related to this provision will amount to about \$9.5 million in fiscal year 2001–02 based on actual leave data accumulated from its prisons from July through December 2001. As we discuss later in this section, the department asked the DPA to address this issue in its negotiations with the union, but the DPA declined. According to the DPA director, the use of leave by all state employees now counts when calculating overtime, and he was reluctant to further exacerbate an already acrimonious set of negotiations with a “take back” proposal that the CCPOA would have fiercely opposed.

Supplemental Retirement Program Increases the Department’s Costs

Since October 1, 1998, the State has contributed an amount equal to 2 percent of each qualified correctional officer’s base pay to a 401(a) defined contribution retirement plan, a program similar to a 401(k) plan. This plan supplements the primary retirement plan the State provides to correctional officers. This provision remains unchanged in the current labor agreement. We estimate that the department spent \$22 million in fiscal year 2001–02 to provide this benefit to its correctional officers. However, the DPA has included this benefit in its calculation of total correctional officer compensation for the purpose of determining future pay raises provided under the labor agreement. Had it not included this benefit in its calculations, the pay raises we discussed earlier would have been even higher than 37 percent. According to the director of the DPA, the CCPOA proposed the defined contribution plan as part of its continuing effort to achieve pay and benefit parity with other law enforcement personnel. He indicated that the DPA agreed to the plan as an alternative to other retirement benefits provided to California Highway Patrol officers and California Department of Forestry and Fire Protection firefighters.

The Post and Bid Provision Can Reduce Management's Discretion When Making Post Assignments

The continuing post and bid provision of the labor agreement generally provides that all correctional officer posts within a given prison are subject to assignment by seniority, through a process negotiated jointly between the local CCPOA chapter and management at each prison. Specifically, 70 percent of a prison's posts are available for correctional officers to fill on a seniority basis, and the prison's management chooses how to staff the remaining 30 percent. Once the local union chapter and prison management agree on the number and makeup of posts, correctional officers can bid for the posts based on seniority, and management makes assignments at its discretion to its share of posted positions. This provision can limit management's ability to place certain employees in sensitive or critical posts. Also, this can reduce management's ability to reward or discipline staff in seniority-bid posted positions. For example, if management determines that an employee with high seniority is not performing up to standards in a post filled on a seniority basis, management may decide to remove that employee from the post to ensure that the prison operates as effectively as possible. However, according to a department representative involved in negotiating this provision, management must then place that employee in one of its limited number of posts, further reducing its ability to assign employees to critical or sensitive areas. Similarly, if an employee with low seniority is performing above standards, management's ability to reward that employee by assignment to a premium post is limited because those posts are typically filled based on seniority. Moreover, although the post and bid provision has existed in previous agreements, the current agreement increases the overall number of qualifying positions subject to the provision. For example, medical technical assistants have been added as qualifying posts. Therefore, even though the 70:30 ratio has not changed, the department's discretion over the assignment of employees is even more limited.

Management's ability to reward or discipline staff in seniority-bid posted positions may be limited under the post and bid provisions.

The DPA Chose Not to Support Key Department Concerns During Labor Negotiations

In the latest round of negotiations that led to the new labor agreement with CCPOA, the DPA chose not to support key department concerns. As we noted in the Introduction, the DPA invites departments to submit Harvest Memos, which identify specific issues they would like to have addressed during

For various reasons, the DPA chose not to support the department's six priority-one issues during negotiations with the union.

the collective bargaining process. The department submitted about 30 Harvest Memos to the DPA, 6 of which it identified as priority-one issues. However, for various reasons, the DPA chose not to support these issues in negotiations with the union, and so they were not incorporated into the new agreement. According to the DPA director, Harvest Memos are often quite useful but can sometimes become “wish lists” that are prepared by managers who lack bargaining experience, knowledge of what other departments are proposing, or knowledge of the State’s overall bargaining objectives. The 6 priority-one Harvest Memos that the department submitted concerned the following three issues: annual leave, overtime, and recruitment incentives.

The first three Harvest Memos involved converting covered employees to the State’s annual leave program. Specifically, the department proposed replacing the sick leave and holiday leave programs with the annual leave program, and it proposed making the annual leave program mandatory for all covered employees. These proposals would have grouped the leave into a single category, but would not have changed the number of leave hours officers earn. The department stated that it submitted these issues because its covered employees’ leave balances were too high and their high use of sick leave too costly. The DPA director stated that the DPA did not support these proposals because they would be costly and because they would require mandatory participation in annual leave, which the union has consistently and vehemently opposed.

In a fourth priority-one Harvest Memo, the department sought to exclude sick leave as time worked when determining overtime payments. As we described in a previous section, the department estimates that costs related to this issue will amount to about \$9.5 million for fiscal year 2001–02. The DPA director told us that employee unions agreed to exclude sick leave for purposes of calculating overtime in 1992; however, this was reversed in all bargaining units by 1999. He also indicated that the DPA did not support the department’s suggestion because it conflicted with the DPA’s first priority, which was convincing covered employees to forgo pay increases for two more years because of the State’s current fiscal situation. Finally, the director said that the DPA was reluctant to further exacerbate an already acrimonious set of negotiations with a “take back” proposal that the union would have fiercely opposed.

The department’s fifth and sixth priority-one Harvest Memos addressed recruitment and retention incentives. The department

proposed that certain prisons be allowed to pay an increased housing stipend or a bonus based on the length of time worked at the prison to recruit and retain correctional officers, decrease overtime, and stabilize the prison workforce. The DPA director said that its negotiators did not propose these issues with the union for four reasons. First, because of the State's fiscal position, the DPA had established as a goal to negotiate a long-term contract with no salary increases during the first two fiscal years. Second, the director believes that a geographic pay increase does not address the department's statewide recruitment and retention problems. Third, the director said that agreeing to a geographic salary increase and a general salary increase would not be prudent until the impact of the latter on the department's recruitment problem could be measured. Finally, the director said that justifying salary increases based on geographic circumstances for just one bargaining unit when other bargaining units in the same area are affected by the same economy would be almost impossible. Although justifying salary increases based on geographic circumstances may be difficult, the State and union agreed to similar incentives for eight prisons in previous agreements.

RECOMMENDATIONS

To reduce its use of overtime, the department should do the following:

- Consider the feasibility of further increasing the number of correctional officer applicants and, if warranted, the physical capacity for training them.
- Pursue additional funding from the Legislature to operate its academy at full capacity.
- Maximize its use of intermittent officers by either converting them to full time or ensuring that they work as close to the 2,000-hour-a-year maximum as possible. For example, the department could preschedule intermittent officers for their maximum allowable time as relief officers to fill the needs currently being met with overtime.
- Fill vacant relief officer positions currently in its vacancy plan once it has filled its positions currently vacant because of insufficient staff.

Once it can attract more cadets to the academy than its budgeted positions, the department should pursue funding for additional correctional officer positions that it will need to reduce its reliance on overtime. Until such time as the department has enough correctional officers to meet its needs and incurs only unavoidable overtime, the department should be realistic in its budget and plan for the overtime it will need to cover its unmet need.


To reduce health and safety risks for its employees, the department should do the following:

- Reassess the number of budgeted full-time positions at each prison and determine whether reallocations are warranted because of excessive overtime at specific prisons.
- Pursue options to limit overtime that individuals work so that individuals do not exceed the 80-hour cap considered relevant for health and safety risks.

To better match the supply of correctional officers with the demand for correctional officers that use of overtime hours indicates, the department should consider assigning its academy graduates to those prisons that experience the highest levels of overtime. For example, if it has too many qualified candidates to fill a class, the department could give preference to candidates willing to go to the 10 prisons with the most overtime.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE
State Auditor

Date: July 30, 2002

Staff: John F. Collins, CPA
David E. Biggs, CPA
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Almis Udrys

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APPENDIX A

The Department's Prisons Vary in How They Measure and Fill Their Needs for Personnel

Throughout our report, we present a variety of data on staffing needs and overtime. This data indicates that prisons vary considerably in how they assess and fill their staffing needs. In this appendix, we bring together and define many of the key elements related to managing personnel resources and illustrate the differences by focusing on three prisons. First, we present a listing in Table A.1 on the following page of the California Department of Correction's (department) 33 prisons and the abbreviations used for them in Table A.2 on page 49, which presents various data on staffing needs and overtime by prison. We then provide descriptions of the specific data elements included in Table A.2 and end with a discussion of the data related to three prisons.

TABLE A.1**Department of Corrections' Listing and Abbreviations of Prisons**

Prison	Abbreviation
Avenal State Prison	ASP
California State Prison, Calipatria	CAL
California Correctional Center	CCC
California Correctional Institution	CCI
Central California Women's Facility	CCWF
California State Prison, Centinela	CEN
California Institution for Men	CIM
California Institution for Women	CIW
California Men's Colony	CMC
California Medical Facility	CMF
California State Prison, Corcoran	COR
California Rehabilitation Center	CRC
Correctional Training Facility	CTF
Chuckawalla Valley State Prison	CVSP
Deuel Vocational Institution	DVI
Folsom State Prison	FOL
High Desert State Prison	HDSP
Ironwood State Prison	ISP
California State Prison, Los Angeles County	LAC
Mule Creek State Prison	MCSP
Northern California Women's Facility	NCWF
North Kern State Prison	NKSP
Pelican Bay State Prison	PBSP
Pleasant Valley State Prison	PVSP
R.J. Donovan Correctional Facility	RJD
California State Prison, Sacramento	SAC
California Substance Abuse Treatment Facility and State Prison, Corcoran	SATF
Sierra Conservation Center	SCC
California State Prison, Solano	SOL
California State Prison, San Quentin	SQ
Salinas Valley State Prison	SVSP
Valley State Prison for Women	VSPW
Wasco State Prison	WSP

TABLE A.2 Prison Data on Resource Needs and Overtime

(1) Prison*	(2) Budgeted Full-Time Correctional Officers [†]	(3) Maximum Officers Allowed [†]		(4) Initial Measure of Unmet Officer Need [†]		(5) Vacant Officer Positions Per Institutional Vacancy Plan [†]		(6) Average Number of Intermittent Officers [‡]	(7) Equivalent Number of Unused Intermittent Officers [‡]	(8) Total Overtime Costs for Custody Staff [§]	(9) Equivalent Full-Time Officers Needed to Avoid Overtime [‡]	(10) Overtime Need Minus Initial Unmet Officer Need (col.9 - col.4)	(11) Number of Officers Exceeding Overtime Cap on Average [¶]
		Full-Time	Intermittent	Full Time	Intermittent	Relief	Nonrelief						
ASP	633	656	76	45	40	85	28	14	45	\$ 3,992,864	117	32	0
CAL	595	653	71	109	61	170	18	11	33	3,335,369	102	(68)	3
CCC [§]	384	401	46	28	19	47	0	0	20	6,581,985	184	137 [§]	\$
CCI	956	963	115	46	41	87	31	15	88	4,287,244	123	36	5
CCWF	368	374	43	37	2	39	28	9	41	1,691,043	48	9	7
CEN	599	651	72	115	21	136	33	20	52	2,430,285	71	(65)	1
GIM	784	865	94	105	4	109	16	9	94	5,758,711	166	57	31
CIW	242	272	29	26	2	28	2	10	37	981,521	28	0	1
CMC	732	768	88	74	27	101	10	26	82	2,219,299	62	(39)	2
CMF	536	568	64	27	62	89	4	8	23	3,406,836	99	10	16
COR	985	1,032	118	61	87	148	15	8	103	5,501,674	162	14	13
CRC	616	652	74	64	11	75	18	9	89	2,308,601	66	(9)	4
CTF	829	891	99	207	99	306	5	5	21	5,798,770	170	(136)	21
CVSP	356	374	42	(14)	41	27	20	11	0	1,672,365	49	22	1
DVI	507	544	61	49	26	75	21	12	65	2,297,550	67	(8)	0
FOL	380	388	46	27	11	38	3	14	45	1,194,820	33	(5)	0
HDSP	681	727	82	18	77	95	11	6	4	3,534,745	109	14	4
ISP	628	686	75	132	75	207	34	27	4	2,871,987	87	(120)	4
LAC	613	670	74	4	45	49	10	11	28	3,700,977	108	59	6
MCSP	474	474	57	45	38	83	31	13	38	1,964,283	55	(28)	3
NCWF	105	107	13	4	2	6	0	0	13	407,042	11	5	1
NKSP	613	662	74	108	(5)	103	33	8	75	2,034,166	58	(45)	0
PBSP	819	874	98	94	78	172	23	16	38	3,916,177	112	(60)	11
PVSP	596	633	72	79	41	120	27	15	48	2,931,830	88	(32)	2
RJD	605	657	73	86	16	102	0	0	75	3,601,206	104	2	7
SAC	695	750	83	62	20	82	35	26	78	2,911,653	83	1	2
SATF	825	861	99	47	89	136	34	12	38	5,138,825	151	15	16
SCC [§]	401	423	48	50	15	65	11	20	42	6,922,844	187	122 [§]	\$
SOL	584	610	70	53	33	86	8	23	53	3,915,189	116	30	17
SQ	798	874	96	62	84	146	22	11	32	5,172,474	145	(1)	38
SVSP	680	715	82	53	81	134	24	1	1	4,394,736	134	0	12
VSPW	366	376	44	43	7	50	22	13	40	2,357,349	68	18	7
WSP	624	655	75	34	18	52	31	23	82	1,385,735	39	(13)	0
Totals	19,609	20,806	2,353	1,980	1,268	3,248	608	406	15,27	\$110,620,159	3,202	(46)	235

* See Table A.1 on page 48 for the full names of the department's 33 prisons.

† Data included on or derived from September 2001 Basic Correctional Officer Academy Request for Officer Cadets forms.

‡ Figures derived from July through December 2001 payroll data maintained by the State Controller's Office.

§ CCC and SCC are prisons with missions that include training and deploying firefighters. Accordingly, their overtime use may be less predictable and avoidable. Therefore, we have not included the number of officers exceeding the cap for these two prisons.

|| The average number of intermittent officers for these prisons exceeds the officers allowed amounts in column 3 since the labor agreement allows the department to exceed the 12 percent cap in some cases.

(1) Prison

The column abbreviates the names of the department's 33 prisons. The complete names of each prison are in Table A.1.

(2) Budgeted Full-Time Correctional Officers

This column provides the number of correctional officers that the department's budget authorized to each prison, as reported on the prison's September 2001 forms requesting officer cadets. Both relief and nonrelief officers are full-time officers.

(3) Maximum Officers Allowed

Figures in this column represent the number of positions that the department's budget authorizes for each prison, plus adjustments the department makes to cover for officers out sick. The labor agreement establishes the allowed number of intermittent officers at 12 percent of the number of budgeted full-time officers. Because the department does not receive funding for most intermittent positions, as illustrated in Table 4 of our report, the prisons do not typically include the maximum allowed when they request more intermittent officers from the academy.

(4) Initial Measure of Unmet Officer Need

The initial measure of unmet full-time officer need is the difference between the maximum number of officers allowed and the number of these positions that were filled as of September 2001, including projections of correctional officers that each prison is scheduled to receive from the next training academy, the estimated number of correctional officers transferring from one prison to another, each prison's estimate of the number of intermittent officers it will roll over into full-time positions, and each prison's estimated attrition. We refer to this as an initial need because when we calculate the overtime need minus the initial unmet officer need in column 10, some prisons appear to have more officers allowed than they need. Similarly, the unmet need for intermittent officers is the difference between the maximum allowed and filled intermittent positions in September 2001, as adjusted for projected changes in the intermittent count by the time of the next academy graduation. Negative amounts appear in this column for CVSP and NKSP because prisons are allowed, in certain circumstances, to exceed their authorized number of positions.

(5) Vacant Officer Positions Per Institutional Vacancy Plan

The department's Institutional Vacancy Plan (vacancy plan) is explained in the Introduction and body of this report. The numbers presented in these columns are the numbers of relief and nonrelief positions each prison has placed, in concert with the local union, in the vacancy plan. The amounts are taken from forms each prison prepared and submitted to the academy, expressing its needs for correctional officers in September 2001. Because the forms included only a total number, we derived the breakdown between relief and nonrelief positions by applying ratios obtained from department data as of January 2002 to the September 2001 figures.

(6) Average Number of Intermittent Officers

Figures in this column represent the average number of intermittent officers working at each prison between July and December 2001, as determined from the payroll history files maintained by the State Controller's Office.

(7) Equivalent Number of Unused Intermittent Officers

These amounts represent the maximum number of hours that intermittent officers at each prison could have worked between July and December 2001 but did not; the result is then expressed as equivalent intermittent positions. To determine these amounts, we divided the amount of unused intermittent officer time during this period by 1,000, which is half of the 2,000 hours these employees are generally allowed to work each year. In determining the amount of overtime that the department could have saved by maximizing its intermittent officers' time, we used a full-time equivalent standard of 1,800 work hours a year.

(8) Total Overtime Costs for Custody Staff

This column presents the amount of overtime each prison paid its custody staff, including correctional officers, sergeants, lieutenants, and captains between July and December 2001. We include overtime worked by sergeants, lieutenants, and captains because, as more officers promote to these classifications, the department will ultimately need more officers to replace them.

(9) Equivalent Full-Time Officers Needed to Avoid Overtime

This column expresses the total hours of overtime that each prison incurred between July and December 2001 in terms of equivalent full-time officers that the department would have needed in order to avoid all of its custody staff overtime. In determining these amounts, we used a standard of 1,800 work hours a year for a full-time officer to reflect reductions for leave, training, and other absences that would take up some of the officers' time.

(10) Overtime Need Minus Initial Unmet Officer Need

These amounts are determined by subtracting the amounts in the *Initial Measure of Unmet Officer Need* column (column 4) from amounts in the *Equivalent Full-Time Officers Needed to Avoid Overtime* column (column 9) for each prison. A positive number in this column suggests that the prison may need more officers and a negative number suggests that the prison has more officers allowed than it needs.

(11) Number of Officers Exceeding Overtime Cap on Average

This column presents the number of correctional officers at each prison who averaged more than 80 hours of overtime in each four-week 168-hour work period during the months of July through December 2001. The current labor agreement limits the ability of correctional officers to accept more than 80 hours of overtime in each work period.

In the paragraphs that follow, we explore differences in how three prisons' overtime burden compares to the initial measure of their unmet officer need, how fully they use their intermittent officers, and what impact the institutional vacancy plan may have on their overtime burden in the near future. We chose Avenal State Prison (ASP), Ironwood State Prison (ISP), and R.J. Donovan Correctional Facility (RJD) because these three prisons appear to be of similar size. Each is budgeted for between 600 and 650 correctional officers and is allowed to hire about 75 intermittent officers.

Although the maximum number of officers allowed at these prisons are similar, the actual workload may vary greatly. We compared the *Equivalent Full-Time Officers Needed to Avoid Overtime* (column 9) with the *Initial Measure of Unmet Officer Need* (column 4) for the three prisons. To the extent that the maximum numbers of officers allowed are appropriate, we

would expect the differences to be at or near zero, meaning that the prison used overtime to meet needs not covered by the allowed number of full-time and intermittent officers. However, as Table A.2 indicates, this was not always the case. For example, looking in order at columns 9, 10, and 4, we see that ASP incurred the equivalent of 117 officers' worth of overtime, 32 more than the initial measure of its need, suggesting that ASP may have too few officers allowed. Meanwhile, RJD's figures came out close to the expected result, with an overtime equivalent of 104 officers, almost the same as the 102 officers calculated as its initial unmet need. Finally, ISP appears to have more officers allowed than it needs because it incurred the equivalent of only 87 officers in overtime while having an initial unmet need of 207 officers, a difference of 120 officers that would not have been needed to cover overtime worked. Indeed, without even considering intermittent officers, we see that the 132 full-time officers alone exceeded the 87 officers needed to avoid overtime.

The three prisons also appear to employ different practices in their use of intermittent officers. Table A.2 shows that although each prison was allowed to hire about 75 intermittent officers (column 3), each used these resources differently. In particular, ISP appears to have such a large unmet need for full-time officers that it does not have very many intermittent officers: As column 6 indicates, it had an average of only 4 intermittent officers from July through December 2001. This highlights the importance of considering the number of intermittent officers each prison actually has in conjunction with the equivalent number of unused intermittent officers, because if a prison has few intermittent officers, their unused time has less impact on overtime. On the other hand, RJD on average used all of the intermittent officers it was allowed to and made sure that they were fully occupied. Therefore, it had the equivalent of only one unused intermittent officer. Finally, ASP used more than half the number of intermittent officers it was allowed to. However, its average of 45 intermittent officers worked only the equivalent of 28 full-time intermittent officers, leaving a net of 17 that were not used. Therefore, it appears that ASP could ease its overtime burden by increasing its use of intermittent officers.

As we described in the Introduction and body of this report, the department intentionally keeps more than 1,000 budgeted correctional officer positions vacant as part of its vacancy plan. This practice does not currently affect the department's fiscal problem because the total number of vacancy plan positions

is far less than the overall number of officers the department presently needs to avoid overtime. Again, however, each prison differs in how it has negotiated this at the local union level. In particular, RJD does not intentionally keep any positions vacant. ASP and ISP leave a total of 42 and 61 positions vacant, respectively. Among these vacancies, ASP had approximately 28 and ISP nearly 34 relief officer positions, which are intended to cover for staff in posted positions who are using some type of leave. To the extent that the department is able to fill its vacancies, ASP and ISP will be in a position to reduce their overtime burdens by filling the relief positions currently in their vacancy plans.

APPENDIX B

The Department's Regional Approach for Providing Medical Care to Inmates Seems Reasonable, Though Some Prisons Incur Added Costs for Medical Transportation

As we discussed in the Scope and Methodology section of this report, the Legislature expressed an interest in the impact of medical transportation on the California Department of Corrections' (department) costs for providing medical care to inmates. We found that although prisons may incur added costs by transporting inmates greater distances, the volume of medical services the department needs supports a regional approach for providing medical care to inmates.

Our analysis of the department's data showed that its 33 prisons averaged approximately five inmates per day who required medical treatment at community hospitals, including both inpatient and outpatient services, from July 1, 2001, through December 31, 2001. Many of these services are provided by 12 community hospitals with which the department has established master agreements to serve multiple prisons in a region. According to the department, in addition to providing competitive medical rates and a wide range of services, these hospitals agree to construct a secure custody unit with as many as 22 beds for treating inmates. The department then provides the custody staff needed to guard the units. Because fewer correctional officers are needed to guard inmates in these secure units than in a normal hospital environment, the department saves money.

Under this regional approach, some prison staff have to travel long distances to transport inmates to the contract hospitals. For example, Folsom State Prison and California State Prison, Sacramento, must transport most of their inmates to Doctors Hospital of Manteca, a three hour round trip, for many inpatient and outpatient services. Despite the increased travel costs, the department has concluded that transporting inmates to a regional hospital is more cost-effective than taking them to a hospital in the prison's immediate area that may charge substantially higher rates for medical services. The department

might reduce its medical transportation costs if each prison contracted separately with a hospital nearby, but the daily volume of patients would not likely be sufficient for the hospital to justify constructing a custody unit. For example, the president of Mercy Hospital of Folsom (Mercy Folsom) estimated that the hospital would have to have at least six patients in the custody unit each day, as inpatients or outpatients, in order for a contract with the department to be worthwhile. From July 1, 2001, through December 31, 2001, the average daily number of inpatients and outpatients that both Folsom State Prison and California State Prison, Sacramento, had in community hospitals, including Mercy Folsom, was just under six. Although this average number of patients from the two prisons nearly reaches the minimum patient level estimated by the president of Mercy Folsom, the amount of savings to the department at that minimum level would not likely be significant.

APPENDIX C

The Department of Personnel Administration Provides Its Perspective on Collective Bargaining and the New Labor Agreement With the California Correctional Peace Officers Association

In this appendix, we present a letter that the Department of Personnel Administration provided us to explain its perspective on the collective bargaining process that led to the new labor agreement between the State and the California Correctional Peace Officers Association.

STATE OF CALIFORNIA

DEPARTMENT OF PERSONNEL ADMINISTRATION

OFFICE OF THE DIRECTOR

1515 "S" STREET, NORTH BUILDING, SUITE 400

SACRAMENTO, CA 95814-7243

July 3, 2002

Elaine Howle
California State Auditor
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Re: *Audit No. 2002-101*

Dear Ms. Howle:

This is in response to your letter of June 3, 2002, regarding your request for documents relating to the contract my office negotiated with Bargaining Unit 6. It is also in response to our highly productive meeting on June 20, 2002. My understanding is that your office has been provided with all documents requested. Thank you for recognizing and agreeing to respect the privilege DPA must assert to protect the integrity of the collective bargaining process.

On May 24, 2002, we wrote to you with an explanation of why certain collective bargaining documents are protected by statute from public disclosure. Some of our explanation bears repeating. Collective bargaining is a process wherein difficult choices must be made. Not all requests can be filled or demands addressed. Confidentiality enables the parties to prioritize their demands, think creatively about their options, and realistically assess what they can and cannot do to reach agreement. Unions would be dissuaded from making bargaining concessions or other proposals that might be criticized by their members unless there was some assurance of confidentiality. DPA would not solicit bargaining suggestions from other departments, as it does with its "harvest memos," if there was a chance that public disclosure of such memos might create unrealistic expectations or anxieties. No coherent bargaining strategy could be developed unless the State could privately evaluate the cost of bargaining proposals and then decide if or how to fund those proposals.

Notwithstanding the above, we offer this letter and/or the information contained herein for inclusion in your public report. We believe that inclusion of this letter will aid in a fuller and fairer understanding of the collective bargaining process and the Unit 6 negotiations.

In offering this letter and/or the information below for inclusion in your public report we do not waive any of the privileges described above, or any of the privileges we have previously asserted. Nor do we intend that the public disclosure of this letter and/or information contained herein is a waiver, partial or otherwise, of the privileges asserted. Publication of this letter and/or the information contained herein in no way should be construed as inconsistent with a desire to protect the underlying documentation from public disclosure. See Govt. Code section 6254, subd. (p) and *Rockwell International Corporation v. U.S. Department of Justice* (2001) 235 F.3d 598, 344 U.S.App.D.C. 226).

The Goal of Collective Bargaining

The goals and objectives for collective bargaining are summarized in Government Code section 3512 of the Dills Act. That section states that the purpose of collective bargaining for State employees is to provide a method for resolving disputes regarding wages, hours, and other terms and conditions of employment. Thus, the State's goal is to enter into long-term agreements that promote stable employer-employee relations without disruption in the workplace. This goal can rarely be achieved as the result of taking back salaries, benefits, or working conditions that employees already enjoy. Expiring collective bargaining agreements therefore provide a rough baseline from which bargaining generally begins.

The bargaining process is a series of concessions by both sides regarding improvements in salaries, benefits, and working conditions. DPA balances the State's overarching goals against the preferences of departments as the process unfolds. If a union will not agree with a State proposal, DPA weighs the value of the proposal against the consequences of intractable bargaining. Intractable bargaining rarely serves the purposes of the Dills Act. It results in months (and years) without contracts; it disrupts services; it lowers morale; it destabilizes the workforce; and it costs money.

Statutory Basis for Corrections Salaries

The parameters of the Unit 6 negotiations were determined from the outset by statutorily expressed policies. Specifically, Government Code section 19827.1 acknowledges the historic problem of recruitment and retention of correctional officers, and sets forth a policy that salary for these officers "must be improved and maintained" by taking "into consideration the salary and benefits of other large employers of peace officers in California." DPA was guided by this statute. The final agreement on salaries reflects a series of compromises consistent with section 19827.1. CCPOA, for its part, dropped demands for immediate pay parity and agreed to forgo all salary increases for the first two years of the agreement. In return, a longer-term deal was struck wherein pay increases are provided in latter years in accordance with a formula that does not provide full pay parity, but takes into account pay levels for CHP officers (as mandated under Government Code section 19827) and maintains a historic salary relationship between correctional officers and other California peace officers. We believe this formula fulfills our legal obligation even though it falls short of CCPOA's demand for full and immediate parity with the CHP.

CCPOA Proposals

In your letter, you state you intend to disclose which party proposed certain provisions, or whether it was arrived at as a result of compromise. All provisions of the MOU represent compromise. No single provision is negotiated in isolation. It is impossible to determine whether DPA or CCPOA were proposing a provision or responding to the other party simply by looking at written documents.

Some early discussions with your office led us to believe the auditors felt each provision in the MOU represents give-and-take in relation to that item alone, and that all proposals are written. I think that in our meeting we all agreed that many different subjects are on the table at the same time, often just in oral form. As the State makes concessions about part or all of one subject, the union makes them in relation to another. The parties also spend a considerable amount of time discussing the problem they are trying to solve in order to find a mutually agreeable solution. These discussions may eventually evolve into written proposals that reflect none of the give-and-take that lead up to them. Some of the proposals CCPOA dropped or modified as part of this process include:

- A. Full salary parity with CHP effective immediately
- B. Educational incentive pay the same as CHP effective immediately
- C. State to pay employees' share of retirement contributions
- D. 4800 time effective immediately
- E. 3% at 50 retirement formula effective January 2002
- F. Complete employer-paid health care coverage in all rural areas
- G. Overtime after 40 hours each week
- H. Additional employer paid 2% into employees' POFF II accounts
- I. Increased uniform allowance
- J. All vacancies filled (no salary savings)
- K. All positions filled by post/bid
- L. Most senior transfer applicants must be hired (no management ability to reject anyone for any reason)
- M. Elimination of random drug testing
- N. Ability to carry over unlimited amount of vacation and annual leave

Potential Costs of Provisions

DPA has a Financial Management Division that provides costing assistance during bargaining. The Financial Management Division met with the Department of Finance (DOF) many times throughout the course of negotiations. As early as March 2001, DPA and DOF discussed potential costs that would have to be built into Budget Item 9800, and potential costs that would have to be built into CDC's budget through the normal budget change proposal process. The Department of Finance determined that Item 9800 is restricted to adjustments made for existing employee salaries and wages.

During November and December 2001, a number of meetings were held with DOF to discuss estimated costs and the appropriate budget process for various Unit 6 proposals.

In January 2002, DPA provided the Legislative Analyst's Office, the Assembly, and the Senate with a fiscal summary of the proposed Unit 6 MOU. The final paragraph states there are other costs associated with the MOU, which are not included in Item 9800, including 7K.

Harvest Memos

It is appropriate for departments to suggest bargaining proposals but it is DPA's responsibility to consider the suggestions in the broader context of bargaining. Thus, before bargaining begins, DPA invites departments to submit suggested bargaining proposals. They are often quite useful; however, they can sometimes become "wish lists" that are prepared by managers who lack bargaining experience, knowledge of what other departments are proposing (which is frequently contradictory), or knowledge of the State's overall bargaining objectives. Harvest memos are also problematic on occasion because they suggest "take backs" or propose new programs that have significant state-wide operational and fiscal implications (e.g., leave buy back programs). In fact, some suggestions simply add to State costs and are intended to support ideas or programs where funding has already been denied. Finally, contrary to policy some harvest memos are submitted directly to DPA by line supervisors or managers who have not obtained higher-level review or approval.

At the commencement of the 2001-02 Unit 6 negotiations, the Department of Corrections (CDC) provided DPA with a binder containing its harvest memo suggestions. CDC had six priority-one issues that are discussed below.

1. Sick Leave, Holiday, and Annual Leave

CDC made a number of sick leave, holiday, and annual leave suggestions. However, these suggestions all were premised on CCPOA agreeing to eliminate the accrual of sick leave and vacation as an option for its members, and replace it with mandatory participation in the annual leave program. They were also dependent on increasing the annual leave accrual rate; converting unused sick leave to annual leave; permitting employees to cash out up to 48 hours of annual leave each year; and, converting remaining sick leave to service credit for retirement purposes.

The above are all costly and all require mandatory participation in annual leave, a program that eliminates sick leave entirely. In prior negotiations, CCPOA reluctantly agreed to voluntary participation in annual leave. CCPOA has consistently and vehemently refused to agree that participation in annual leave is mandatory. In fact, so have the majority of all other State bargaining units. Throughout the negotiations, DPA explored a number of sick leave incentive program options with both CDC and CCPOA. These discussions were fruitless because CDC was unable to absorb the cost and CCPOA was unwilling to divert money from other pay increases to such a program.

2. Overtime

Government Code section 19853 provides:

For the purpose of computing the number of hours worked, time when an employee is excused from work because of holidays, sick leave, vacation, annual leave, or compensating time off, shall be considered as time worked by the employee.

As a result, use of leave by all State employees counts when calculating overtime unless the employees relinquish that right during collective bargaining. In 1992, the employee unions agreed to exclude sick leave for purposes of calculating overtime. This change was short-lived. It was reversed in all bargaining units by 1999.

In its harvest memo, CDC suggested that the State propose excluding sick leave from overtime calculations again. DPA declined after balancing the suggestion against its first priority, which was convincing 28,000 Unit 6 employees to forgo pay increases for two more years because of the current fiscal situation. DPA was also reluctant to further exacerbate an already acrimonious set of negotiations with a “take back” proposal that CCPOA would have fiercely opposed.

3. Recruitment and Retention Incentives

CDC suggested two geographic pay increase proposals for Unit 6. DPA did not make this proposal to CCPOA for four reasons. Our goal was to negotiate a long-term contract with no salary increases during the first two years because of the State’s current fiscal situation. Second, a geographic pay increase does not address CDC’s statewide recruitment and retention problems. Third, it was not prudent to agree to a geographic pay increase and the general salary increase effective July 1, 2003, until the impact of the latter on CDC’s recruitment problem could be measured. Fourth, it is almost impossible to justify salary increases based on geographic circumstances for just one bargaining unit when there are other bargaining units in the same area impacted by the same local economy.

New Provisions

1. Salary Increases

DPA projected the cost for total compensation increases during bargaining. Your office has been provided the underlying costing documents.

2. Retirement

DPA received information from CalPERS before agreeing to the new retirement formula, which we believe you have a copy of. CalPERS estimated the increase in the State’s contribution rate will be 1.012% (\$22.5 million) per year. We note that the increased employer cost for the new retirement formula will not be added to the State’s budget until after Fiscal Year 06/07.

3. 7K Exemption and Costs

The cost of the 7K provision was known at the time we bargained because, as described below, it is derived directly from the FLSA. No additional costing was needed.

All employees covered by the Fair Labor Standards Act must be paid overtime if they work more than 40 hours in a week, or more than 160 hours every 28 days. Federal law permits an exception for law enforcement personnel but only if the employees' union agrees. CCPOA agreed to 168-hour work periods without overtime in its prior contract. Four of the extra hours is for training conducted after employees complete an eight-hour shift.

CCPOA flatly refused to continue the 168-hour work period in the new agreement. As noted above, federal law requires that without CCPOA's agreement, the eight-hour difference must be compensated at time and one-half. This would have cost the State \$120 million each year. Therefore, it was in the State's best interest to reach agreement with CCPOA. To reach agreement, the State needed to accommodate CCPOA's demand for a shorter work period (i.e., ending the practice of one 12-hour workday each work period) and to protect the State against new, additional costs for as long as possible. Ultimately, an accord was reached under which CCPOA members work a longer normal work week than virtually any other State employees.

CCPOA agreed its members would continue working 168 hours without overtime until July 1, 2004, because of the State's current fiscal situation. Beginning July 1, 2004, CCPOA also agreed its members would work 164 hours without overtime compensation. The four-hour difference is for training previously done without overtime at the conclusion of an eight-hour shift. The training will now occur during the employees' regular eight-hour shifts.

The cost of 7K was discussed with the Department of Finance and CDC prior to reaching agreement with CCPOA. Reaching agreement with CCPOA saves the State \$360 million (\$120 million during each of the first three years of the contract) as discussed above. The cost during the last two years of the agreement is the equivalent of four hours or 2.5% for each rank-and-file employee. One percent of the base salary for all Unit 6 rank-and-file employees costs \$16 million. Thus, the cost for 7K is \$40 million per year for two years. This represents a \$280 million savings when compared to the cost of failing to reach agreement. The amount includes all departments with Unit 6 employees. It assumes each employee's position must be covered by someone else while the incumbent attends 7K training. It also assumes coverage is provided on a straight-time basis. In the event that overtime is required for each position, the cost would be \$60 million for all departments, which still represents a savings of \$240 million when compared to having no agreement.

4. Physical Fitness Incentive Pay

DPA also costed the increase in physical fitness incentive pay. This cost is offset to the degree the new MOU requires employees to take a medical examination at their own expense instead of CDC administering a fitness test.

5. Bereavement Leave

In the early 1980s, employees were entitled to three days of bereavement leave per occurrence when a family member died. Later, the MOU provisions were changed so employees received a total of three days per fiscal year for specified family members. As a result, employees were not entitled to bereavement leave when more than one family member died during the year. This prompted most bargaining units to propose one or both of the following: (1) reverting to three days per occurrence; or (2) expand the list of family members for which bereavement leave could be taken.

In 1999, some unions succeeded in negotiating provisions that allowed three days per occurrence for certain immediate family members recognizing that more time is needed for funeral arrangements and estate planning. In 2001, this concept was clarified and extended to all 21 bargaining units.

The provision results in employees using bereavement leave in lieu of other forms of leave (e.g., vacation) if more than one close family member dies in a single fiscal year. There is no present cash value associated with the unused leave (e.g., vacation) that remains on the books. DPA acknowledges that the accrued and unused leave (e.g. vacation) remains an ongoing liability that will either be used or cashed out in the future. Moreover, the provision will not result in an additional cost for filling in behind employees on bereavement leave because employees take time off for family member deaths, regardless of the type of leave being used. Bereavement leave is not a benefit that accrues and is later cashed out. The amount of bereavement leave employees will use for multiple family deaths in a single year is speculative, and there are no records about multiple family deaths from which to make projections.

6. Extraordinary Use of Sick Leave (EUSL)

The EUSL program does not exist for other State employees. CCPOA proposed elimination of the EUSL program for Unit 6 because it punishes employees who legitimately use sick leave. The program does so by assuming employees who are absent a fixed number of times (or under certain circumstances) are abusing their sick leave. The presumption is irrefutable, and the program does not consider facts underlying the absence. EUSL results in employees being placed on a list of sick leave abusers who are required to be seen by their health care provider each time they are absent, and without regard to the severity of the illness, for at least six months. DPA agreed to end the EUSL program for these reasons, and for the same policy reasons expressed by the Legislature through Labor Code section 233 and in the Family Medical Leave Act.

The new MOU does not change the criteria for use of sick leave. CDC management may still deny the use of sick leave; require medical verification; and counsel or discipline Unit 6 employees who misuse sick leave. In so doing, CDC must consider the facts of each situation, rather than automatically taking action based solely on the number or frequency of absences.

Continuing Provisions

1. Seniority-Based Overtime and Post/Bid

DPA did not cost the seniority overtime scheduling system. The provision did not change and its cost has been absorbed within the State's budget for many years.

Unit 6 employees have been bidding for positions for many years. The new agreement changes which positions are available for bid. It also establishes an ongoing bid process. DPA disagrees with assertions that post/bid provisions will result in increased workers' compensation costs.

2. Sick Leave Included In Overtime

The new Unit 6 MOU does not take back the inclusion of sick leave when calculating overtime. The prior contract provision was continued for reasons discussed above. (See item 2 in Harvest Memo section.)

3. Defined Contribution Plan

The Unit 6 MOU does not take back the Defined Contribution Plan that has been in effect and funded since 1998.

The defined contribution plan (POFF II) took effect in the 1998-1999 agreement. It was proposed by CCPOA as part of the union's continuing effort to achieve pay and benefit parity with other law enforcement personnel. It was agreed to as an alternative to a benefit conferred on Unit 5 beginning in 1992 which requires the State to pay 100% of California Highway Patrol Officers' employee contribution for retirement. It is also an alternative to what the Unit 8 firefighters receive (i.e., the State paying 2% of the firefighters' employee contribution to retirement.)

4. Post and Bid

CCPOA and the Department of Corrections negotiated two changes in the post/bid procedures that are included in the new Unit 6 MOU. The first change concerns how the pre-existing 70/30 split will be calculated in the future. The second change is that the bid process is continuous, rather than just once every two years.

Conclusion

With the information above, DPA has attempted to provide your office with detailed insights into the recent Unit 6 negotiations. We think this information will greatly aid your efforts to make a full and accurate report. We welcome any questions or comments you may have about this information. We look forward to working with your office in completing a report for the Legislature.

Sincerely,

(Signed by: Marty Morgenstern)

Marty Morgenstern
Director

Agency's comments provided as text only.

Youth and Adult Correctional Agency
1100 11th Street, Suite 400
Sacramento, CA 95814

July 16, 2002

Elaine M. Howle
State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, California 95814

Dear Ms. Howle:

We appreciate the opportunity to respond to the draft audit report entitled "California Department of Corrections: A Shortage of Correctional Officers, Along With Costly Labor Agreement Provisions, Raise Both Fiscal and Safety Concerns and Limit Management Control." Enclosed is the California Department of Corrections' (CDC) response to the audit report. As you will note from their response, prior to the audit, CDC had already taken steps to address some of the issues identified through the audit.

We appreciate the thoroughness of your review and will seriously consider the recommendations put forth in the audit report. We remain receptive to receiving your input on ways to improve our operations and remain committed to our overall public safety mission.

If you have any questions concerning the enclosed response to the audit report, please contact me at 323-6001.

Sincerely,

(Signed by: Robert Presley)

ROBERT PRESLEY
Secretary

Enclosure

State of California
Department of Corrections

Memorandum

Date : July 16, 2002

To : Elaine M. Howle
State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Subject: **RESPONSE TO THE BUREAU OF STATE AUDITS' REPORT: A SHORTAGE OF CORRECTIONAL OFFICERS, ALONG WITH COSTLY LABOR AGREEMENT PROVISIONS, RAISE BOTH FISCAL AND SAFETY CONCERNS AND LIMIT MANAGEMENT CONTROL**

Thank you for the opportunity to respond to the Bureau of State Audit's (BSA) report titled "California Department of Corrections: A Shortage of Correctional Officers, Along With Costly Labor Agreement Provisions, Raise Both Fiscal and Safety Concerns and Limit Management Control." The California Department of Corrections (CDC) generally agrees with the report, and appreciates the BSA's recognition of the challenges facing CDC in terms of the Correctional Officer (CO) staffing shortage and fiscal ramifications of the recent labor agreement.

Prior to the audit, the CDC recognized the need to fill as many vacant CO positions as possible. The Department undertook a concerted effort to fill vacancies by aggressively pursuing enhanced recruitment policies (made possible by an increase in funding authority in the 2000 Budget Act) with positive results. We achieved a 42 percent increase in the number of cadets that graduated in fiscal year (FY) 2001/02 compared to FY 1998/99, which is expected to contribute to the reduction of unfunded overtime expenditures by reducing CO vacancies. Although the Department has maximized the cadet capacity of its Correctional Academy, further expansion of the Academy will require additional resources. Modification of the cadet hiring process has also enhanced the ability of institutions in remote locations to fill vacancies by allowing potential recruits permanent full time positions. However, the extent of filling CO positions in a particular institution, and management's ability of moving staff among institutions are limited due to contractual agreement.

Another step taken to manage sick leave usage and overtime costs was the establishment of an Overtime/Sick Leave Management Review committee chaired by the Warden or designee at every institution, implementation of an interim monthly monitoring system for overtime usage, and maximizing the use of Permanent Intermittent Correctional Officers (PICO). As mentioned in the report, the Department is currently utilizing 91 percent of its available intermittent employee time. Achieving 100 percent result is unlikely, because a sizable group

Elaine M. Howle
Page 2

of intermittent officers choose to work less than the maximum 2,000 hours allowed, and management cannot force them to increase their hours. This appears more prevalent at institutions with a fairly stable workforce such as some of those listed in Table 5. It is in the best interest of the Department to utilize any hours PICOs are willing to work versus losing their services completely.

We acknowledge the report's constructive recommendations, which we believe are the result of a thorough and objective review of the issues at hand. We also appreciate the audit team's professional manner and courtesy during the audit. Both your audit and CDC's recent operational reviews emphasize the complexity of the correctional environment and the difficult job CDC staff often faces. We are committed to improving our management and personnel practices while fulfilling our primary mission, which is public safety.

If you have any questions, please contact Wendy Still, Deputy Director, Financial Services Division, at 323-0218.

(Signed by: David Tristan for)

EDWARD S. ALAMEIDA, JR.
Director
Department of Corrections

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Agency's comments provided as text only.

Department of Personnel Administration
Office of the Director
1515 "S" Street, North Building, Suite 400
Sacramento, CA 95814-7243

July 16, 2002

Ms. Elaine Howle*
California State Auditor
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Re: Audit No. 2002-101

Dear Ms. Howle:

Thank you for this opportunity to offer comments on the portion of your draft audit report that deals with the labor contract the State negotiated with the California Correctional Peace Officers Association (CCPOA). In addition to the general comments below, we have attached responses to a few specific items mentioned in the draft report.

Most labor-management agreements tend to increase employee wages and benefits and thus have fiscal impacts. In that respect, this agreement is in no way unique. Wages, retirement, sick leave, seniority preferences, and vacation privileges are the very essence of the collective bargaining process mandated by state and federal law. It would hardly be possible to reach an agreement without such provisions. In one form or another, they can be found in every State agreement.

The Bureau of State Audits points out that the shortage of State correctional officers is cause for concern, especially in the area of safety. The contract addresses this shortage by providing salary and benefit improvements that are competitive with the packages offered by local police and sheriffs departments, which recruit from the same pool of law enforcement personnel as the State.

Within this context, we protected the State's budget by negotiating a five-year agreement that allows the State to delay most of the salary increase to the last two years of the contract and the retirement improvements to the final year. The delay also provides incentive for current officers to stay on who may otherwise have left sooner and exacerbated the staff shortage. We did not provide any raises for correctional officers (or any other state employees for that matter) for the first two years of the contract.

Providing employees with some rights and choices in the use of vacation and sick leave, the earning of overtime, using seniority among other factors in watch assignments, and improving employee retirement options does constrain managerial authority to a limited extent. These limits notwithstanding, no department of state government has a greater level of managerial control or more tools for managing its workforce than the Department of Corrections.

*California State Auditor's comments appear on page 77.

Ms. Elaine Howle
July 16, 2002
Page Two

Salaries

To conclude that this contract provides a 37% pay raise and will cost \$518 million a year is speculative. **Nowhere in the CCPOA contract is there any provision guaranteeing a pay raise other than our agreement to make up the 8.6% salary lag with local law enforcement over the term of the contract.** While pay raises granted by local jurisdictions during the contract will certainly add to the 8.6%, we believe the Bureau of State Audits estimate is excessive.

Our agreement to pay salaries competitive with local law enforcement brings the State into compliance with the 1986 statute on law enforcement salaries (Government Code sections 19827 and 19827.1). By negotiating a contract that includes this parity provision, the State is taking a significant step toward ensuring it can recruit and retain qualified officers. As noted throughout your draft report, the high vacancy rate among correctional officers drives up overtime and other costs.

Retirement

The draft audit report correctly notes that the new retirement formula for correctional officers does not take effect until January 1, 2006. What should also be mentioned is that local law enforcement employees in more than 200 jurisdictions in California **already have the same retirement formula or have contracts that will implement it within a few years.** This figure only includes jurisdictions in the California Public Employees Retirement System.

In summary, the five-year agreement with correctional officers is not unique. All three public safety units (Highway Patrol, Fire Fighters, and Correctional Officers) have similar agreements. Costs are held to a minimum for the first two years. These essential safety employees then move toward parity with their equivalents in California localities at a time when (we hope) the fiscal crisis will be over or lessened.

The following pages include additional comments on selected portions of your draft report.

Sincerely,

(Signed by: Fred Buenrostro for)

Marty Morgenstern
Director

Attachment

Additional Comments on Draft Audit Report
(in order of presentation in the draft report)

1. In the Introduction, the section titled *“The Department of Personnel Administration represents the department in collective bargaining”* notes that the Department of Corrections had several representatives “present” during negotiations. These representatives were not simply observers – they were active members of management’s bargaining team. For example, Department of Corrections and California Youth Authority representatives were management’s chief spokespersons in the negotiations on the “post and bid” provisions.

The ten Corrections representatives included two wardens, two labor relations officers, and a parole administrator. Management’s team also included assistant superintendents from the California Youth Authority.

2. Table 8, in the section titled *“New changes to labor agreement provisions increase personnel costs,”* indicates the “timeframe of impact” for the new retirement formula is January 1, 2006. CalPERS states that the actual fiscal impact (i.e., when the State contribution goes up) does not begin until July 2007, as noted elsewhere in your draft report. The date of January 1, 2006, is when the new retirement formula takes effect.
3. The section titled *“Enhanced physical fitness incentive pay will be costly”* did not mention that we will include this benefit in the total compensation package for purposes of determining future pay increases. Had we not counted it as part of total compensation, future pay raises for employees covered by this contract would have been higher. This point is noted in the draft report’s discussion of supplemental retirement benefits and should also have been applied to the fitness benefit.

The draft report noted our previous comments that some of this cost will be offset by the Department of Corrections no longer having to administer the fitness test. We would like to emphasize that these offsetting savings will be substantial: testing more than 12,000 employees in 33 prisons around the state was a costly process.

We also want to point out that the fitness incentive pay provided by this contract aligns correctional officer fitness pay with what California Highway Patrol Officers already receive.

4. The section titled *“Enhancements to bereavement leave may result in higher costs”* should have noted that the same enhancements also were included in all the other state employee contracts.
5. There have been further developments on the sick leave issue that are not reflected in the section titled *“Elimination of extraordinary use of sick leave program.”* For instance, the Director of the Department of Corrections issued a memorandum dated June 28, 2002, to clarify to department management that the contract did **not** change the criteria for when sick leave can be used, and it did **not** change management’s responsibility to take appropriate action when sick leave is abused.

In addition, the Department of Personnel Administration and Department of Corrections have begun a series of meetings with the union to develop alternatives for mitigating above-average use of sick leave. Alternatives already being investigated include providing needed training to supervisors and managers on the contract's new sick leave provisions, establishing alternative work shifts as other states and local jurisdictions have piloted, and developing incentive programs to reward employees with low sick leave usage.

At the regional level, Corrections management and employee representatives have begun meetings to discuss additional options for employees to request leave. Currently, Corrections employees must submit vacation requests 6 to 12 months in advance. There currently are no provisions for requesting leave with shorter notice.

6. To provide context for the section titled *"Assigning overtime on a seniority basis increases overtime costs,"* it should be noted that it is customary in labor agreements for senior employees to have priority in receiving overtime assignments.
7. The section titled *"Including sick leave as time worked in calculating overtime adds to the department's costs"* should be further clarified by citing Government Code section 19853, which states: "For purposes of computing the number of hours worked, time when an employee is excused from work because of holidays, sick leave, vacation, annual leave, or compensating time off, shall be considered as time worked by the employee."

Consistent with this statute, use of leave by all State employees counts when calculating overtime unless the employees relinquish that right during bargaining.

8. The section titled *"The Department of Personnel Administration chose not to support key department concerns during labor negotiations"* warrants further comment. DPA did support key concerns raised by the Department of Corrections. We chose not to put their proposed solutions across the bargaining table for reasons articulated in the letter dated July 3, 2002, from DPA Director Marty Morgenstern to State Auditor Elaine Howle (Attachment C of the draft audit report).

Three of the proposals from the Department of Corrections attempted to deal with high overtime costs by addressing sick leave. DPA did not take these proposals to the union because: 1) they would have been costly, as explained below, and 2) the core problem driving up overtime is the high vacancy rate among correctional officers. Instead, DPA dealt with the concerns about high overtime costs by addressing that core issue directly.

The Department of Correction's sick leave proposals would have placed all employees covered by this contract in the annual leave program, increased annual leave accrual rates beyond what is provided to any other State employee, converted unused sick leave to annual leave (which must be cashed out when an employee leaves State service), cashed out up to 48 hours of annual leave each year for every correctional officer, and converted remaining sick leave balances to service credit for retirement purposes.

DPA did explore a number of sick leave incentive programs with the Department of Corrections and the union. These discussions were fruitless because the department was unable to absorb the cost and the union was unwilling to divert money from other pay increases to fund such a program.

The Department of Corrections also had proposed geographic pay increases, which the draft report observes were included in previous agreements. The auditor's observation is intended to rebut DPA's view that it's almost impossible to justify salary increases based on geographic circumstances for just one bargaining unit when there are other bargaining units in the same area impacted by the same economy. However, the previous agreements the auditors referred to are the very reason why we made our original point. Because we previously provided those geographic increases to correctional officers in certain Corrections facilities, we subsequently had to provide the same increases to the other bargaining unit employees working in the same Corrections facilities.

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COMMENTS

California State Auditor's Comments on the Response From the Department of Personnel Administration

To provide clarity and perspective, we are commenting on the Department of Personnel Administration's (DPA) response to our audit report. The numbers below correspond to the numbers we placed in the margins of DPA's response.

- We believe there is no reasonable basis to support DPA's assertion that our estimate is excessive and we note that DPA provides no alternative estimate to support its assertion. As described on page 31 of our report, the 37 percent raise the DPA refers to here relates only to the general salary increase that we estimate will cost about \$400 million annually by fiscal year 2006–07. Our estimate assumes that the average compensation for the five local law enforcement agencies used to determine the salary increase for correctional officers would increase by 4 percent each year. As we pointed out on page 32 of our report, one of the five agencies has already agreed to annual increases through fiscal year 2005–06 that approximate this amount. We recognize, however, that the 37 percent is an estimate and the actual increase may be higher or lower depending on whether the four remaining local law enforcement agencies receive increases higher or lower than the one agency that has already agreed to annual increases through fiscal year 2005–06.
- The comments on the remaining pages of the DPA's response generally reiterate its perspectives on the bargaining process and the negotiations that resulted in the latest agreement between the State and the California Correctional Peace Officers Association. The comments also add some additional perspectives not previously shared with us. We met with the DPA director and his staff on several occasions to elicit the DPA's perspective. As described on page 29 of our report, the DPA's chief legal counsel informed us that much of the information related to the negotiations is confidential under California statutes. Although the director informed us that he was not willing to waive the privilege of confidentiality over the information, he did provide us a letter that presents the

DPA's perspective on the labor agreement issues we discuss in the report. We have included his July 3, 2002, letter to us in Appendix C of this report. We have also included excerpts from his letter in certain sections of the body of our report.

- We agree that the State will not have to begin making cash payments to the Public Employees' Retirement System related to the enhanced retirement benefit until July 2007. However, while the cash payment may not occur until July 2007, the cost to the State of this benefit begins on January 1, 2006, when the benefit becomes effective. It appears that DPA is confusing the concept of the timing of a cash payment with the concept of the timing of a cost being incurred for a benefit that is effective on January 1, 2006.
- The department is mistaken. On page 14 of the draft report we submitted to the DPA, we describe the content of the June 2002 memorandum the director of the Department of Corrections issued. In the final report, this discussion appears on pages 36 and 37.

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