Investigations of Improper Activities by State Employees:

July 2007 Through December 2007

April 2008 Report I2008-1

CALIFORNIA STATE AUDITOR

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April 3, 2008 Investigative Report I2008-1

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

Dear Governor and Legislative Leaders:

Pursuant to the California Whistleblower Protection Act, the Bureau of State Audits presents its investigative report summarizing investigations of improper governmental activity completed from July through December 2007.

This report details seven substantiated allegations in state departments and universities. Through our investigative methods, we found waste, mismanagement, and misuse of state funds and resources, wasteful economic decisions, and failure to take appropriate action. For example, the Department of Justice (Justice) created inefficiency by entering into a series of side letters that were negotiated directly with a bargaining unit, rather than using the formal approval and ratification process. As a result, Justice absorbed the salaries and benefits of four employees who were released from work full-time over a 12-year span to participate in union-related activities at a cost of $2.4 million.

In addition, this report provides an update on previously reported issues and describes any additional actions taken by state departments to correct the problems we previously identified. For example, the California State University, Chancellor's Office, reported that when it determined a business dinner a manager purchased did not meet its standards for reimbursement, it recovered the entire cost of the dinner from the manager.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE
State Auditor

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The Bureau of State Audits (bureau), in accordance with the California Whistleblower Protection Act (Whistleblower Act) contained in the California Government Code, beginning with Section 8547, receives and investigates complaints of improper governmental activities. The Whistleblower Act defines an "improper governmental activity" as any action by a state agency or employee during the performance of official duties that violates any state or federal law or regulation; that is economically wasteful; or that involves gross misconduct, incompetence, or inefficiency. The Whistleblower Act authorizes the state auditor to investigate allegations of improper governmental activities and to publicly report on substantiated allegations. To enable state employees and the public to report these activities, the bureau maintains the toll-free Whistleblower Hotline (hotline): (800) 952-5665 or (866) 293-8729 (TTY).

If the bureau finds reasonable evidence of improper governmental activity, it confidentially reports the details to the head of the employing agency or to the appropriate appointing authority. The Whistleblower Act requires the employer or appointing authority to notify the bureau of any corrective action taken, including disciplinary action, no later than 30 days after transmittal of the confidential investigative report and monthly thereafter until the corrective action concludes.

This report details the results of the seven investigations completed by the bureau or jointly with other state agencies between July 1, 2007, and December 31, 2007, that substantiated complaints. This report also summarizes actions that state entities took or failed to take as a result of investigations presented here or reported previously by the bureau. Following are examples of the substantiated improper activities and actions the agencies have taken to date.

Department of Justice

The Department of Justice (Justice) created inefficiency when it entered into a series of side letters negotiated directly with a bargaining unit. These side letters were not submitted to the Department of Personnel Administration, nor were they ratified by the Legislature. As a result, Justice absorbed the salaries and benefits of four employees who were released from work full-time over a 12-year span to participate in union-related activities at a cost of $2.4 million. However, Justice is unlikely to recover these costs because the bargaining unit relied on the side letters.

Investigative Highlights . . .

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

- *Creating inefficiency by entering into a series of side letters that were negotiated directly with a bargaining unit, rather than using the formal approval and ratification process; thus absorbing the salaries and benefits of four employees who were released from work full-time at various times for 12 years to participate in union-related activities at a cost of $2.4 million.*
- *Wasting more than $14,700 in state and federal funds by paying unnecessary overhead charges imposed in seven conference-planning service contracts.*
- *Wasting nearly $11,300 in state funds by leasing unneeded parking spaces and misusing state resources by allowing five employees to use them at no charge for their privately owned vehicles.*
- *Wasting over $590 in state funds by allowing a manager to purchase an expensive meal for herself and five other employees.*
- *Allowing a manager and four subordinate employees to take an estimated 727 hours of leave without charging the time against their leave balances and receiving compensation amounting to almost $18,000.*

continued on next page . . .

State departments have either taken the following action or failed to act in response to previously reported investigations:

- *The departments of Public Health and Health Care Services took adverse action against five employees for questionable and improper contract payments.*
- *The California Highway Patrol placed into service 51 vans it purchased in 2004 and 2005 for special purposes, but had left virtually unused for years.*
- *The Department of Mental Health transferred two police interceptor vehicles that had been used for non-law enforcement purposes at Coalinga State Hospital to another state hospital to be used as intended.*
- *The Department of Public Health failed to document an employee's misuse of state time and resources in his personnel file.*

Department of Social Services

The Department of Social Services (Social Services) entered into seven contracts for conference-planning services since 2004 that contained improper overhead charges in violation of a state policy. As a result, Social Services wasted state and federal funds when it paid more than $14,700 for these overhead costs. Such contracting practices are inconsistent with the intent of state law that denounces waste and inefficiency.

Department of Corrections and Rehabilitation

The Department of Corrections and Rehabilitation wasted nearly $11,300 in state funds when it leased parking spaces it did not need from a private facility and allowed state employees to park their personal vehicles for free in those spaces.

California State University

The California State University, Chancellor's Office (university), wasted over $590 in state funds by allowing a manager to purchase an expensive meal for herself and five other university employees in violation of the university's internal procedures governing reimbursement for travel expenses and meal allowances.

Department of Justice

A manager and four subordinates at one of Justice's regional offices failed to properly report on their time sheets an estimated 727 hours of leave taken from April through December 2006, amounting to almost $18,000 in compensation that was potentially unearned. In addition, the manager failed to adequately monitor his subordinates' absences or time worked.

California Department of Education, California School for the Blind

The California School for the Blind (school), part of the California Department of Education, failed to adequately monitor and approve overtime use and made wasteful decisions, which resulted in almost $34,800 in excessive and unnecessary overtime pay for two school employees.

Employment Development Department

An employee of the Employment Development Department drank alcoholic beverages during work hours and his drinking impeded his ability to safely perform his duties. Further, his supervisors had been aware of the situation for years.

Update on Previously Reported Issues

In September 2005 we reported that contracts and related invoices of the Genetic Disease Branch of the Department of Health Services (Health Services) lacked specifics, leading to questionable and improper payments for holiday pay and equipment costing the State nearly $98,500. As a result of a reorganization effective in July 2007, four of the five employees responsible for contract and procurement activities were assigned to the Department of Public Health (Public Health); the remaining employee was assigned to the Department of Health Care Services (Health Care Services). Public Health and Health Care Services reported in October 2007 that adverse actions had been served on these employees.

In September 2007 we reported that the California Highway Patrol (CHP) bought 51 vans for its motor carrier program, surveillance, and mail delivery. However, as of June 30, 2007, 30 vans purchased in October 2004 and 21 vans purchased in August 2005 at a combined cost of approximately $881,600 had not been used for the special purposes for which they had been purchased. In addition, the CHP left all but five of the 51 vans virtually unused since it purchased them. Further, because the CHP did not postpone its purchases of the vans until it needed them, the State lost interest earnings of nearly $90,400. As of November 2007 the CHP reported that all 51 vans have been assigned to various commands throughout the State.

We also reported that Coalinga State Hospital (hospital) within the Department of Mental Health (Mental Health) misused state funds when it assigned two 2005 Ford Crown Victoria Police Interceptors (police interceptors) first to its general motor pool and later to three hospital officials who used them for non-law enforcement purposes, including commuting, in violation of state law. As of January 2008 Mental Health reported that it had transferred the two police interceptors to another state hospital to be used for their intended purpose. It also reported that two of the hospital officials have retired and that due to performance issues, the third hospital official now occupies a lower-level position at a different state hospital.

Finally, we reported that from July 2006 through October 2006, a Health Services' employee accessed inappropriate Internet sites. Internet-monitoring reports showed that the employee visited modeling Web sites and internet-based e-mail sites during his regular weekday work schedule and on six nonbusiness days, such as weekends and holidays. In addition, the employee did not have permission to enter the building on any of the six nonbusiness days. In September 2007 Public Health, which took over the employee's division at Health Services, told us that it was pursuing adverse action against the employee but it appears the status of the adverse action was inaccurate. Specifically, in December 2007 Public Health reported to us that the employee left in April 2007 before it completed its adverse action against him and that it did not document in his personnel file the specific circumstances or events leading to its investigation of the employee's misuse of state time and resources. The employee is now employed at another state department. As a result, we are concerned that the other department is unaware of the employee's previous misuse of state time and resources.

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

Table 1
Issues, Financial Impact, and Corrective Action Status of Cases in This Report

	CHAPTER	DEPARTMENT	DATE INITIALLY REPORTED	ISSUE	AMOUNT AS OF DECEMBER 31, 2007	STATUS OF CORRECTIVE ACTION
NEW CASES	1	Department of Justice	March 2008	Created inefficiency by entering into side letters with a bargaining unit without Department of Personnel Administration oversight or ratification by the Legislature	$2,370,839*	Pending
	2	Department of Social Services	March 2008	Waste of state and federal funds	14,714	Partial
	3	Department of Corrections and Rehabilitation	March 2008	Mismanagement and misuse of state resources, waste of state funds	11,277	Pending
	4	California State University, Chancellor's Office	March 2008	Improper meal expenses, waste of state funds	592	Complete
	5	Department of Justice	March 2008	Employees' disregard for time-reporting requirements, management's failure to ensure employees properly reported absences	17,974†	Partial
	6	California Department of Education, California School for the Blind	March 2008	Wasteful decisions involving overtime	34,776	Complete
	7	Employment Development Department	March 2008	Management failed to take appropriate action about an employee who drank alcoholic beverages while on duty	NA	Partial
PREVIOUSLY REPORTED ISSUES	8	Department of Corrections and Rehabilitation	March 2005	Improper pay	238,184	Complete‖
	8	Department of Corrections and Rehabilitation	September 2005	Failure to account for employees' use of union leave	543,918	Partial
	8	Department of Health Services/ Public Health/ Health Care Services‡	September 2005	Improper contracting practices	96,486	Complete
	8	Multiple state departments§	March 2006	Gift of state resources and mismanagement	8,313,600	Partial
	8	Department of Forestry and Fire Protection	March 2006	Improper overtime payments	77,961	Partial
	8	Department of Forestry and Fire Protection	September 2006	False claims for wages	17,904	Complete‖
	8	Department of Parks and Recreation	March 2007	Misuse of state resources and failure to perform duties adequately	NA	Partial
	8	Department of Conservation	March 2007	Misuse of state resources, incompatible activities, and behavior causing discredit to the State	NA	Complete
	8	California Highway Patrol	September 2007	Misuse of state funds Purchase price of unused vehicles Lost interest earnings to the State	 881,565 90,385	Complete
	8	Department of Mental Health	September 2007	Improper use of state vehicles, waste of state funds, and failure to maintain vehicle mileage logs	18,682 to 19,640	Complete
	8	California State Polytechnic University, Pomona	September 2007	Viewing inappropriate internet sites and misuse of state equipment	NA	Partial
	8	Department of Health Services/ Public Health‡	September 2007	Misuse of state equipment and resources	NA	Complete‖
	8	Sonoma State University	September 2007	Improper closure of offices and failure to charge employee leave balances	NA	Complete‖

Source: Bureau of State Audits.

NA = Not applicable because there was no dollar amount involved or it was not feasible to quantify.

* In this case, the expenditure of $2,370,839 was not improper. Instead, as we report in Chapter 1, the Department of Justice's failure to disclose to the Department of Personnel Administration the side letters that resulted in the expenditure created an inefficiency in the State bargaining process.

† As we discuss in Chapter 5, this amount represents compensation that may not have been earned.

‡ The Department of Health Services reorganized effective July 1, 2007, into the Department of Public Health and the Department of Health Care Services. We originally reported on these issues under the Department of Health Services and refer to it here for consistency.

§ This case focused on the Department of Fish and Game but also involved the California Highway Patrol, the California Conservation Corps, the Department of Corrections and Rehabilitation, the Department of Developmental Services, the Department of Food and Agriculture, the Department of Forestry and Fire Protection, the Department of Mental Health, the Department of Parks and Recreation, the Department of Personnel Administration, the Department of Transportation, the Department of Veterans Affairs, and the Santa Monica Mountains Conservancy.

‖ We have designated the status of corrective action as *complete* because it is unlikely that further action can or will be taken. However, if the agency had taken a more proactive approach it could have more fully rectified the improper governmental activity we reported.

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Chapter 1

DEPARTMENT OF JUSTICE: CREATED INEFFICIENCY BY ENTERING INTO SIDE LETTERS WITH A BARGAINING UNIT WITHOUT DEPARTMENT OF PERSONNEL ADMINISTRATION OVERSIGHT

Allegation I2007-0728

The Department of Justice (Justice) absorbed the cost of the salaries and benefits of four employees who were released from work full-time at various times for 12 years to participate in union-related activities based on a series of side letters that it negotiated directly with a bargaining unit. These side letters were not submitted to the Department of Personnel Administration (Personnel Administration), nor were they ratified by the Legislature.

Results and Method of Investigation

We investigated the allegation. Although we cannot conclude that the side letters negotiated by Justice violated the Ralph C. Dills Act (Dills Act), which governs collective bargaining agreements with state employee unions, we substantiated that their formation, without approval by Personnel Administration or ratification by the Legislature, created an inefficiency in the collective bargaining process. In particular, we determined that Justice released four employees from their normal work duties on a full-time basis to engage in union activities at various times for more than 12 years at a cost of approximately $2.4 million. This arrangement was based on side letters that never were formally submitted to Personnel Administration, the agency designated by the governor to oversee the collective bargaining process. The side letters also were not ratified by the Legislature. Although we conclude it is unlikely that Justice could recover the cost of providing full-time release for these employees, we nonetheless believe that its actions bypassed controls and deprived Personnel Administration of knowledge of the full range of benefits conferred on the bargaining unit. As a result, Personnel Administration was not able to consider this in the negotiations process.

To investigate the allegation, we reviewed the Dills Act and related case law. In addition, we interviewed representatives from Justice and Personnel Administration regarding relevant union-related issues and Justice's management of employees whom it released to perform union-related activities. Finally, we reviewed the various

collective bargaining agreements entered into between Justice and the relevant bargaining unit as well as the various side letters related to release time for union activity.[1]

Background

The Legislature enacted the Dills Act in recognition of the right of state employees to join organizations of their own choosing and to be represented by such organizations in their employment relations with the State. The stated purpose of the Dills Act is to promote peaceful and 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. For the purposes of meeting to resolve disputes related to wages, hours, and other terms and conditions of employment, the Dills Act defines "state employer" and "employer" as the governor or his or her designated representative. The governor has designated the Personnel Administration director as the "employer" responsible for negotiating labor agreements with state employees on behalf of the State. Accordingly, Personnel Administration negotiates agreements with the various employee organizations, known as bargaining units, including the unit represented by the California Statewide Law Enforcement Association, formerly the California Union of Safety Employees (CAUSE), the union for Justice's public safety officers.

The Dills Act requires that Personnel Administration and a bargaining unit formalize their collective bargaining agreement as a memorandum of understanding.

Personnel Administration and each bargaining unit typically negotiate a new collective bargaining agreement whenever an existing agreement is about to expire. Once Personnel Administration and a bargaining unit have reached a tentative agreement, the Dills Act requires that they formalize the collective bargaining agreement as a memorandum of understanding (memorandum) between the State and the bargaining unit. The Dills Act also requires that Personnel Administration present the memorandum to the Legislature for its consideration and ratification. Once the Legislature ratifies the memorandum, the agreement becomes final and is binding on the parties.

The notion that public employees have a right to be released from work to participate in union activities is well recognized in public sector collective bargaining law. Consistent with that notion, the Dills Act requires state employers to provide reasonable release time to employee representatives of recognized collective bargaining units to meet and confer with the State on labor and

[1] For a more detailed description of the laws, policies, and collective bargaining agreements discussed in this chapter, see Appendix B.

employment issues. In addition, the Public Employment Relations Board has found that release time for other purposes, such as for attending conferences for employee organization delegates or time to attend to association business, is negotiable during the bargaining process. Thus, a collective bargaining agreement may provide for release time for a variety of union activities. Once an agreement is in effect, an employee's right to release time for union-related activity must be determined in accordance with the provisions of the agreement and other statutory provisions. Refusal to provide reasonable release time may violate the employer's duty to negotiate in good faith.

The Personnel Administration director may delegate his or her powers to state agencies; however, such a delegation would be very unusual.

By law, the Personnel Administration director may delegate his or her powers, including the power to bargain under the Dills Act, to state agencies. When conducting a prior investigation, we inquired about the practice of delegating bargaining authority and we learned that there may be some rare instances in which the Personnel Administration director delegates the authority to negotiate the release of a specific rank and file employee to the employing department. Such a delegation would be very unusual, however. Typically, a delegation of bargaining power by the Personnel Administration director would be stated either in the collective bargaining agreement or would be reflected in a personnel management liaison memorandum between the Personnel Administration director and the employing department, but the law is silent on just how such a delegation would occur.

Nevertheless, in July 2004 Personnel Administration placed in writing its policy regarding delegation of its authority to negotiate with employee organizations, making clear that such authority must be delegated in writing and must be signed by a Personnel Administration labor relations officer. Personnel Administration further stated that without such written delegations, departments may not enter into binding agreements with bargaining units. This policy was transmitted to all employee relations officers and personnel officers in state agencies.

As a matter of historical practice, the bargaining units and Personnel Administration sometimes entered into side letters to supplement the terms of an approved memorandum. Although the Dills Act has long required that collective bargaining agreements between the State and the bargaining units must be presented to the Legislature for its approval, the Dills Act did not explicitly acknowledge the formation of side letters or require that they be submitted to the Legislature for ratification until recently. In addition, unlike the fairly formal process of memorializing the collective bargaining agreement in writing and submitting it to the Legislature, there was no formal process by which Personnel Administration generally approved side letters or subsequently

submitted them to the Legislature for ratification. Although Personnel Administration did not formally approve side letters until recently, our understanding is that it was typically aware of them and that it viewed them as amendments to the more formally approved memorandum.

Until January 1, 2006, Personnel Administration had no formal process to approve side letters or submit them to the Legislature for ratification.

In response to concerns about side letters, the Legislature amended the Dills Act to provide much-needed clarification. Effective January 1, 2006, the Dills Act requires Personnel Administration to provide to the Joint Legislative Budget Committee (budget committee) any side letter, appendix, or other addendum to a properly ratified memorandum that requires the expenditure of $250,000 or more related to salary and benefits and that is not already contained in the original memorandum or the budget act. The budget committee can determine whether substantial additions have been made that were not reasonably within the original memorandum and, thus, require legislative ratification. Implicit in this requirement is that any such side letter a department negotiates with a bargaining unit must be provided to Personnel Administration so Personnel Administration can satisfy these disclosure and notification requirements. The clear intent of this legislation was to provide greater transparency related to side letters and to give the Legislature the ability to decide whether the terms contained in a side letter were significant enough to call for legislative ratification.

The Justice employees who received additional union release time under the side letters are covered by a collective bargaining agreement between the State and CAUSE. The collective bargaining agreement typically is adopted for a term of two to three years. There have been several agreements since 1992, with the current agreement in effect from July 1, 2005, through June 30, 2008. The current agreement, as well as all previous agreements, contains provisions for the release of employees from their regular job duties to perform union-related activities. The types of leave that Justice uses to address the requirements established by state law and the collective bargaining agreement are summarized in Table 2. As the table shows, in some cases employees are released from their job duties without having to use earned leave time, and the State bears the cost of their absence. The leave identified in the table as “Union release” and “Officer release” reflects this type of leave. In other cases the cost of the employees’ participation in union-related activities is covered by the employees’ earned leave time or leave time that is contributed by other union members. The leave identified as “Employee release” and “Personal leave” in the table reflects these types of leave.

Table 2
Types of Leave Justice Grants Employees for Union-Related Activities Under the Memorandum Approved by the Legislature

TYPES OF LEAVE AVAILABLE	DESCRIPTION	FUNDING SOURCE
Employee release	Employees can voluntarily contribute various types of earned leave credits to a time bank used by union representatives for union-related purposes related to employee organization matters.	Union members donate personal leave (except sick leave).
Personal release	Subject to a supervisor's approval, an employee can request to use personal leave credits, except for sick leave, to conduct union-related activities.	Employee bears the cost.
Union release	The union is granted up to a predetermined number of hours (1,700 in the current memorandum) for authorized union representatives to use in attending to the union's organizational matters.	State bears the cost.
Officer release	The union is granted full-time release for a predetermined number of union officers (two officers in the current memorandum for the employee's union).	State bears the cost.
Union leave	A union member or steward may request an unpaid or paid leave of absence.	In the case of a paid leave of absence, the union initiating the leave request bears the cost and is responsible for reimbursing the State for the full amount of the affected employee's salary, plus an amount equal to 32 percent of the affected employee's salary, for all the time the employee is on union leave.

Source: Department of Personnel Administration's Web site, Bargaining Unit Seven agreement, effective July 1, 2005, through June 30, 2008.

Justice Entered Into Side Letters That Essentially Modified the Terms of the Legislatively Approved Memorandum Without Clear Authority

Beginning in the mid-1990s and continuing until the present, Justice has entered into a series of side letters outside of the formally approved memorandums that have allowed the release of four employees at Justice's expense. These side letters supplement any union release time provided under the formally approved memorandums. Specifically, the memorandums allow a designated number of Justice employees to be released for union activities at Justice's expense. However, the side letters add two employee classifications to that category. Over a 12-year period from 1995 through 2007, a total of four Justice employees filled these two classifications. Justice allowed the full-time release of the employees from 1995 until early 2007 when it modified their release to half-time. The total cost of providing for the release of these employees over the 12-year period totaled approximately

Over a 12-year period Justice allowed the full-time release of four employees in two classifications at a cost to the State of approximately $2.4 million.

$2.4 million. While on release, these employees retained full rights of seniority, transfer, training, promotion, and career advancement opportunities. These side letters stipulated that Justice would "donate" funding for the employees' release.

As we described earlier, union release is a mandatory subject of collective bargaining. The approved memorandum—as well as any statutory rights related to union release—govern the right to union release. In addition, as we mentioned previously, the Personnel Administration director in rare instances may delegate the right to negotiate additional release to a department. However, we found no clear evidence that the Personnel Administration director formally delegated this authority to Justice or had any formal record of the side letters. In fact, when we inquired about the side letters that are the subject of this investigation, the labor relations officer who currently works on the collective bargaining agreement was unaware of the side letters and indicated that Personnel Administration had never formally delegated to Justice the authority to bargain. However, the labor relations officer stated that Personnel Administration knew that Justice had authorized release time for one employee. Further, Justice officials stated that a former labor relations officer for Personnel Administration was aware of these side letters. Thus, if Personnel Administration was put on informal notice that Justice entered into side agreements yet did not take any action to stop the practice, a court might find that it implicitly delegated to Justice the authority to approve the side letters. Nevertheless, as we mentioned previously, Personnel Administration has no formal record of the side letters. As a result, the letters were not subject to state oversight and the Legislature was not aware of their existence.

To keep the collective bargaining process efficient, Personnel Administration should be aware of the entire range of benefits provided to bargaining units under an agreement, including those provided by a side letter. Typically, bargaining units will point to benefits provided to other bargaining units in the negotiations process. Personnel Administration is at a disadvantage during the negotiations process when it lacks this knowledge. In this instance, the current labor relations officer was not aware of the side letters. Thus, the labor relations officer was at a disadvantage in bargaining because she was not aware of the entire range of benefits the bargaining unit was receiving under the agreement. As a result, the benefit could not be considered in the negotiations process.

Finally, the term of the current collective bargaining agreement is July 1, 2005, through June 30, 2008. However, we determined that a side letter for the release time of one employee appeared to cover the period from December 2004 through December 2007. We question how Justice could have entered into a side letter that

spanned the terms of two separate agreements. By taking this action, Justice appears to have conferred a benefit to the bargaining unit before the negotiation of the current agreement. In addition, effective May 1, 2007, Justice entered into a new side letter with the union for a term of one year which reduces the release time provided to representatives of the bargaining unit by 50 percent. However, we saw no evidence that Personnel Administration delegated to Justice the authority to negotiate and enter into the 2007 side letter.

Regardless of whether Personnel Administration delegated bargaining authority to Justice, we question the efficiency of a process that allowed Justice to enter into an informal side letter with the bargaining unit, which obligated a substantial amount of state money and was never ratified by the Legislature. The clear intent of the Dills Act is that the Legislature should be able to exercise the "power of the purse" by ratifying or rejecting memorandums between the State and the various bargaining units, thereby controlling the costs of memorandums. Although no California court has ruled directly on this issue, the 2007 California appellate court decision in the matter of *Department of Personnel Administration v. California Correctional Peace Officers Association* noted the intent of the Dills Act is that the memorandum approved by the Legislature is the parties' actual contract, there are no off-the-record agreements to which the Legislature is not privy, and the memorandum will not be altered later. In the final analysis, only a court of proper jurisdiction can decide whether the formation of these side letters violated the Dills Act. Nonetheless, we question whether their formation and, therefore, the expenditure of public funds under these side letters, was consistent with the intent of the Dills Act.

We question the efficiency of a process that allowed Justice to enter into an informal side letter obligating a substantial amount of state money, which was never ratified by the Legislature.

As a result of entering into these side letters with the bargaining unit, Justice incurred approximately $2.4 million in expenses over 12 years. However, the bargaining unit relied on the side letters throughout the period, so it is unlikely that Justice could recover the costs of providing release time for the employees. Table 3 on the following page shows the costs incurred under the side letters over the 12-year period.

Table 3
Cost of Justice's Failure to Account for Union Leave Granted to Four Employees

YEAR	GROSS SALARY WHILE ON UNION LEAVE	BENEFIT COST ALLOWANCE*	TOTAL COST
1995	$96,787	$30,972	$127,759
1996	105,919	33,895	139,814
1997	110,458	35,346	145,804
1998	123,965	39,669	163,634
1999	146,971	47,031	194,002
2000	157,625	50,440	208,065
2001	163,611	52,356	215,967
2002	143,326	45,864	189,190
2003	148,409	47,491	195,900
2004	154,129	49,321	203,450
2005	153,983	49,274	203,257
2006	157,503	50,401	207,904
2007†	133,404	42,689	176,093
Totals	**$1,796,090**	**$574,749**	**$2,370,839**

Source: State Controller's Office records.

* According to the employees' collective bargaining agreement for the period covered, the union agreed to reimburse Justice for the affected employees' salaries, plus an amount equal to 32 percent of the affected employees' salaries, for all the time the employees were on union release.

† The 2007 amounts reflect the employees' full-time union release from January 1 through April 30 and half-time release from May 1 through December 31.

Agency Response

Justice reported that it disagrees with our finding that the release time agreements for the four employees constituted an inefficiency. Focusing on the substance of the agreements rather than their detrimental effect on the efficiency of the bargaining process as noted in our report, Justice asserted that the release time agreements were not only lawful, but that they promoted efficiency in the resolution of potential labor disputes. In addition, it believes Personnel Administration gave "tacit" approval for the release time agreements, even though Personnel Administration advised us that it was unaware of the agreements. Nevertheless, Justice indicated that when the present release time agreements expire in April 2008, it will refrain from entering into similar arrangements, and it will seek reimbursement for future salary and benefit costs associated with employee release time for union-related activities.

Chapter 2

DEPARTMENT OF SOCIAL SERVICES: WASTE OF STATE AND FEDERAL FUNDS

Allegation I2006-1040

The Department of Social Services (Social Services) violated state contracting policy and wasted state and federal funds.

Results and Method of Investigation

We investigated and substantiated the allegation. We found that since 2004 Social Services entered into seven contracts for conference-planning services that contained improper overhead charges in violation of a state policy. As a result, Social Services wasted state and federal funds when it paid $14,714 for these overhead costs. Such contracting practices are inconsistent with the intent of state law that denounces waste and inefficiency.

To investigate this allegation, we reviewed applicable laws and policies.[2] We also reviewed and analyzed Social Services' contracts and invoices, interviewed its staff, and consulted with professionals in the field of conference planning.

Background

Social Services holds several annual conferences in support of the programs it oversees. To coordinate and plan these conferences, it entered into contracts with another state agency to obtain conference-planning services. These contracts included direct costs associated with planning the conferences, covering items such as personnel, printing, supplies, facility rentals, and speakers' fees. In many instances, the contracts included subcontracts, in which the conference planner contracted with a third party to provide a portion of the services required under the original contract. The contracts also included indirect or overhead costs that could not be attributed directly to conference planning.

In 2003 we received a similar allegation regarding the wastefulness of Social Services' contracts for event planning. We conducted an investigation at that time and sent Social Services a management letter that detailed our findings, which included questionable

[2] For a more detailed description of the laws and policies discussed in this chapter, see Appendix B.

personnel and overhead costs. Subsequently, Social Services informed us that the employees responsible for those contracts were no longer members of its staff. Further, Social Services assured us that it had taken corrective action to prevent the problems from occurring again. However, in 2006 we received the current allegation regarding Social Services' contracting practices.

Social Services Failed to Scrutinize Invoices and Wasted State and Federal Funds by Paying Unnecessary Overhead Costs

Social Services wasted $14,714 when it paid for overhead costs that violated a state policy.

Social Services wasted state and federal funds when it improperly paid $14,714 for overhead costs that violated a state policy. According to the policy, state agencies must ensure that overhead fees are reasonable; thus, the agencies may pay overhead charges only on the first $25,000 for each subcontract. However, in seven of the nine contracts we reviewed for conference-planning services from 2004 through 2007, Social Services did not limit payments for overhead costs to the first $25,000 of subcontracts, but instead paid overhead costs on the entire subcontract amounts when the subcontracts exceeded $25,000. These subcontracts were used to pay for facility costs at hotels, including room rental, catering, and audiovisual costs. In all seven contracts, Social Services paid for the overhead costs at a rate of 20 percent. As a result, Social Services made $14,714 in improper payments, constituting a waste of state and federal funds. According to a state law, waste and inefficiency in state government undermine the confidence of Californians in government and reduce the state government's ability to address vital public needs adequately. In addition, state law requires that all levels of management of state agencies must be involved in assessing and strengthening the systems of internal accounting and administrative control to minimize waste of government funds.

Social Services apparently made these improper payments because it failed to scrutinize invoices and did not monitor these contracts adequately for compliance with state policy. The contract bureau chief stated that her staff checks contracts for compliance with state policies. She also stated that her staff assists only with the format and wording in the contracts. However, she stated that the policy regarding subcontracts was very technical and she did not expect her staff to question such items. Similarly, the program bureau chief, whose program was responsible for six of the seven contracts with improperly paid overhead charges, stated that even though she and her staff review contracts and invoices, they did not have the expertise to know about this policy. Nevertheless, Social Services maintains responsibility for ensuring its contracts comply with the policy, and it should have recognized that these costs were improper. Moreover, we found evidence that at least one Social Services' employee questioned the payment of the overhead

costs applied to a subcontract that exceeded $25,000 for one of the seven contracts. Apparently, the employee's concerns were disregarded because Social Services paid the overhead costs applied to the subcontract.

Furthermore, we reviewed four additional contracts that Social Services has in place or is completing for upcoming conferences. These four contracts also improperly include overhead costs applied to the portion of subcontracts in excess of $25,000. If Social Services pays for the improper overhead costs included in these four contracts, it likely will waste an additional $13,000 in state and federal funds.

If Social Services pays for the improper overhead costs included in pending contracts, it likely will waste an additional $13,000 in state and federal funds.

Agency Response

Social Services reported that it has revised its boilerplate contract language to cite the state policy that limits the application of overhead charges on subcontracts. With regard to contracts for upcoming conferences for which invoices have not been paid, Social Services stated that it similarly plans to amend the contracts to cite the state policy. In addition, Social Services reported that it has requested more detailed budgets from the contractor for conference planning so it can better distinguish the services provided by a subcontractor. Social Services further stated that it plans to develop guidelines to assist staff in the appropriate application of indirect cost rates, and to identify the subcontracts during contract development. However, Social Services did not indicate whether it would recover any of the improper overhead costs it paid.

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Chapter 3

DEPARTMENT OF CORRECTIONS AND REHABILITATION: MISMANAGEMENT AND MISUSE OF STATE RESOURCES, WASTE OF STATE FUNDS

Allegation I2006-0665

The Department of Corrections and Rehabilitation (Corrections) wasted state funds by leasing unnecessary parking spaces from a private facility. In addition, Corrections mismanaged state resources by failing to properly oversee the parking spaces under its control, and it misused state resources by allowing state employees to park their personal vehicles for free in some of the leased spaces.

Results and Method of Investigation

We investigated and substantiated this allegation. Because Corrections mismanaged state-owned and privately owned parking spaces, it had leased 26 more parking spaces than it needed between at least October 1, 2007, and December 31, 2007, the end of our reporting period. As a result of this mismanagement, Corrections wasted at least $11,277 in state funds. In addition, Corrections misused state resources by allowing at least five employees to park their personal vehicles at no cost in parking spaces that were not authorized to be used for that purpose.

To investigate the allegation, we reviewed parking space assignments, parking space requests, and contracts for the state-owned parking facility located within a Corrections' regional headquarters building and for a nearby leased private parking facility. In addition, we reviewed applicable state laws, regulations, and policies and interviewed staff with Corrections and the Department of General Services (General Services), which is responsible for fulfilling the facility and real property needs of state agencies.[3]

Background

Corrections maintains numerous facilities, regional offices, and local offices throughout the State. Some employees have duties that require the use of state-owned vehicles, so Corrections must

[3] For a more detailed description of the laws, regulations, and policies discussed in this chapter, see Appendix B.

provide parking for the state-owned vehicles under its control at various locations. State regulations designate General Services as having the responsibility to allocate available state-owned parking spaces to departments. The regulations require departments such as Corrections to assign their state-owned vehicles to state-owned parking spaces under their control. In addition, departments are required to report to General Services all passenger vehicle storage space, or parking space, under their jurisdiction. Thus, General Services allocates available state-owned parking spaces to departments for use by state-owned vehicles, and is notified of how much total parking space departments have under their control.

In addition to allocating available state-owned parking to departments, General Services plays a central role in leasing needed parking space on behalf of departments. State laws that pertain to property acquisition and leasing by state agencies clearly require that final decisions related to the use of existing state-owned and state-leased facilities under the jurisdiction of General Services must be made by General Services. When an agency decides to lease parking spaces, it must submit a request to General Services. An agency's request to lease property first must consider the use of existing state-owned, state-leased, or state-controlled facilities under its control before considering the leasing of additional facilities. If no available appropriate state facilities exist, General Services is required to procure new facilities that meet the agency's needs, using cost efficiency as a primary criterion. Although these laws related to the leasing of real property allow a state agency to permit motor vehicle parking by state officers and employees on property that is under the agency's control, the terms and conditions of that parking, and any fees charged, are subject to approval by General Services. According to a General Services' official, it will not approve leasing agreements for parking spaces used by state employees for privately owned vehicles.

General Services will not approve leasing agreements for parking spaces used by state employees for privately owned vehicles.

Corrections Mismanaged State Resources and Wasted State Funds by Leasing More Parking Spaces Than It Needed

Our review of vehicle parking assignments at a state-owned parking facility under Corrections' control and a nearby parking facility where it leased additional parking spaces revealed that, as of December 31, 2007, Corrections was leasing 26 more parking spaces than it needed for the state-owned vehicles at one of its regional headquarters. Although Corrections may have needed to lease 29 spaces when it first entered into the lease in August 2006, we found it needed only three of the leased spaces for that purpose as of October 1, 2007. As a result of failing to manage the number of parking spaces it needed, Corrections wasted at least $11,277 in state funds from October 1, 2007, through December 31, 2007.

Our investigation found that Corrections had 56 parking spaces under its control as of October 2007. Of those spaces, 27 were state-owned spaces at the regional headquarters building and 29 were leased spaces at a nearby private parking facility. However, as shown in Table 4, as of December 31, 2007, Corrections was using only 10 of the 27 state-owned spaces for state-owned vehicles. For the remaining 17 spaces, three were left unused, employees were allowed to park their personal vehicles in seven of the spaces at no cost, and another seven spaces were assigned by Corrections to another state agency. Similarly, we found that Corrections parked state-owned vehicles in only 20 of the 29 leased spaces at the nearby private parking facility. Four of the remaining nine spaces at the private facility were unused and state employees were allowed to park their personal vehicles in five spaces for free. As we discuss in the next section, Corrections misused a state resource by allowing state employees to park their personal vehicles in five of the leased spaces.

Table 4
Status of Parking Spaces Under Corrections' Control as of December 31, 2007

ASSIGNMENT	STATE-OWNED SPACES	LEASED SPACES	TOTALS
State-owned vehicles	10	20	30
Unused	3	4	7
Privately owned vehicles	7	5	12
Other state agency	7	0	7
Totals	**27**	**29**	**56**

Source: Department of Corrections and Rehabilitation.

When initially seeking to obtain the approval of General Services in November 2005 to lease the 29 parking spaces at the nearby private facility, Corrections indicated that it needed the spaces to park state-owned vehicles. General Services approved the request and entered into the lease on that basis as of August 2006. Corrections may have believed it needed to lease the 29 spaces for state-owned vehicles when it submitted its request to General Services. However, our review of documentation it submitted when requesting these spaces indicates that Corrections did not provide General Services with a clear accounting of how many state-owned vehicles it actually had at that time. We found that, slightly more than one year after the lease was approved, Corrections had only 10 state-owned vehicles in the 27 parking spaces under its control in the state-owned parking facility. Thus, it does not appear that Corrections actually needed all 29 spaces at the private facility.

If Corrections had appropriately managed its state-owned spaces, it would have needed to lease only three spaces rather than 29 spaces.

Specifically, if Corrections had appropriately managed and used the remaining state-owned spaces under its control for 17 of its remaining state-owned vehicles, it would have needed to lease only three spaces rather than 29 spaces—a difference of 26 spaces—from the private parking facility to provide all the parking it needed for state-owned vehicles. For example, as we indicated previously, Corrections assigned to another state agency seven of the 17 spaces. According to an official at the Corrections regional headquarters, Corrections assigned at least two of these spaces as far back as early 2006. However, it made this assignment and the subsequent assignment of five additional spaces without notifying or seeking the approval of General Services, in violation of state law.

Consequently, had Corrections not mismanaged the use of its parking spaces at the state-owned parking facility, it would have been able to inform General Services that its needs had changed, and General Services may have been able to reduce the lease for the spaces at the private parking facility accordingly. As a result, the State would have saved at least $11,277 between October 1, 2007, and December 31, 2007, the end of our reporting period.

Individuals who make decisions for the State have a fiduciary responsibility to California's citizens and taxpayers to protect the State's interest as a whole and, in particular, to safeguard the resources of their department. State law declares that waste and inefficiency in state government undermine the confidence of Californians in government and reduce the state government's ability to address vital public needs adequately.

Corrections Misused State Resources by Allowing State Employees to Park Privately Owned Vehicles for Free

Our review determined that since at least October 2007, the date of the information provided to us, five employees have parked privately owned vehicles at no cost in private parking facilities leased by the State. In addition, information provided to us by General Services suggests that three of these employees have parked privately owned vehicles in the private parking facility since at least January 2006. The information also suggests that Corrections allowed other employees to park privately owned vehicles at the State's expense before October 2007. When asked to clarify when specific individuals began parking privately owned vehicles at either the state-owned or private parking facility, officials at the regional headquarters informed us that the regional headquarters did not maintain records documenting when employees were assigned parking spaces. Further, when asked to explain the criteria used for determining which employees were allowed to obtain free parking for their vehicles, the officials told us

that they followed the practice in place before their arrivals, which was to have supervisors assign spaces vacated by departing employees to the new employees hired to replace them. Corrections did not adequately maintain records to document when it began allowing its employees to use the parking spaces for their privately owned vehicles, so we could not quantify the full extent to which state funds were used to provide free employee parking. Nevertheless, Corrections misused state resources by allowing some leased parking spaces to be used for purposes other than that for which General Services approved the lease.

Because Corrections did not adequately maintain its records, we could not quantify the full extent to which state funds were misused to provide free employee parking.

Agency Response

Corrections reported that as a result of our findings it will notify General Services that its needs at the private parking facility have changed from 29 to five spaces and ask General Services to issue a 30-day notice to the private parking facility to renegotiate its lease accordingly. Corrections also reported that it will reassign parking spaces at the private and state-owned facilities to accommodate only state vehicles and will notify all employees parking their privately owned vehicles at either facility to make alternative parking arrangements.

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Chapter 4

CALIFORNIA STATE UNIVERSITY, CHANCELLOR'S OFFICE: IMPROPER MEAL EXPENSES, WASTE OF STATE FUNDS

Allegation I2007-0996

A manager at the California State University, Chancellor's Office (university), improperly purchased an expensive business meal attended by the manager and five other university employees.

Results and Method of Investigation

We investigated and substantiated the allegation. The university wasted $592 in state funds by approving a claim that allowed a manager at the university to purchase an expensive meal for herself and for five other university employees in violation of the university's internal procedures governing reimbursement for travel meal expenses and allowances.[4] To investigate this allegation, we reviewed credit card invoices, travel reimbursement claims, and university travel reimbursement and hospitality policies, and interviewed the manager and other university employees.

The University Wasted State Funds by Allowing Employees to Purchase a Business Meal That Far Exceeded Its Prescribed Limit

The university wasted $592 in state funds when it approved a claim for reimbursement that allowed a manager and five other university employees to purchase a business dinner that exceeded its prescribed limit for the meal. In July 2007 the manager instructed an assistant to make dinner reservations at a restaurant in Santa Monica. Later that month, the manager and five other university employees dined at the restaurant after a business meeting. According to university records, the cost for the six-person meal totaled $742, and the manager arranged for the meal to be paid for with a university-issued credit card. The university's internal procedures governing reimbursement for travel expenses states that, when it is necessary for employees to conduct business during a meal, the employees may claim actual expenses up to the limits prescribed by the university. The limit for dinner is $25 per person. However, the cost of the dinner exceeded $123 per person, nearly five times more than the limit set by university policy. As a result, the university wasted $592 in state funds, the difference between the $742 it paid and its $150 limit

The cost of the dinner exceeded $123 per person, nearly five times more than the $25 limit set by university policy.

[4] For a more detailed description of the policies discussed in this chapter, see Appendix B.

for six people. We asked the university if it requested reimbursement from the employees who attended the dinner for the amount of the reimbursement that exceeded the limits prescribed by the university. We were told that the employees were not asked for, and did not pay, any reimbursement.

When interviewed, the manager asserted that she instructed her assistant to discuss the university's business meal policies and practices with her former assistant. However, the manager did not inquire about whether the meal prices were within the university's prescribed limit. In fact, she said a university executive order regarding the payment or reimbursement of hospitality expenses did not specify limits for business meal expenses. However, the university determined that the prescribed business meal limit we described previously applied to the dinner.

Agency Response

The university conducted an internal investigation and determined that the expenditure for the meal did not meet its standards necessary for reimbursement as a business dinner. As a result, the university recovered the entire amount of the dinner from the manager. In addition, the university issued a counseling memorandum to the manager indicating that she did not exercise the degree of care expected of university employees when spending university funds. Further, it directed the manager to be retrained in the proper uses of a university-issued credit card. Finally, the university admonished the manager's department supervisors to more closely scrutinize questionable charges and claims submitted by employees.

Chapter 5

DEPARTMENT OF JUSTICE: EMPLOYEES' DISREGARD FOR TIME REPORTING REQUIREMENTS, MANAGEMENT'S FAILURE TO ENSURE EMPLOYEES PROPERLY REPORTED ABSENCES

Allegation I2007-0958

A manager and four subordinates at the Department of Justice (Justice) disregarded mandatory time reporting requirements, resulting in these employees failing to account for hundreds of hours they did not work.

Results and Method of Investigation

We asked Justice to assist us with the investigation, and we substantiated the allegation. We found that a manager and four subordinates at one of Justice's regional offices failed to report absences on their time sheets in accordance with state regulations and Justice policy. Because the employees' failed to accurately report their absences, Justice was unable to determine the precise amount of leave they did not report. However, based on the investigative methodology we followed, we estimated that they took 727 hours of unaccounted leave from April through December 2006, resulting in the receipt of compensation of $17,974 that may not have been earned. Furthermore, although the scope of our investigation was limited to the nine-month period in 2006 for which we received documentary evidence of unreported absences, the manager and four subordinates continued to inaccurately report their time worked and absences taken in 2007.[5]

We also found that the manager knowingly failed to monitor the time worked and leave taken by his subordinates. Moreover, we determined that the manager's supervisor, who works at Justice's headquarters, failed to assert responsibility for ensuring that the manager's time sheets were completed accurately and that he properly monitored the time reporting by his subordinates.

To investigate the allegation, Justice examined time sheets, training records, travel claims, key-card access reports, telephone records, and available electronic records. Justice also interviewed the manager, his four subordinates, other employees at the regional

[5] Justice continues to investigate time reporting for the manager and subordinate employees for 2007.

office, and the manager's supervisor. Finally, we analyzed telephone record information provided by Justice, and we reviewed relevant state laws, regulations, and policies as well as department policies and guidelines.[6]

Manager 1 and Four Subordinates Failed to Properly Report Their Absences for Several Months

Manager 1 and four subordinates in one of Justice's regional offices failed to properly report their absences—totaling an estimated 727 hours—for the nine-month period from April through December 2006. State regulations require departments to keep complete and accurate time and attendance records for each employee. Additionally, state policy requires employees to complete a certified time sheet and obtain the proper authorization for their reported leave. Justice policy further requires employees to use a standard time sheet to account for their time worked and leave taken. In completing their time sheets, employees are obligated to report their time and attendance accurately.

To identify where regional office staff are on specific days, Manager 1 and other staff also maintain an electronic calendar. According to this calendar, Manager 1 and four subordinates—employees A, B, C, and D—were listed as being out of the office for roughly 773 hours from April through December 2006. Justice compared the absences that were listed on the electronic calendar to the employees' time sheets and determined that Manager 1 and the four subordinates did not report these absences as leave taken on their time sheets.

The four employees acknowledged that they did not keep a complete and accurate record of their absences and time worked on their time sheets.

When interviewed in November 2007, employees A, B, C, and D acknowledged that they did not keep a complete and accurate record of their absences and time worked on their Justice time sheets. Specifically, the four subordinates stated Manager 1 allowed them to take informal time off as compensation for unreported overtime they worked either at home or at the office. However, employees A, B, C, and D conceded that they generally did not track the informal time off or overtime they allegedly worked. Employee C even acknowledged that she believed it is too much effort to keep track of time.

Manager 1 confirmed that he did not require his subordinates to track their overtime worked or informal time off taken. Moreover, he stated that he did not track the overtime worked or informal time off for his subordinate staff either. In fact, Manager 1

[6] For a more detailed discussion of the laws, regulations, policies, and guidelines discussed in this chapter, see Appendix B.

commented that he would not be surprised if subordinate staff took two weeks of vacation without reporting it. Consequently, by allowing employees A, B, C, and D to take informal time off and to forgo his approval for leave taken, Manager 1 failed to ensure that the four subordinates accurately reported their time worked and leave taken.

Because the employees did not use time sheets to track all their actual time worked, Justice was unable to determine precisely the amount of leave they took. Nevertheless, Justice made an effort to establish by other documentation, such as training records, travel claims, key-card access reports, and telephone records, the extent to which the employees worked when the electronic calendar listed them as out of the office, and the extent to which the employees made up for their time off by working overtime. Through its review of travel claims, Justice found that Employee A traveled on work-related business for four hours. In addition, based on our analysis of telephone record information for three months in late 2006, we estimated that the four subordinates worked away from the office for an additional 42 hours, even though Justice could not specifically attribute the time to any tasks or work product. Justice could not clearly establish that Manager 1 and the four subordinates worked the remaining unaccounted time. Consequently, we estimated that the four subordinates worked 46 hours that had not been counted, reducing the unaccounted time from 773 hours to 727 hours. The potential unearned compensation received by Manager 1 and four subordinates totaled $17,974. Table 5 shows the estimated hours that were not counted for each of the four employees and Manager 1.

The potential unearned compensation received by Manager 1 and four subordinates totaled $17,974.

Table 5
Estimated Unaccounted Leave for Employees A, B, C, and D and Manager 1
April Through December 2006

EMPLOYEE	ESTIMATED UNACCOUNTED LEAVE (HOURS)
Employee A	160
Employee B	162
Employee C	171
Employee D	138
Manager 1	96*
Total	**727**

Source: Bureau of State Audits.

* In conformity with the relevant bargaining unit agreement, Manager 1 is exempt from time reporting coverage under the Fair Labor Standards Act. This exemption means that Manager 1 is not required to charge leave for absences of less than a whole day. The hours shown in the table represent full-day absences.

During the investigation, Justice learned that Manager 1 and four subordinates continued to improperly account for their time worked and leave taken throughout most of 2007. Justice is continuing to investigate the time reporting improprieties for the five employees for 2007.

Management Failed to Ensure the Accuracy of Their Employees' Time Sheets

As the manager of employees A, B, C, and D, Manager 1 is responsible for ensuring the accuracy of his subordinates' time reporting, in accordance with Justice policy. However, Justice found that he never verified the accuracy of his four subordinates' time sheets and did not adequately monitor the amount of time they worked or the time they were absent. In addition, Justice discovered that Manager 1's supervisor, Manager 2, who works at its headquarters, did not sufficiently ensure the accuracy of Manager 1's time sheets.

As discussed previously, Manager 1 allowed employees A, B, C, and D to take informal time off for uncompensated extra time they allegedly worked at the office or at home, thus violating a Justice policy that requires employees to report their overtime worked and their absences on its standard time sheet. Moreover, Manager 1 failed to adequately monitor and maintain complete records for the informal leave taken and overtime worked by employees A, B, C, and D to ensure there was conformity between the amount of informal leave they took and the extra time they claim to have worked. Most important, Manager 1 ignored the provisions of state regulations that require him to keep complete and accurate time and attendance records for each employee.

According to Manager 1, he disregarded formal work schedules and timekeeping and did not verify whether his employees' time reporting was accurate because he trusted them to track their own time.

According to Manager 1, he disregarded formal work schedules and timekeeping and did not verify whether his employees' time reporting was accurate because he trusted his employees to track their own time. Furthermore, Manager 1 believed a formal alternate work schedule and telecommuting agreement were inefficient ways to account for his employees' time. His expectations regarding time reporting by his subordinates were limited to them posting their absences on the electronic calendar to coordinate their time off. When asked how he determined the accuracy of the time sheets submitted by his subordinates, Manager 1 explained that he merely signed them. He also stated that he did not reconcile them to the electronic calendar and commented that he never questioned his subordinates about their time sheets.

Manager 2, the supervisor of Manager 1, also neglected her responsibility under Justice policy to provide meaningful oversight of his time reporting and to ensure that he properly monitored the time reporting by employees A, B, C, and D. Manager 2 stated that she believes the employees' lack of proper timekeeping was a procedural error. Nevertheless, she acknowledged that she did not spend significant time reviewing the accuracy of her employees' time sheets because she delegated that responsibility to other staff. Furthermore, she stated that she did not spend much time reviewing her employees' time sheets unless the employees had issues with their leave balances.

Agency Response

In February 2008 Justice reported that it did not agree with our conclusions. However, it previously reported that it took several actions. Specifically, Justice instructed Manager 1 that he could not grant informal time off to any staff member. It also instructed Manager 1 and Manager 2 to ensure that all leave and overtime is documented appropriately and that they comply with state and Justice policies and procedures. In addition, Justice informed Manager 1 and Manager 2 that alternate workweek schedules must be documented. Further, Justice distributed a memo in January 2008 to its division chiefs reminding them of their time reporting obligations and policies. Finally, Justice is still determining whether additional corrective action is appropriate because it continues to investigate the extent to which the subjects of this investigation took unreported time off in 2007.

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Chapter 6

CALIFORNIA DEPARTMENT OF EDUCATION, CALIFORNIA SCHOOL FOR THE BLIND: WASTEFUL DECISIONS INVOLVING OVERTIME

Allegation I2006-0980

The California School for the Blind (school), part of the California Department of Education (Education), failed to adequately monitor overtime use and made wasteful decisions, which resulted in excessive and unnecessary overtime pay for two school employees.

Results and Method of Investigation

We asked Education to assist us with the investigation and we substantiated the allegation. In order to investigate this allegation, Education reviewed state law, policy, and the employees' collective bargaining agreement.[7] Education also reviewed the employees' attendance reports.

Lack of Monitoring Allowed Two Employees to Work Excessive and Unnecessary Overtime

Two school employees worked 993 hours of overtime from July 2005 through March 2007 but management at the school preapproved only 28 hours. Management approved the remaining 965 hours, which represented $34,776 in overtime compensation, after the employees completed the work, an action that is inconsistent with state policy and the employees' collective bargaining agreement. Education reported that the lack of monitoring resulted in unnecessary and excessive overtime, causing a significant increase in personnel costs.

Specifically, the investigation determined that Employee A failed to obtain preapproval for the 529 hours of overtime he worked from July 2005 through March 2007. The school uses a standard form for employees to request approval of overtime. Employee A submitted preapproval forms in 11 of the 19 months he worked overtime—but only after he worked the overtime. Thus, Employee A did not obtain preapproval for any of his overtime.

[7] For a more detailed description of the laws, policies, and collective bargaining agreement discussed in this chapter, see Appendix B.

Similarly, Employee B failed to obtain preapproval for 436 of the 464 hours of overtime she worked during the same period. Employee B worked overtime in 20 of the 21 months we reviewed, but submitted preapproval forms and received preapproval for only one month's overtime. Consequently, Employee B obtained preapproval for only 28 hours of overtime.

Education stated that preapproval of overtime is an internal control that enables management to determine the need for overtime and to properly monitor overtime usage. As a result, the school's management could not determine if most of the overtime work performed by those two employees was necessary. Moreover, Education stated that in many instances employees A and B indicated the overtime work performed was nonspecific and routine in nature and could have been performed during the employees' normal work schedules. Thus, Education determined these reasons did not appear to address operational needs that would justify the overtime work performed.

In many instances the employees' overtime work could have been performed during their normal work schedules.

Agency Response

The school reported that employees now must submit an authorization form at least one day before the date that overtime is requested and must include specific reasons for the overtime hours. The school reported that the immediate supervisor reviews the request to determine if the activity is appropriate for overtime or whether the tasks could be completed during regular work hours.

Further, Education instructed the school to keep it apprised of overtime usage at the school on a monthly basis for a period of two years.

Chapter 7

EMPLOYMENT DEVELOPMENT DEPARTMENT: MANAGEMENT FAILED TO TAKE APPROPRIATE ACTION CONCERNING AN EMPLOYEE WHO DRANK ALCOHOLIC BEVERAGES WHILE ON DUTY

Allegation I2007-0739

An employee with the Employment Development Department (Employment Development) drank alcoholic beverages during work hours, and his drinking impeded his ability to safely perform his duties.

Results and Method of Investigation

We asked Employment Development to assist us with the investigation, and we substantiated the allegation. To investigate the allegation, Employment Development reviewed the employee's personnel file, inspected the employee's work site, and conducted surveillance of the employee. In addition, Employment Development interviewed coworkers, the employee's current and former supervisors, the manager of the facility where the employee works, and the employee.

Background

State civil service law makes employee drunkenness a cause for employee discipline. In addition, a state regulation that is designed to ensure that the state workplace is free from the effects of drug and alcohol abuse prohibits any employee from using or being under the influence of alcohol to any extent that would impede the employee's ability to perform his or her duties safely and effectively.[8] State employees have access to a statewide program that offers support and assistance for alcohol and drug abuse.[9]

[8] For a more detailed description of the laws and regulation discussed in this chapter, see Appendix B.

[9] The statewide program is known as the Employee Assistance Program.

The Employee Regularly Drank Alcoholic Beverages During Work Hours

Employment Development reported that the employee admitted to purchasing and drinking beer during work hours, but contended that he did this only during his break and lunch period. While being observed during a workday in October 2007, the employee appeared to drink four cans of beer between 9:30 a.m. and 12 p.m. Employment Development found that the employee routinely purchased four cans of beer from a local business and consumed them during work hours.

According to the employee and the manager of the facility where he works, the employee's job responsibilities require him to operate potentially dangerous machinery. Although Employment Development reported that it was unable to determine whether the employee was able to perform his job, it reported that coworkers believe the employee posed a danger to himself and others due to being intoxicated while on duty, and therefore reported the employee's behavior to his supervisors on several occasions. Additionally, the employee's direct supervisor reported that the employee has bad work habits and that on several occasions the employee smelled of an alcoholic beverage and appeared to be under the influence of alcohol. If the employee drank up to four alcoholic beverages each day during work hours, his ability to perform his duties properly and efficiently may have been impaired.

Coworkers believed the employee posed a danger to himself and others due to being intoxicated while on duty and reported the behavior to his supervisors on several occasions.

Management Failed to Take Appropriate Action

The employee's direct supervisor and the manager of the facility where the employee works were aware of the employee being under the influence of alcohol while on duty. Moreover, both were aware of the concerns expressed by the employee's colleagues that the employee's intoxication created a risk that he would hurt himself or others while operating machinery at the facility. Nonetheless, they allowed the employee's behavior to continue despite the fact that it was actionable under the regulation previously referenced, and despite the duty of management, as stated in the collective bargaining agreement with the employee's union, to enforce safety and health policies, procedures, and work practices to protect employees from harm in connection with state operations.

When interviewed about what he did after several coworkers voiced their concerns about the employee's alcohol use, the employee's direct supervisor asserted that he spoke with the employee about his drinking on the job, but he did not document the discussion. The manager of the facility stated that she discussed the employee's drinking with the employee's direct supervisor on several occasions, but she did not document any of those discussions and she did

not talk with the employee directly. The manager said she shared her concerns about the employee's drinking with the Employment Development labor relations office. The manager stated she was told that she could not address the issue without reasonable cause and could not even smell the cup that the employee was using without first observing him with alcohol at the work site, so she took no further action. A state regulation defines reasonable cause simply as a good-faith belief based on specific articulable facts or evidence that the employee may be using or be under the influence of alcohol to an extent that would impede the employee's ability to perform his or her duties safely and effectively. Based on the numerous occasions when employees observed behavior that they believed was attributable to drinking, along with the supervisor's direct observations, we believe the manager had reasonable cause to take action.

We believe the manager had reasonable cause to take action based on the numerous occasions when employees observed behavior that was attributable to drinking, along with the supervisor's direct observations.

Agency Response

Employment Development reported that it provided the employee with a corrective action memo in February 2008. The memo informed him that consuming alcohol was not allowed during compensated work hours and that he must immediately refrain from doing so. Employment Development also informed the employee that working while intoxicated was not allowed, and it advised him not to consume alcohol during his unpaid lunch break. In addition, Employment Development informed the employee about the availability of the Employee Assistance Program for assistance with alcohol abuse. Further, Employment Development reported that the employee's supervisor will closely monitor his activities. Finally, it advised the employee that this matter could form the basis for adverse action.

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Chapter 8

UPDATE OF PREVIOUSLY REPORTED ISSUES

Chapter Summary

The California Whistleblower Protection Act requires an employing agency or appropriate appointing authority to report to the Bureau of State Audits (bureau) any corrective action, including disciplinary action, that it takes in response to an investigative report no later than 30 days after the bureau issues the report. If it has not completed its corrective action within 30 days, the agency or authority must report to the bureau monthly until it completes that action. This chapter summarizes corrective actions taken on 13 reported cases.

Department of Corrections and Rehabilitation
Case I2003-0834

We reported the results of this investigation on March 22, 2005.

The Department of Corrections and Rehabilitation (Corrections) improperly granted registered nurses (nurses) an increase in pay associated with inmate supervision that they were not entitled to receive. Specifically, 25 nurses at four institutions received increased pay associated with inmate supervision even though they did not supervise inmates for the minimum number of hours required or they lacked sufficient documentation to support their eligibility to receive the increased pay. Between July 1, 2001, and June 30, 2003, Corrections paid these nurses $238,184 more than they were entitled to receive.

In September 2007 Corrections reported that it had collected $39,177 of the $238,184 that we identified in our report. The remaining uncollected overpayments constitute payments made to the 11 nurses who Corrections believes were entitled to the increase, overpayments still under collection, and overpayments that could not be collected because Corrections stated it was not aware of these in time to recover the funds within three years of the overpayments, as required by law.

Updated Information

Corrections reported that it has collected an additional $6,492 since it last provided us with an update. It also reported that it continues to pursue uncollected overpayments. However, because collection of the overpayments has been outstanding for over a year, Corrections will not be able to recover additional overpayments identified in our report.

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

We reported the results of this investigation on September 21, 2005.

Corrections did not track the total number of hours available in a rank-and-file release time bank (time bank) composed of leave hours donated by members of the California Correctional Peace Officers Association (union). As a result, Corrections released employees without knowing whether the time bank had sufficient balances to cover the releases. In addition, the management reports that Corrections used to track time bank charges and donations did not capture a significant number of leave hours used by union members. Corrections charged nearly 56,000 hours against the time bank for hours union members spent conducting union-related activities between May 2003 and April 2005. However, we identified 10,980 additional hours members used that Corrections failed to charge against the time bank for representatives A, B, and C. Although Corrections asserted that it had reconciled its time bank balances, records from the State Controller's Office (SCO) did not indicate that the 10,980 hours were charged to the time bank through the State's leave-accounting system. Thus, it appears that those hours were paid through regular payroll at a cost to the State of $395,256.

When we last updated this issue in March 2007, Corrections stated that it could not independently substantiate the 10,980 hours we identified in our report as hours that representatives A, B, and C did not charge to the union time bank between May 2003 and April 2005. Corrections believes that the SCO and the Corrections leave-accounting system could not provide an accurate method for distinguishing the type of union leave used.[10] However, to resolve this issue, it is not important to be able to make such distinctions. Our review determined that none of the hours was charged to any union leave category.

[10] When we first reported this issue in September 2005, we explained that Corrections uses several different types of leave categories to account for employees who work on union activities.

Corrections also reported that it modified and implemented several changes to its tracking system that allowed it to track, report, and seek payment for union leave time. For representatives B and C, records from the SCO indicated that Corrections had charged union leave for the hours they spent working on union activities from July through December 2006. Further, SCO records show that Corrections retroactively charged union leave for the hours that Representative B spent working on union activities from January through June 2006. However, these records also show that Corrections was still not charging any type of union leave category for the hours Representative A spent working on union activities.

In September 2007 we reported SCO records indicate that Corrections retroactively charged union leave for 776 of the 984 hours Representative A spent working on union activities from July through December 2006. Additionally, although it appeared that Corrections was accounting for a majority of Representative A's hours, it still failed to charge any type of union leave category for 264 of the 1,000 hours he spent working on union activities from January to June 2007. For Representative B, SCO records show that Corrections retroactively made adjustments to the different union leave categories resulting in a net decrease of 40 hours being charged against union leave for time he spent working on union activities from July through December 2006. Additionally, Corrections failed to charge union leave for 160 of the 1,000 hours Representative B spent working on union activities from January to June 2007. For Representative C, Corrections retroactively made adjustments to the different union leave categories resulting in a net reduction of 32 hours being charged against union leave for time he spent working on union activities from July through December 2006. SCO records also show that Corrections accounted for all of Representative C's work on union activities from January through June 2007.

Updated Information

Corrections stated that it continues to work with the union to resolve this issue. In addition, since we reported our last update in September 2007, SCO records indicate that Corrections charged union leave for all but eight of the hours Representative A spent working on union activities from July through December 2007. SCO records also show that Corrections retroactively charged 208 hours to union paid leave and annual leave for Representative B for the month of June 2007 even though there are only 176 state work hours for that month. Additionally, Corrections overcharged leave balances for the three representatives by 44.5 hours for hours they worked on union activities from July through December 2007.

Table 6 shows the hours Corrections has failed to charge against union leave categories, retroactive adjustments made for prior periods reviewed, and hours not charged or overcharged to leave categories for the current reporting period of July through December 2007. Rather than improving, however, this situation has gotten worse. In fact, from May 2003 through December 2007 Corrections has failed to account for 14,807.5 hours of union leave at a cost to the State of $544,213, an increase of $148,957 over the amount we originally reported in September 2005.

Table 6
Total Hours of Union Leave Time That the Department of Corrections and Rehabilitation Failed to Charge for Representatives A, B, and C From May 2003 Through December 2007

	REPRESENTATIVE A	REPRESENTATIVE B	REPRESENTATIVE C	TOTAL HOURS
Hours previously identified from May 2003 through June 2007	5,980	5,048	4,032	15,060
Retroactive adjustments from January 2007 through June 2007	0	(208)	0	(208)
Union leave hours not charged from July 2007 through December 2007	8	(56)	3.5	(44.5)
Totals	**5,988**	**4,784**	**4,035.5**	**14,807.5**

Source: State Controller's Office records.

Department of Health Services
Case I2004-0930

We reported the results of this investigation on September 21, 2005.

We found that contracts and related invoices of the Genetic Disease Branch (branch) of the Department of Health Services (Health Services) lacked specifics, leading to questionable and improper payments for holiday pay and equipment. For example, the branch improperly authorized payment for 13 holidays to a contractor's workers from December 2003 through November 2004, costing the State $57,788 for services it did not receive. Also, the branch circumvented procurement procedures by purchasing computers, fax machines, and printers totaling $40,698 under contracts that were for services, not equipment.

Health Services previously reported that branch staff and management involved in contract and procurement activities completed contract ethics training. In addition, Health Services reported that it was taking disciplinary action against five individuals.

Updated Information

As a result of a reorganization effective in July 2007, four of the five employees were assigned to the Department of Public Health (Public Health). The remaining employee was assigned to the Department of Health Care Services (Health Care Services). Public Health and Health Care Services reported in October 2007 that adverse actions had been served on these employees. The actions ranged from counseling memos to temporary demotions of up to two years.

Public Health and Health Care Services reported they had served adverse actions ranging from counseling memos to temporary demotions for the five employees involved with the questionable and improper payments.

Department of Fish and Game
Case I2004-1057

We reported the results of this investigation on March 22, 2006.

The Department of Fish and Game (Fish and Game) allowed several state employees and volunteers to reside in state-owned homes without charging them rent. Consequently, Fish and Game violated the state law prohibiting state officials from providing gifts of public funds. Additionally, Fish and Game deprived taxing authorities of as much as $1.3 million in revenue because it did not report to the SCO the taxable fringe benefits its employees receive when they live in state-owned housing at rates below fair market value.

Although Fish and Game was the focus of this investigation, we discovered that all state departments that own employee housing may be underreporting or failing to report housing fringe benefits totaling as much as $7.7 million annually. Additionally, because these departments charged employees rent at rates far below market value, the State may have failed to capture as much as $8.3 million in potential annual rental revenue.

When we updated this issue in September 2007, departments reported the following:

The Department of Personnel Administration (Personnel Administration) reported that it established contracts or agreements with seven appraisal firms and that its Master Service Agreement User's Manual (user's manual) was in the final edit and review stages. Once completed, Personnel Administration will

provide the user's manual to department directors, who can then enter into agreements with any of the seven contractors to obtain fair market appraisals of their state-owned homes.

Fish and Game reported that its Labor Relations Office visited all six Fish and Game regions throughout the State where employees reside in state-owned homes to educate personnel of Fish and Game's obligation to report taxable fringe benefits for those employees. Fish and Game also reported that it will begin the property appraisal process once Personnel Administration completes and distributes the user's manual. Finally, Fish and Game reported it notified its employees who reside in state-owned homes that their rental rates will be increased by 25 percent as of November 1, 2007.

The Department of Parks and Recreation (Parks and Recreation) reported that it believes its original response to our report—in which it asserted that state regulations do not allow it to raise rental rates—comprehensively addressed its role in this issue and provided no additional information. However, we are concerned that Parks and Recreation has not raised the rental rates of its state-owned housing where permitted when other state agencies have raised rates or are planning to do so.

Corrections reported that it planned to meet with Personnel Administration in September 2007 to discuss contract utilization and requirements for obtaining appraisal services and conducting annual rental surveys.

The Department of Developmental Services (Developmental Services) reported that once Personnel Administration authorized departments to utilize the master agreement, it will immediately begin contracting to obtain fair market appraisals and update the rental rates of its state-owned housing.

The Department of Forestry and Fire Protection (Forestry) reported that from May 2006 to June 2007 it raised its rental revenue of state-owned housing from $197,730 to $237,730 and that it is following collective bargaining provisions that allow it to raise rent by 25 percent annually when its properties are being rented at less than fair market values. In addition, Forestry changed its policy to require a new appraisal each time a new renter establishes residency.

The Department of Mental Health (Mental Health) reported that it had no additional information to report at this time.

The California Department of Transportation (Caltrans) reported that it adjusted rental rates for its state-owned homes to fair market values or is incrementally increasing rates to fair market values following collective bargaining agreement requirements.

The California Highway Patrol (Highway Patrol) reported that it issued a general order outlining its policy on the conditions of employment for employees assigned to resident posts, developed a resident post lease agreement to be signed by each affected employee, and adjusted its monthly rental rates in accordance with current state regulations.

The California Conservation Corps (Conservation Corps) reported that it hired an outside entity to appraise its properties. These appraisals showed that in some instances the rental rates it charged were consistent with the appraised values of the residences, but that in other instances the rates it charged were slightly lower than the appraised values.

Updated Information

Personnel Administration developed a Web page, which includes information to assist departments in obtaining fair market appraisals of their state-owned homes.

Personnel Administration reported that in September 2007 it distributed its user's manual and its Reporting and Withholdings Requirement Manual to affected state departments. In November 2007 Personnel Administration developed a State-Owned Housing Web page, which includes resource links and electronic copies of the manuals mentioned above as well as the seven contracts it entered into with appraisal firms to assist departments in obtaining fair market appraisals of their state-owned homes.

Fish and Game reported that it entered into a contract with an appraisal firm, which began conducting appraisals in December 2007. Fish and Game expects it will take approximately six months for appraisals of all its state-owned homes to be completed. Once completed, Fish and Game will be able to determine the gap between fair market value for each property and the rent being paid to determine the amount of taxable fringe benefit to be reported.

Parks and Recreation reported that it increased rents in July 2006 for those employees subject to collective bargaining agreements; however, it failed to provide this information in February 2007 or August 2007 when asked to provide us with the current status of its state-owned housing.

Corrections reported that it has submitted a contract request package to secure an appraisal contractor.

Developmental Services reported that it is awaiting the receipt of appraisal reports and anticipates making any needed rental rate adjustments by July 2008.

Forestry has not provided us with an update beyond what it asserted in September 2007.

Mental Health reported that it has no additional information to report at this time.

Caltrans reported that it raised rates for all of its properties to fair market value with the exception of some of the units within one of its districts. It also reported that it is continuing to raise the rates for those properties in the remaining district in accordance with bargaining unit limitations.

Highway Patrol reported that it has no additional information beyond what it asserted in September 2007.

Conservation Corps reported that it has recently taken steps to report taxable fringe benefits for employees occupying trailer pads at one of its facilities because it was charging $50 per month less than the appraised value.

Department of Forestry and Fire Protection
Cases I2005-0810, I2005-0874, and I2005-0929

We reported the results of this investigation on March 22, 2006.

From January 2003 through July 2005 five air operations officers working as pilots received more than $58,000 for overtime hours charged in violation of either department policy or their union agreement. In addition, two air operations officers working in maintenance received nearly $3,907 for overtime hours that it is not clear they actually worked.

In addition, between January 2004 and December 2005, Forestry paid a heavy fire equipment operator approximately $87,900 for 3,919 overtime hours, of which we identified $3,445 that is improper and $12,588 that is questionable. This employee improperly claimed 120 hours of overtime by reporting 24-hour shifts on the last day of his duty weeks, despite being counseled by his supervisor and being specifically told that he should report only 12 hours on those days. As a result, this employee improperly received $2,769. In addition, the employee improperly claimed 27 hours related to training, receiving $676 for hours to which he was not entitled.

The $12,588 we identified as questionable represents 549 hours, most of which involved instances where the employee either reported hours for covering the shift of another employee who was also scheduled to work those hours or reported hours for working the shift of another employee who was not scheduled to work. After we completed our investigation, the supervisor and the employee provided support for 401 of these hours, leaving 148 hours that are questionable.

Forestry subsequently reported that it agreed with our findings about the air operations officers acting as pilots and that it had actively started to process the $61,907 in overpayments as receivables in February 2007. As for the heavy fire equipment operator, Forestry agreed with some of the overpayments we identified.

Updated Information

Although Forestry previously reported that it had actively started to process the $61,907 overpayments as receivables for the air operations officers in February 2007, it reported in March 2008 that given the length of time since our initial report, its ability to recover the overpayments is limited. However, it has been more than two years since we reported the results of this investigation in March 2006. Thus, we believe that Forestry has had ample time to recover a portion of the overpayments made between January 2003 and July 2005.

Although Forestry reported in March 2008 that its ability to recover overpayments is limited, we believe that it has had ample time since March 2006 to recover a portion of the overpayments.

For the heavy fire equipment operator, Forestry asserted in March 2008 that it has justified all but 24 of the hours we originally reported in March 2006. We reviewed Forestry's support for this assertion and determined that its methodology is flawed and inconsistent with the supervisor's original statements. We originally identified 120 hours, representing $2,769 to which the heavy fire equipment operator was not entitled because he reported working 24-hours shifts on the last day of his duty week on 10 occasions, despite being counseled by his immediate supervisor to report only 12 hours on the last workday of his duty week. The State's collective bargaining agreement with the firefighters' union provides that heavy fire equipment operators working this employee's schedule work a 12-hour day on the last day of their duty week. In its January 2008 update to our investigation, Forestry asserted that staffing reports show this employee on duty for 24-hour shifts. However, it did not explain how these hours are consistent with the State's bargaining agreement with the firefighter's union.

We also reported that this employee incorrectly reported 27 hours for time he spent in training over four days, representing an overpayment of $676. Forestry asserted in January 2008 that the employee worked 24 hours for four straight days while in training.

We find Forestry's claim that the employee worked 96 straight hours while in training to be unreasonable and inconsistent with earlier statements.

The battalion chief responsible for training at the time of our original report stated in February 2006 that this employee was on a training assignment and should not have been paid for 24-hour periods. Although Forestry claimed the employee worked 96 straight hours, we find this claim to be unreasonable and inconsistent with earlier statements.

Additionally, we reported 92 hours that the employee reported as working another employee's shift, even though the other employee was not scheduled to work. Forestry reported in January 2008 that the employee stated he did not accurately report the reason for the time worked.

For another eight hours, Forestry asserted that a captain authorized the employee's overtime but did not provide sufficient support for its assertion.

Department of Forestry and Fire Protection
Case I2006-0663

We reported the results of this investigation on September 21, 2006.

A Forestry employee fraudulently claimed hours he did not work. Between January 2004 and December 2005, the employee, a heavy fire equipment operator, improperly claimed and received $17,904 in wages for 672 hours he did not work. He submitted nine false claims over the two-year period under various circumstances. Also, by claiming wages for hours he did not work, the employee took advantage of his supervisor's lack of effective oversight and a lack of communication among the various staff with the authority to sign time sheets. After we reported the results of our investigation, Forestry reported that it agreed the employee collected wages to which he was not entitled and it conducted its own investigation.

Updated Information

Forestry completed its investigation and asserted in March 2008 that the number of hours this employee improperly claimed should be reduced from 672 hours to 60 hours. Forestry stated that it recovered $1,789 for these hours. However, Forestry analyzed only 372 of the 672 hours we identified in our investigation. Forestry asserted that the employee's supervisor could account for 10 days, representing 216 of the 372 hours it reviewed. Nevertheless, the documentation Forestry provided to support this assertion lacks sufficient detail to support its claim. Specifically, the document does not identify which of the 10 days it purports to support.

Finally, Forestry reported that it took action against the two supervisors who signed the time sheets without appropriate documentation in this case and in the previously reported case.

Department of Parks and Recreation
Case I2005-1035

We reported the results of this investigation on March 22, 2007.

An employee with Parks and Recreation repeatedly misused state resources and failed to perform his duties adequately. The employee made more than 3,300 personal telephone calls over a 13-month period on his state-issued wireless phone. In addition, the employee made hundreds of telephone calls to phone numbers that appeared to be assigned to other state employees' wireless phones. However, Parks and Recreation determined that these phone numbers never were issued to state employees, raising questions about the appropriateness of these calls and about the assignment of these wireless phones.

At the time of our report, Parks and Recreation stated that it administered a documented corrective interview with the employee and submitted a draft departmental notice updating its policy concerning the use of personal communications devices by its staff.

Updated Information

A year after we first reported on this investigation, Parks and Recreation reported that it has still not finalized its policy concerning the use of personal communications devices. According to Parks and Recreation, it needs to determine the standard for its personal communication data devices. Parks and Recreation stated that the standard it uses will affect its recently approved public safety technology modernization project, which involves replacing obsolete personal communications devices with technology-based solutions.

Parks and Recreation has still not finalized its policy concerning the use of personal communications devices.

Department of Conservation
Case I2006-0908

We reported the results of this investigation on March 22, 2007.

An employee with the Department of Conservation (Conservation) violated financial disclosure requirements of the Political Reform Act of 1974 by failing to disclose his ownership of stocks issued by companies his office regulates (regulated companies). In addition,

the employee made regulatory decisions that had the potential to affect the companies in which he held stock, thereby creating the appearance of a conflict of interest. The employee also used state resources improperly to assist his spouse in securing contributions on behalf of her employer, a charitable organization. Furthermore, the employee misused the prestige of his position and potentially caused a discredit to the State when, on two separate occasions, he asked a company with which he has regular business dealings to waive a $35 fee associated with his personal cell phone purchases.

We also found that the employee's manager owned stock in seven oil industry companies, including one regulated company, and failed to disclose these interests on his state disclosure forms as required by law. Finally, we found that the manager accepted gifts from industry and regulated companies, in violation of state law governing incompatible activities.

When we updated this issue in September 2007, Conservation reported that the employee resigned from state service. It also reported that it was pursuing adverse action against the manager. In addition, Conservation stated that it established an ethics panel to focus on considering ethics-related questions from employees, revising Conservation's conflict-of-interest code, and developing internal ethics training. Further, Conservation reported that it had consulted with an advisory panel regarding the issues we identified in our report.

Updated Information

In January 2008 Conservation reported that it had entered into a settlement agreement with the manager that requires him to retire after he exhausts his leave credits.

While Conservation previously reported that it was pursuing adverse action against the manager, it reported in January 2008 that it had instead entered into a settlement agreement with the manager that requires him to retire once his leave credits are exhausted. Conservation also reported that its advisory panel issued a report regarding steps to be taken to discourage similar problems in the future. Finally, Conservation reported that it had initiated ethics training for all its employees.

California Highway Patrol
Case I2007-0715

We reported the results of this investigation on September 20, 2007.

Using three purchase orders, the CHP bought 51 vans for its motor carrier program, surveillance, and mail delivery. However, as of June 30, 2007, 30 vans purchased in October 2004 and 21 vans purchased in August 2005—at a combined cost of $881,565—had

not been used for the special purposes for which they had been purchased. In addition, the CHP left all but five of the 51 vans virtually unused after purchasing them. Further, because the CHP did not postpone its purchases of the vans until it needed them, the State lost interest earnings of approximately $90,385.

The CHP provided several reasons for not using the 51 vans for their intended purposes. Specifically, it stated that because of its workload, installation of equipment in the two vehicles it purchased for surveillance was delayed. In addition, CHP officials stated that, although it completed modifications to the mail van, the CHP did not plan to use it until the mail van it was intended to replace reached the replacement mileage target of 150,000 miles or was no longer cost-effective to operate. Further, the CHP stated that modification of the 30 vans it received in October 2004—originally scheduled for April 2006—was canceled because of an unforeseen increase in demand for marked patrol cruisers. However, based on our review of a timeline of events and other information provided by the CHP, it appeared the CHP had not yet developed an equipment strategy for the 48 motor carrier program vans at the time it was modifying the marked patrol cruisers. We believe the primary cause for delays in making the 48 vans available for field use was the CHP's attempt to develop a prototype vehicle design that could meet the needs of all its employees who perform field inspections.

In September 2007 the CHP acknowledged that the vehicles remained parked and unused for an extended period of time and that it did not equip the vans within a reasonable time frame. The CHP revised its fleet operations manual to address the manner in which its vehicles are equipped, painted, and marked. It reported that it also now requires the CHP commissioner's approval for any vehicle modifications or redesign. However, the CHP disagreed with our contention that it lacked a workable strategy to use the vans before their purchase for the motor carrier program. The CHP stated that the delays were instead the result of its decision to cease its normal process of equipping the vehicles under its existing configuration while awaiting the completion of the prototype.

Finally, the CHP asserted that, had it delayed the purchases of the vans until the equipment design was resolved, it would have spent $235,233 more for 51 vans than it did. Thus, the CHP believed that because it incurred no additional cost to store the vehicles on its property, its decision to purchase these vans more than two years before they were needed or used represents a savings of $235,233. We disagreed with this assertion because it ignored the $90,385 in interest the State would have earned if the funds had remained in the State Treasury. Further, the CHP's analysis did not

recognize the difference in product quality and resale value of 2007 and 2008 model year vehicles when compared with the 2004 and 2005 model year vehicles it purchased.

Updated Information

As of November 2007 the CHP reported that it had assigned all 51 vans to various commands throughout the State.

As of November 2007 the CHP reported that all 51 vans have been assigned to various commands throughout the State.

Department of Mental Health
Case I2006-1099

We reported the results of this investigation on September 20, 2007.

Mental Health violated provisions of state law that require a state agency to justify its need to purchase motor vehicles and to receive prior approval for the purchase from the Department of General Services (General Services). In seeking approval from General Services, Mental Health indicated that it intended to use two 2005 Ford Crown Victoria Police Interceptors (police interceptors) for law enforcement purposes. However, after it received approval and purchased the vehicles, the Coalinga State Hospital (hospital) misused state funds when it assigned the police interceptors first to its general motor pool and later to three hospital officials, who used them for non-law enforcement purposes, including commuting, in violation of state law. General Services indicated that it would not have approved the purchases of the police interceptors had it known how they would be used. Additionally, we found that the purchase of the police interceptors was wasteful because they cost $18,682 to $19,640 more than two light-class sedans.

Also in violation of a state regulation, the hospital did not accurately list the officials' addresses on home-storage permits, thus failing to disclose that two of the officials used the police interceptors to commute 390 to 980 miles per week. Further, the three hospital officials did not maintain the required mileage logs for the police interceptors they drove.

At the time of our report, Mental Health reported that hospital management erred when it assigned the vehicles to the motor pool and subsequently to the officials who were not entitled to use law enforcement vehicles. It reported that the hospital officials subsequently were assigned light-class vehicles for business use only. It further reported that the hospital intended to transfer the two police interceptors to other state hospitals until the hospital needed them. Regarding the home-storage permits and the vehicle mileage logs, Mental Health stated that the long commutes to the

officials' residences were inappropriate. It also reported that it had taken measures to ensure that all home-storage permits were accurate. Further, Mental Health reported that as of June 2007 all hospital employees who were assigned vehicles maintained mileage logs, and that hospital motor pool staff maintained logs for pool vehicles.

Updated Information

As of January 2008 Mental Health reported that it had transferred the two police interceptors to another state hospital to be used for law enforcement purposes. It also reported that two of the hospital officials have retired and that, due to performance issues, the third official now occupies a lower-level position at a different state hospital.

In January 2008 Mental Health reported that it transferred the two police interceptors to another state hospital to be used for law enforcement purposes.

California State Polytechnic University, Pomona
Case I2007-0671

We reported the results of this investigation on September 20, 2007.

An official at California State Polytechnic University, Pomona (Pomona), inappropriately used university computers to view pornographic Web sites. Pomona found that the official repeatedly used university computers to view Web sites containing pornographic material. State laws prohibit employees from using public resources, such as time and equipment, for personal purposes. In addition, these laws require employees to devote their full time and attention to their duties, and prohibit individuals employed by the State from using a state-issued computer to access, view, download, or otherwise obtain obscene matter. Specifically, Pomona found that the official viewed approximately 1,400 pornographic images on two university computers during several weeks in 2006 and also from February to May 2007. Pomona was unable to review the official's complete Internet usage because the settings on the official's main computer only allowed for a two-month retention period of Internet activity. When interviewed, the official admitted to viewing pornographic Web sites regularly using university computers.

When we issued our report, Pomona indicated the official was no longer working on campus. Pomona stated that it negotiated a resignation that permitted the official to exhaust all earned leave credits and other paid leave before resigning. Pomona also indicated its commitment to taking appropriate action when notified of employees who access pornographic materials on the Internet. Further, Pomona stated that it has an Appropriate Use Policy for

Information Technology. However, it did not indicate whether it implemented any new controls or software filters to prevent any future access to pornographic Web sites by employees.

Updated Information

Pomona's Academic Senate approved an interim policy regarding appropriate use of computers. However, it failed to implement any new controls or software filters to prevent any future access to pornographic Web sites.

We examined records from the SCO and confirmed the official's separation from Pomona. In addition, Pomona reported in January 2008 that its Academic Senate approved an Interim Appropriate Use Policy (interim policy). The interim policy states that the appropriate use of computers must not be for personal purposes. The policy further states that misuse includes using computing facilities for purposes other than those for which they were intended or authorized. Pomona stated that the interim policy must go through a meet-and-confer process with the unions for staff and faculty employees to become official.

Department of Health Services
Case I2006-1012

We reported the results of this investigation on September 20, 2007.

A Health Services employee improperly used his state computer to access Internet sites, in violation of state law and Health Services' policies.[11] Specifically, from July 2006 through October 2006 the employee accessed Internet sites that were inappropriate. Internet-monitoring reports showed that the employee visited modeling Web sites and Internet-based e-mail sites during the employee's regular weekday work schedule and on six nonbusiness days, such as weekends and holidays. In addition, the employee did not have permission to enter the building on any of the six nonbusiness days. Moreover, on one weekend day, the employee's spouse accompanied him into the building. Also, on nine days—eight of which were workdays—the employee spent more than three hours each day accessing the Internet, including viewing some modeling Web sites where his spouse had profiles and photos posted. Further, on one weekend day, the employee uploaded modeling photos of his spouse. Finally, the employee inappropriately used his state e-mail account to send or receive 370 e-mails that related either to his pursuit of modeling assignments for his spouse, many of which contained images of

[11] The employee worked in a division of Health Services during the period of investigation. Health Services reorganized effective July 1, 2007. The employee's division is now within the Department of Public Health.

his spouse that were not appropriate in the workplace, or to the employee's attempt to sell telecommunications services for an outside company and other personal activities.

At the time of our investigation, Health Services reported that it modified the employee's building access to normal business days and hours only and suspended his Internet and e-mail access. It also initiated content filtering of Internet sites, making certain sites—such as modeling Web sites and Internet-based e-mail—inaccessible to its employees. Finally, Health Services reported that it would pursue adverse action against the employee based on his inappropriate use of state time, equipment, facilities, and resources for private gain or advantage.

Updated Information

When we reported the results of this investigation in September 2007, Health Services told us that it was pursuing adverse action against the employee but it appears that the status of the adverse action was inaccurate. Specifically, in December 2007 Health Services reported to us that the employee left in April 2007 before it completed its adverse action against him. More importantly Health Services told us that prior to the employee's departure, it did not document in his personnel file the specific circumstances or events leading to its investigation of the employee's misuse of state time and resources. The employee is now employed at another department. As a result, we are concerned that the other department is unaware of the employee's misuse of state time and resources. Finally, Health Services stated that it regularly issues a security newsletter in an effort to remind employees about its information security policies and guidelines.

Health Services provided us with inaccurate information and failed to document the improper behavior in the employee's personnel file before the employee left to work for another state department.

Sonoma State University
Case I2006-0913

We reported the results of this investigation on September 20, 2007.

Officials at Sonoma State University (Sonoma State) closed four offices in two divisions—the Division of Student Affairs and Enrollment Management (Student Affairs) and the Division of Academic Affairs (Academic Affairs)—without appropriate authorization on July 3, 2006. As a result, eight employees in those offices were allowed to avoid charging their leave balances for all or part of July 3, 2006.

At the time of our report, Sonoma State indicated that Academic Affairs planned to schedule a review of the time and attendance procedures and leave-granting authority and planned to notify five employees that leave must be charged against their accrued balances. In addition, Sonoma State indicated that Student Affairs would require one employee to account for leave taken. Sonoma State did not address corrective action for the two remaining employees in Student Affairs.

Updated Information

Sonoma State reported that Student Affairs accounted for its three employees' time off. In addition, Sonoma State reported that Academic Affairs completed the review of time and attendance procedures and leave-granting authority and accounted for three of its five employees' time off. Sonoma State indicated that the fourth employee retired before we completed our investigation; thus, Academic Affairs could take no action. Academic Affairs missed its opportunity to adjust the remaining employee's leave balance because the employee resigned before it took any action.

We conducted this review under the authority vested in the California State Auditor by Section 8547 et seq. of the California Government Code and applicable investigative and auditing standards. We limited our review to those areas specified in the results and method of investigation sections of this report.

Respectfully submitted,

ELAINE M. HOWLE
State Auditor

Date: April 3, 2008

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

Appendix A

ACTIVITY REPORT

The Bureau of State Audits (bureau), headed by the state auditor, has identified improper governmental activities totaling $27.5 million since July 1993, when it reactivated the Whistleblower Hotline (hotline). These improper activities include theft of state property, false claims, conflicts of interest, and personal use of state resources. The state auditor's investigations also have substantiated improper activities that cannot be quantified in dollars but that have had negative social impacts. Examples include violations of fiduciary trust, failure to perform mandated duties, and abuse of authority.

Although the bureau investigates improper governmental activities, it does not have enforcement powers. When it substantiates allegations, the bureau reports the details to the head of the state entity or to the appointing authority responsible for taking corrective action. The California Whistleblower Protection Act (Whistleblower Act) also empowers the state auditor to report these activities to other authorities, such as law enforcement agencies or other entities with jurisdiction over the activities, when the state auditor deems it appropriate.

The chapters of this report describe the corrective actions that departments have taken on individual cases. Table A summarizes all the corrective actions that departments took between the time the bureau reactivated the hotline in 1993 until June 2002. Table A also summarizes departments' corrective actions since July 2002, when the law changed to require all state departments to annually notify their employees about the bureau's hotline. In addition, dozens of departments have modified or reiterated their policies and procedures to prevent future improper activities.

Table A
Corrective Actions
July 1993 Through December 2007

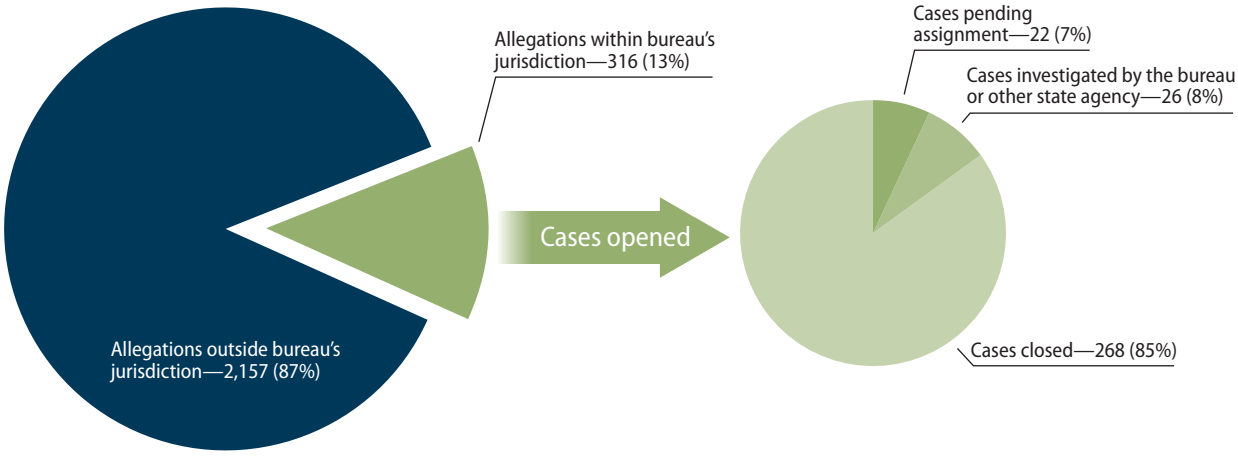
TYPE OF CORRECTIVE ACTION	NUMBER OF INCIDENTS FROM JULY 1993 THROUGH JUNE 2002	NUMBER OF INCIDENTS FROM JULY 2002 THROUGH DECEMBER 2007	TOTALS
Referrals for criminal prosecution	73	5	78
Convictions	7	2	9
Job terminations	46	30	76
Demotions	8	7	15
Pay reductions	10	42	52
Suspensions without pay	12	10	22
Reprimands	135	132	267

Source: Bureau of State Audits.

New Cases Opened Between July and December 2007

The bureau receives allegations of improper governmental activities in several ways. From July 1, 2007, through December 31, 2007, the bureau received 2,473 calls or inquiries. Of these, 2,125 were from the hotline, 223 from the mail, 124 from its Web site, and one from an individual who visited the office. Of these 2,473, the bureau opened 316 cases as shown in Figure A.1. After careful review, the bureau determined that the remaining 2,157 allegations were outside its jurisdiction and, when possible, referred those complainants to the appropriate federal, state, or local agencies as explained in Appendix C.

Figure A.1
Disposition of 2,473 Allegations Received From July Through December 2007

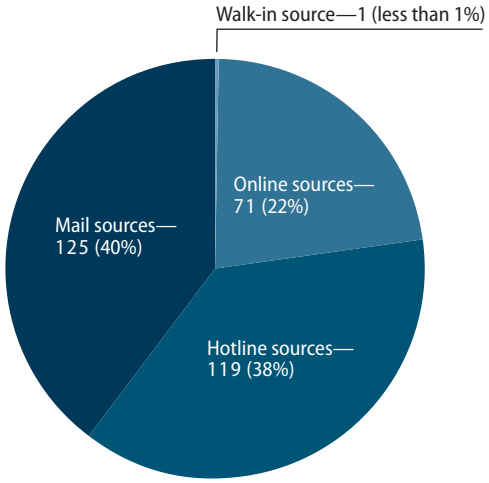


Source: Bureau of State Audits.

Callers to the hotline at (800) 952-5665 reported 119 of the new cases in this period.[12] The bureau also opened new cases based on 125 complaints it received in the mail, 71 complaints received through its Web site, and one complaint received from an individual who visited the office. Figure A.2 shows the sources of all the cases opened from July through December 2007.

[12] In total, the bureau received 2,125 calls on the hotline from July through December 2007.

Figure A.2
Sources of the 316 New Cases Opened From July Through December 2007



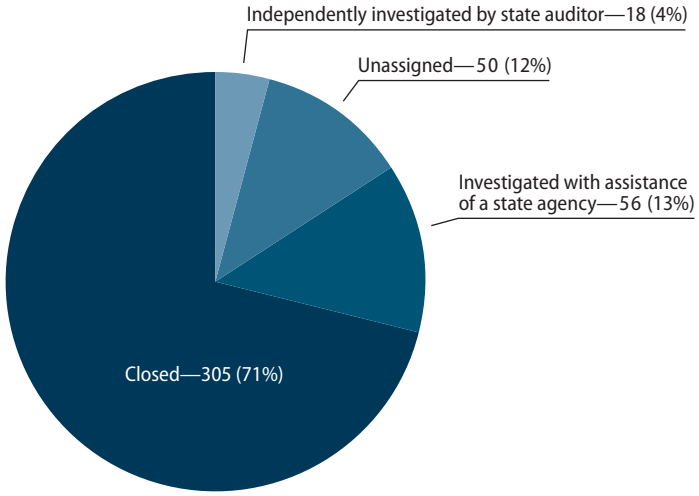
Source: Bureau of State Audits.

Work on Investigative Cases From July Through December 2007

In addition to the 316 new cases opened during this six-month period, 86 cases awaited review or assignment as of December 31, 2007; another 27 were still under investigation by this office or by other state agencies or were awaiting completion of corrective action. Consequently, 429 cases required some review during the period.

After performing a preliminary review of these cases, which includes analyzing evidence and other corroborating information and calling witnesses, the bureau determined that 305 cases lacked sufficient information to conduct an investigation. Figure A.3 on the following page shows the disposition of the 429 cases the bureau worked on from July through December 2007.

Figure A.3
Disposition of 429 Cases Worked on From July Through December 2007



Source: Bureau of State Audits.

The Whistleblower Act specifies that the state auditor can request the assistance of any state entity or employee in conducting an investigation. From July 1, 2007, through December 31, 2007, the bureau independently investigated 18 cases and substantiated allegations on four of the eight completed during the period. In addition, the bureau conducted investigative analysis on 56 cases that state agencies investigated under the bureau's direction and substantiated allegations in three of the 17 cases completed during the period. After a state agency completes its investigation and reports its results to the bureau, the bureau analyzes the agency's investigative report and supporting evidence and determines if it agrees with the agency's conclusions, or if additional work must be performed. The bureau confirmed the results of the three investigations state agencies substantiated. The results of those investigations are included in this summary report.

Appendix B

STATE LAWS, REGULATIONS, AND POLICIES

This appendix provides more detailed descriptions of the state laws, regulations, and policies that govern employee conduct and prohibit the types of improper governmental activities described in this report.

Causes for Disciplining State Employees

The California Government Code, Section 19572, lists the various causes for disciplining state civil service employees. These causes include, but are not limited to, incompetence, inefficiency, drunkenness on duty, and intemperance.

Union Leave
Chapter 1 Reports on Employee Union Leave

Section 9.8 of the State's collective bargaining agreement with unit 7 of the California State Law Enforcement Association, formerly the California Union of Safety Employees (CAUSE), effective July 1, 2005, through June 30, 2008, states that CAUSE shall have the choice of requesting an unpaid leave of absence or a paid leave of absence for a CAUSE bargaining unit member or steward. Section 9.8(B) dictates that, in the event of a union member's leave, CAUSE agrees to reimburse the affected department(s) for the full amount of the affected employee's salary, plus an additional amount equal to 32 percent of the affected employee's salary, for all the time the employee is off on a union leave.

Employer-Employee Relations
Chapter 1 Reports on Employer-Employee Relations

The stated purpose of the Ralph C. Dills Act is to promote peaceful and 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.

The California Government Code, Section 3517.63, requires that as of January 1, 2006, any side letter, appendix, or other addendum to a properly ratified memorandum of understanding that requires the expenditure of $250,000 or more shall be provided by the Department of Personnel Administration to the Joint Legislative Budget Committee, which shall determine if the side letter, appendix, or other addendum requires legislative ratification.

Overhead Costs
Chapter 2 Reports on Overhead Costs Related to Interagency Agreements

The State Contracting Manual, Section 3.06, discusses the State's policy on agreements with other governmental entities and public universities. This section specifically addresses administrative overhead fees and states that agencies shall assure that all administrative fees are reasonable considering the services being provided. Agencies may only pay overhead charges on the first $25,000 for each subcontract.

State and Privately Owned Parking
Chapter 3 Reports on Storing State-Owned Vehicles

The California Government Code, Section 14682, states that the final determination of how state agencies may use existing state-owned and state-leased facilities that are under the jurisdiction of the Department of General Services (General Services) shall be made by General Services. Section 14682 also provides that when an agency is required to request approval from General Services to acquire new facilities through lease, purchase, or construction; consideration shall first be given to utilizing existing state-owned, state-leased, or state-controlled facilities before considering the leasing of additional facilities on behalf of a state agency. If no available appropriate state facilities exist, General Services shall procure approved new facilities for the agency that meets the agency's needs using cost-efficiency as a primary selection criterion, among other agency-specific criteria, as applicable.

The California Code of Regulations, Title 2, Section 599.808, dictates the rule for the storage of state-owned vehicles. It states that the director of General Services shall allocate available storage space and shall notify each state agency of the number and location of General Services' garage and parking facilities allocated to that agency. Further, it states that each state agency shall assign to the state-owned vehicles under its control all vehicle storage or parking space under its jurisdiction, or allocated to it by the director. Each agency will report on all passenger vehicle storage space under its jurisdiction to General Services following procedures prescribed by General Services.

The State Administrative Manual (administrative manual), Section 1300, states that General Services' Real Estate Services Division (division) offers a full range of real estate and property management services to all state agencies. The division's Customer Account Management Branch (branch) is the place to initiate a request for real estate services. To request real estate services other than the leasing of privately owned space, agencies must submit

a request form to the branch. To request the leasing of privately owned space or request a change in or alteration in state-owned space, agencies must submit another form to the branch.

California State University Policy on Meal Expenses
Chapter 4 Reports on Meal Expenses

The California State University's (university) Travel and Relocation policy, HR2007-13, applies to all university employees authorized to travel on official university business. The chancellor or designee is authorized to issue interpretations and take such other action as may be necessary or appropriate to implement the provisions of the policy. The policy states that when an office building or similar place constitutes an employee's headquarters, no subsistence expense shall be allowed at any location within 25 miles of headquarters as determined by the normal commute distance. The policy states that when it is necessary for employees to conduct official university business during a meal, they may be reimbursed for actual meal expenses substantiated by a voucher or receipt up to the maximum described in Section 105C1. The university's intent is to allow reimbursement of employees for meal expenses in the limited number of instances where they are required to incur such expenses in connection with the conduct of official university business. In order to claim reimbursement for a business-related meal, the circumstances surrounding the meal must be beyond the control of the employee and it must be impractical to complete the business during normal working hours. An employee may not claim reimbursement for a business-related meal if he or she is also claiming subsistence reimbursement. Claims for meal expenses where business is incidental to the meal or where attendance is primarily for public or community relations are specifically prohibited under this policy.

Section 105C1 of the university's Travel and Relocation policy defines the maximum amounts allowable for meals while on travel assignments. It states that up to $50 for actual meal costs and $5 for incidentals may be reimbursed for each complete 24-hour period, and that itemized claims for reimbursement up to the specified amounts may be paid. In addition, it establishes maximum meal reimbursement amounts as follows:

Breakfast	$10
Lunch	$15
Dinner	$25

Accurate Time Reporting and Overtime
Chapters 5 and 6 Report on Accurate Time Reporting

The California Code of Regulations, Title 2, Section 599.665, requires each appointing power to keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. Such records shall be kept in the form and manner prescribed by the Department of Finance in connection with its powers to devise, install, and supervise a modern and complete accounting system for state agencies. Further, Section 599.736 states that the appointing power shall keep proper records and schedules of vacations accumulated and granted.

Section 8539 of the administrative manual states that agencies will maintain complete records of attendance and absences for each employee during each pay period and that the records will be properly certified. The original copy of the completed attendance report will be signed only by those who are authorized. Further, Section 8540 of the administrative manual states that as a general practice, compensation for overtime, either by cash payment or time off, should be based upon prior written approval signed by a designated supervisor. It should also be authorized and issued in accordance with bargaining unit agreements. Due to the nature of the work carried out by a state agency, management can retroactively approve this compensation. Care should be exercised in recording the overtime hours on the monthly attendance reports and overtime records of the employing state agency.

The State's collective bargaining agreement with unit 1, Section 19.2, requires that overtime must be authorized in advance, except in an emergency, by the State or its designated representative. This authorization must also be confirmed in writing not later than 10 days after the end of the pay period during which the overtime was worked. Each state agency shall maintain complete and accurate records of all compensable overtime worked by its employees.

Section 19.1 of the State's collective bargaining agreement with unit 4 states that employees who are exempt or excluded from the Fair Labor Standards Act shall not be charged paid leave or docked for absences in less than whole-day increments.

Chapter 6, Section 4 of the Department of Justice's Administrative Manual discusses responsibilities for attendance reporting. The employee is responsible for informing the supervisor of his or her whereabouts when absent from the workplace during work hours. The employee is also responsible for the following: (1) notifying the immediate supervisor as soon as possible when

an absence is anticipated by providing the supervisor with a leave-request form, which secures advance approval for any anticipated absence; (2) completing a leave-request form upon return from an unanticipated absence; (3) completing an attendance form accurately and promptly; and (4) reporting whether or not the employee used any leave time during the month. Further, supervisors are responsible for enforcing compliance with laws and rules that govern employee attendance, and for ensuring that their employees report leave usage accurately.

Substance Abuse
Chapter 7 Reports on Drinking Alcohol During the Workday

The California Code of Regulations, Title 2, Section 599.960(b), states that no state employee who is on duty or on standby shall use or be under the influence of alcohol to any extent that would impede the employee's ability to perform his or her duties safely and effectively. Section 599.962 discusses reasonable suspicion of drug or alcohol use. It states that reasonable suspicion is the good faith belief based on specific articulable facts or evidence that an employee may have violated the policy prescribed in Section 599.960(b) and that substance testing could reveal evidence related to that violation. Further, reasonable suspicion will exist only after the appointing power or his designee has considered the facts and/or evidence in the particular case and agrees that they support a finding of reasonable suspicion. A designee shall be an individual other than the suspected employee's immediate supervisor and other than the person who made the initial observation leading to the question of reasonable suspicion. The designee shall be a person who is authorized to act for the appointing power in carrying out this article and who is thoroughly familiar with its provisions and procedures. Finally, after it has been confirmed by the designee, the facts and/or evidence upon which the reasonable suspicion is based shall be documented in writing. A copy of this documentation shall be given to the affected employee.

Safety in the Workplace
Chapter 7 Reports on Health and Safety in the Workplace

Section 10.30 of the State's collective bargaining agreement with unit 14 states that it is the policy of the employer to enforce safety and health policies, procedures, and work practices, and protect employees from harm in connection with state operations. To this end, the parties agree that it is in their mutual best interest to endeavor to make the workplace free from situations, circumstances, or conditions that constitute an immediate and recognizable threat to the health and safety of employees.

Waste and Inefficiency
Chapters 1, 2, 3, and 4 Report on Waste and Inefficiency in State Government

The California Government Code, Section 11813, declares that waste and inefficiency in state government undermine Californians' confidence in government and reduce the state government's ability to address vital public needs adequately.

Incompatible Activities
Chapter 7 Reports on Incompatible Activities

The California Government Code, Section 19990, prohibits a state employee from engaging in any employment, activity, or enterprise that is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee. It requires state employees to devote their full time, attention, and efforts to their state offices or employment during their hours of duty as state employees.

State Managers' Responsibilities
Chapters 1, 2, 3, 4, 5, and 6 Report on Weaknesses in Management Controls

The Financial Integrity and State Manager's Accountability Act of 1983 (integrity and accountability act) contained in the California Government Code, beginning with Section 13400, requires each state agency to establish and maintain a system or systems of internal accounting and administrative controls. Internal controls are necessary to provide public accountability and are designed to minimize fraud, abuse, and waste of government funds. In addition, by maintaining these controls, agencies gain reasonable assurance that the measures they have adopted protect state assets, provide reliable accounting data, promote operational efficiency, and encourage adherence to managerial policies. The integrity and accountability act also states that the elements of a satisfactory system of internal accounting and administrative controls shall include a system of authorization and record-keeping procedures adequate to provide effective accounting control over assets, liabilities, revenues, and expenditures. Further, the integrity and accountability act requires that weaknesses must be promptly corrected when detected.

Appendix C

STATE AND FEDERAL REFERRAL NUMBERS

The Bureau of State Audits (bureau) in accordance with the California Whistleblower Protection Act contained in the California Government Code, beginning at Section 8547 et seq., receives and investigates complaints of improper governmental activities by state departments and state employees. To enable state employees and the general public to report these activities, the bureau maintains a toll-free whistleblower hotline (hotline) at (800) 952-5665 or (866) 293-8729 (TTY). Between July and December 2007, we received 2,125 calls, of which 1,114 were outside the bureau's jurisdiction. In these instances, the bureau refers callers to various local, state, and federal entities.[13] For 892 calls, callers either had inquiries not related to the hotline or were wrong numbers. The bureau opened 119 cases from allegations received through the hotline.

Listed in tables C.1 and C.2 on the following pages are the telephone numbers for the state and federal entities to which the bureau generally refers callers, as well as the issues and areas that these entities can address. In addition, the Department of Technology Services has state information officers at (800) 807-6755 who can direct callers to any state department. The federal government also has a federal information number that can direct callers to, and provide information about, all federal agencies at (800) 688-9889.

[13] In addition to referring callers to state and federal entities, the bureau refers callers to local entities such as local school boards, county controllers, and private businesses such as the Better Business Bureau.

Table C.1
Telephone Numbers for State Departments

STATE DEPARTMENT OR AGENCY	PHONE NUMBER	PHONE NUMBER DESCRIPTION
Aging, Department of	(916) 419-7500	Public information
	(800) 231-4024	Long-Term Care Ombudsman—nursing homes, drug treatment facilities, mental facilities, emergency referrals
Air Resources Board	(800) 952-5588	Air pollution violations hotline
	(800) 363-7664	Legal information and vehicle emissions
Alcoholic Beverage Control	(916) 263-6882	Northern Division
	(562) 402-0659	Southern Division
Attorney General, Office of	(800) 952-5225	Public inquiries and consumer complaints, private sector retaliation, business opportunity scams
	(916) 445-2021	Registry of Charitable Trusts (nonprofit organizations)
	(800) 722-0432	Bureau of Medi-Cal Fraud and Elder Abuse
	(213) 897-8065	Travel fraud
California State Bar	(800) 843-9053	Attorney lists, referrals and complaints
California State University	(562) 951-4425	Complaints regarding university employees
Chancellor's Office, Community Colleges	(916) 445-8752	Questions and/or issues related to community colleges
Child Support Services, Department of	(866) 249-0773	Questions about individual child support services cases
Consumer Affairs, Department of	(800) 952-5210	The Consumer Information Center takes complaints about: accountants, appliances, athletics, automobile repairs, barbers, beauty salons, cemeteries, contractors, cosmetologists, dentists & dental hygienists, engineers, funeral directors and embalmers, geologists and geophysicists, hearing aid dispensers, home furnishings, home improvements, landscape architects, marriage/family counselors, nurses, optometrists, pest control operators, pharmacists, private investigators and private patrol operators, repossessors, veterinarians, and other consumer issues.
	(800) 321-2752	Contractors' State License Board
	(800) 633-2322	Medical Board—complaints about physicians, questions about licensing or disciplinary actions
	(866) 785-9663	Office of Privacy Protection - identity theft
Controller, Office of the	(916) 445-2636	Public information
	(800) 952-5661	Property tax postponement
	(800) 992-4647	Unclaimed property
Corporations, Department of	(866) 275-2677	Escrow and title companies, finance lenders, mortgage bankers, investment counselors
Corrections and Rehabilitation, Department of	(877) 424-3577	To report sexual misconduct by employees
	(916) 445-7688	Division of Adult Operations
	(916) 329-2848	Division of Juvenile Justice
Emergency Services, Office of	(800) 852-7550	Hazardous materials spills
Employment Development Department	(916) 653-0707	Public information
	(800) 229-6297	Unemployment and disability insurance fraud
	(800) 528-1783	Tax or payroll fraud
Energy Commission	(800) 822-6228	Public adviser
	(916) 654-4489	Main number
Equalization, Board of	(916) 324-1874	To report improper conduct by department employees
	(800) 400-7115	Customer & Taxpayer Information Center
	(888) 334-3300	Tax Evasion Hotline
Fair Employment and Housing, Department of	(800) 884-1684	Racial or sexual discrimination in employment
	(800) 233-3212	Racial or sexual discrimination in housing
Fair Political Practices Commission	(916) 322-5660	Public information
	(800) 561-1861	Violations of ethics and campaign laws
Finance, Department of	(916) 445-3878	Public information
	(916) 322-2263	Statistical research—economics, finance, transportation, housing
	(916) 323-4086	Demographics

STATE DEPARTMENT OR AGENCY	PHONE NUMBER	PHONE NUMBER DESCRIPTION
Financial Institutions, Department of	(800) 622-0620	State-licensed banks, savings and loans, foreign banks, traveler's checks, industrial loans, credit unions
Fish and Game, Department of	(800) 952-5400	Poaching
Food and Agriculture, Department of	(916) 229-3000	Weights and measures enforcement
Franchise Tax Board	(800) 852-2753 (800) 338-0505 (800) 540-3453 (800) 883-5910	Public information Fast Tax (refunds and order forms) Tax fraud Taxpayer advocate
Gambling Control Commission	(916) 263-0700	Public information
Governor's Office	(916) 445-2841	Main number
Health Care Services, Department of	(916) 445-4171 (800) 822-6222	General information Medi-Cal fraud
Housing and Community Development, Department of	(800) 952-5275 (800) 952-8356	Mobile home complaints Mobile home registration and title information
Industrial Relations, Department of	(415) 703-4810 (800) 321-6742	Private sector complaints involving discrimination, wages, overtime, and other workplace issues (Labor Commissioner) To report accidents, unsafe working conditions, or safety and health violations (OSHA)
Inspector General, Office of	(800) 700-5952 (916) 830-3600	To report improper activities within the Department of Corrections and Rehabilitation Main number
Insurance, Department of	(800) 927-4357	Consumer complaints
Judicial Council	(415) 865-4200 (866) 865-6400	Courts Illegal or improper acts by judicial branch employees
Judicial Performance, Commission on	(415) 557-1200	Judicial misconduct and discipline
Lottery Commission	(800) 568-8379 (888) 277-3115	Public information Problem Gambling Help Line
Managed Health Care, Department of	(888) 466-2219	Health Maintenance Organization (HMO) complaints
Mental Health, Department of	(800) 896-4042 (916) 654-3890	Public Information Medi-Cal/Mental Health Services Ombudsman
Motor Vehicles, Department of	(800) 777-0133 (916) 657-8377 (866) 658-5758	Public information Complaints about automobile dealers Fraud/Theft Hotline (DL/ID)
Parks and Recreation, Department of	(800) 444-7275	Camping reservations in state parks
Personnel Administration, Department of	(916) 324-0455	Public information and information about state employees' wages and benefits
Personnel Board, State	(916) 653-1705 (916) 653-1403	Public information Whistleblower retaliation complaints
Public Employees' Retirement System	(916) 795-3829 (888) 225-7377	Public information Member services
Public Health, Department of	(800) 554-0354 (916) 445-2684	Nursing home complaints Office of Vital Records—birth and death certificates
Public Utilities Commission	(800) 848-5580 (800) 649-7570	Public information Complaints about cable, telephone, utility bills or service
Real Estate, Department of	(916) 227-0864 (916) 227-0931	Complaints regarding real estate licensees Real estate licensing information
Rehabilitation, Department of	(800) 952-5544 (916) 558-5775	Client assistance Public affairs, independent living
Secretary of State	(916) 657-5448 (916) 653-2318 (916) 653-3595	Public information Corporate filings Notary public section
Social Services, Department of	(800) 952-5253 (800) 344-8477	Public inquiry and client assistance Welfare fraud

continued on next page

STATE DEPARTMENT OR AGENCY	PHONE NUMBER	PHONE NUMBER DESCRIPTION
State Compensation Insurance Fund*	(888) 786-7372	Workers' Compensation Fraud Hotline
Technology Services, Department of	(800) 807-6755	State information officers provide information about state agencies, departments, and employees
University of California	(800) 403-4744	University of California Whistleblower Hotline
Veterans Affairs, Department of	(800) 952-5626	CalVet loans
Victim Compensation and Government Claims Board	(800) 777-9229 (800) 955-0045	To file a claim as a victim of a crime To file a claim against state government

* The State Compensation Insurance Fund is a state-operated entity that exists solely to provide workers' compensation insurance on a nonprofit basis. However, it is not a state department.

Table C.2
Telephone Numbers for Federal Departments

FEDERAL DEPARTMENT OR AGENCY	PHONE NUMBER	PHONE NUMBER DESCRIPTION
Agriculture, Department of (Office of the Inspector General)	(800) 424-9121	To report fraud, waste, and abuse, or health and safety threats to USDA regulated programs and products
Central Intelligence Agency	(703) 482-0623	Public Affairs Office
Citizenship and Immigration Services	(800) 375-5283	General information
Commerce, Department of (Office of the Inspector General)	(800) 424-5197	To report fraud, waste, abuse, or other violations of law
Defense, Department of (Office of the Inspector General)	(800) 424-9098	To report violations of ethical standards and/or the law, including but not limited to fraud, waste, abuse of authority, potential leaks of classified information, or potential acts of terrorism
Environmental Protection Agency (Office of the Inspector General)	(888) 546-8740 (800) 368-5888	General information or to report fraud, waste, and abuse Ombudsman for small businesses
Equal Employment Opportunity Commission	(800) 669-4000	To report employment discrimination
Federal Bureau of Investigation	(202) 324-3000	Washington, D.C. Headquarters—investigates violation of federal criminal law, espionage activities by foreign governments, and terrorist activities
Federal Communications Commission (Office of the Inspector General)	(888) 225-5322 (888) 863-2244	Consumer Information Center To report fraud, waste, and abuse
Federal Deposit Insurance Corporation	(877) 275-3342	Consumer hotline regarding FDIC banks, credit laws, etc.
Federal Election Commission	(800) 424-9530	Campaign financing or general information
Federal Emergency Management Agency	(800) 462-9029 (800) 638-6620	Disaster assistance Flood insurance information
Federal Trade Commission	(877) 382-4357 (877) 438-4338 (877) 987-3728	General consumer complaints Identity theft hotline Consumer advice center
Financial Industry Regulatory Authority	(800) 289-9999	Broker Check Program and investor education
Government Accountability Office	(800) 424-5454	Fraud, waste, and abuse involving federal employees or contractors
Health and Human Services, Department of	(800) 633-4227 (800) 786-2929	For Medicare information or Medicare fraud Runaways can call this number to leave messages for parents
Homeland Security Headquarters	(202) 282-8000	Main number
Housing and Urban Development	(202) 708-1112	General information
Internal Revenue Service	(800) 829-1040 (800) 829-0433 (800) 829-3676	Public information Tax fraud hotline To order forms and publications

FEDERAL DEPARTMENT OR AGENCY	PHONE NUMBER	PHONE NUMBER DESCRIPTION
Labor, Department of (Employee Benefits Security Administration)	(415) 625-2481 (626) 229-1000 (800) 475-4020	Information on retirement plans (San Francisco regional office) Information on retirement plans (Los Angeles regional office) OSHA violations
National Aeronautics and Space Administration (NASA)—(Office of the Inspector General)	(800) 424-9183	To report waste, fraud, and abuse by NASA employees and contractors
National Fraud Information Center	(800) 876-7060	Postal and telemarketing fraud
National White Collar Crime Center	(800) 221-4424	For information and research on preventing economic and cyber crime
Securities and Exchange Commission (Office of the Inspector General)	(800) 732-0330 (800) 289-9999	Investor education and general information Broker check program, NASDAQ
Social Security Administration	(800) 269-0271	Identity theft and other fraud
Transportation, Department of	(888) 327-4236 (800) 424-8802 (800) 424-9071	Vehicle safety hotline National Response Center to report oil and chemical spills Office of the Inspector General to report waste, fraud, and abuse
Treasury, Department of (Office of Thrift Supervision)	(800) 842-6929	Consumer hotline. Regulates all federally chartered and many state-chartered thrift institutions, including savings banks and savings and loan associations

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Index

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
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Senate Office of Research
California Research Bureau
Capitol Press