

OFFICE OF THE INSPECTOR GENERAL

MATTHEW CATE, INSPECTOR GENERAL



**FOLLOW-UP REVIEW OF THE
IMPLEMENTATION OF
WELFARE AND INSTITUTIONS CODE SECTION 1732.8
PROVIDING FOR HOUSING
CALIFORNIA YOUTH AUTHORITY WARDS IN
DEPARTMENT OF CORRECTIONS
FACILITIES**

SEPTEMBER 2004



ARNOLD SCHWARZENEGGER, GOVERNOR



September 13, 2004

Walter Allen III, Director
California Youth Authority
4241 Williamsborough Drive
Sacramento, California 95823

Re: Follow-up review of the implementation of Welfare and Institutions Code section 1732.8.

Dear Director Allen:

I am pleased to forward to you the enclosed report of the Office of the Inspector General's follow-up review on the implementation of Welfare and Institutions Code section 1732.8 by the California Youth Authority and the Youthful Offender Parole Board (now the Youth Authority Board). The statute allows California Youth Authority wards who have served sentences in the Department of Corrections to consent to serve their remaining California Youth Authority confinement time in Department of Corrections institutions.

A review of the implementation of Welfare and Institutions Code section 1732.8 conducted by the Office of the Inspector General in February 2003 found a number of deficiencies. The Inspector General made seven recommendations as a result of that review. The follow-up review revealed that the California Youth Authority and the Youth Authority Board have made significant progress in implementing the Office of the Inspector General's recommendations. Four of the seven recommendations have been fully implemented and the remaining three have been partially implemented.


Please contact Deputy Inspector General, In-Charge Sam Cochran at (916) 830-3664 if you have questions concerning this report.

Sincerely,

MATTHEW L. CATE
Inspector General

cc: Roderick Q. Hickman, Secretary, Youth and Adult Correctional Agency

Enclosure


Arnold Schwarzenegger, Governor

OFFICE OF THE INSPECTOR GENERAL



**FOLLOW-UP REVIEW OF THE
IMPLEMENTATION OF
WELFARE AND INSTITUTIONS CODE SECTION 1732.8
PROVIDING FOR HOUSING
CALIFORNIA YOUTH AUTHORITY WARDS
IN CALIFORNIA DEPARTMENT OF CORRECTIONS FACILITIES**

SEPTEMBER 2004

EXECUTIVE SUMMARY

This report presents the results of a follow-up to a February 2003 review conducted by the Office of the Inspector General of the implementation by the California Youth Authority and the Youthful Offender Parole Board of Welfare and Institutions Code section 1732.8. The statute, which became law on January 1, 2002, allows California Youth Authority wards who have served sentences in the Department of Corrections to consent to serve their remaining California Youth Authority confinement time in Department of Corrections institutions. Wards covered by the statute are termed “dual-commitment wards.” The Office of the Inspector General conducted the February 2003 review and the follow-up review under the authority vested in the Inspector General by California Penal Code section 6126.

In the February 2003 review, the Office of the Inspector General found the following deficiencies in the implementation of Welfare and Institutions Code section 1732.8:

- Dual-commitment wards were not allowed to attend their annual reviews and parole consideration date reviews and had little contact with the California Youth Authority and the Youthful Offender Parole Board.
- In making parole decisions, the Youthful Offender Parole Board did not adequately take into account that dual-commitment wards do not have access to the equivalent of board-ordered programs at Department of Corrections institutions and the board had not developed programming standards for the wards.
- The agencies had not developed appeal and grievance procedures for dual-commitment wards.

The Office of the Inspector General made seven recommendations to remedy the deficiencies, which are delineated in the attached implementation matrix.

As a result of the follow-up review, the Office of the Inspector General found that the California Youth Authority and the Youthful Offender Parole Board (now the Youth Authority Board) have made significant progress in implementing the Office of the Inspector General’s recommendations. Four of the seven recommendations have been fully implemented and the remaining three have been partially implemented.

The Office of the Inspector General found that the agencies have made the following key changes in response to the recommendations:

- The California Youth Authority and the Youth Authority Board now allow dual-commitment wards to attend their annual reviews and parole consideration date reviews.
- The California Youth Authority and the Youth Authority Board have modified the dual-commitment consent form to clarify the programming expectations of the Youth Authority

Board and the potential consequences of a ward's failure to participate in programs available at the Department of Corrections institution.

- The agencies have modified the dual-commitment consent form to include appeal and grievance procedures and the address for submitting grievances.

BACKGROUND

The Office of the Inspector General conducted a review in February 2003 of the implementation by the California Youth Authority and the Youthful Offender Parole Board (now the Youth Authority Board) of Welfare and Institutions Code section 1732.8 (Senate Bill 768, McPherson, Chapter 476, Statutes of 2001). The statute allows California Youth Authority wards who have served sentences in California Department of Corrections institutions to consent to serve their remaining California Youth Authority confinement time in Department of Corrections facilities. The statute became law on January 1, 2002. Wards covered by the statute are termed "dual-commitment wards." The review was requested by Senator Gloria Romero, Chair of the Senate Select Committee on the California Correctional System.

At the time of the original review, there were 40 dual-commitment wards housed in Department of Corrections institutions throughout the state. At the time of the follow-up field work in May 2004, only 33 dual-commitment wards remained in Department of Corrections institutions.

The February 2003 review found that the agencies lacked standards and procedures for programming dual-commitment wards and that the expectations of the Youthful Offender Parole Board were not clearly explained to the wards. The Office of the Inspector General also found that dual-commitment wards were not afforded the rights provided to other wards to attend their annual review and parole consideration date hearings. In addition, the Office of the Inspector General identified deficiencies in coordinating appeal and grievance procedures for the wards. As a result of the review, the Office of the Inspector General made seven recommendations.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Office of the Inspector General interviewed officials of the California Youth Authority, including managers and staff responsible for implementing and monitoring the Welfare and Institutions Code section 1732.8 program. The Office of the Inspector General also reviewed memoranda and documents relating to policy and procedural changes implemented as a result of the original report, reviewed ward files, and performed audit tests to verify compliance with the Office of the Inspector General's recommendations.

After completing the on-site field work, the Office of the Inspector General classified the progress of the California Youth Authority and the Youth Authority Board in implementing each recommendation into one of the following four categories:

- **Fully implemented:** The recommendation has been implemented and no further corrective action is necessary.

- **Substantially implemented:** More than half of the corrective actions necessary to fulfill the recommendation have been implemented.
- **Partially implemented:** Half or fewer than half of the corrective actions necessary to fulfill the recommendation have been implemented.
- **Not implemented:** The recommendation has not been implemented.

The attached matrix lists the recommendations associated with each of the findings from the February 2003 review, provides the status of the recommendation, and explains the basis for the status determination. Where appropriate, the Office of the Inspector General has provided follow-up recommendations.

ORIGINAL FINDING NUMBER 1:

The Office of the Inspector General found that dual-commitment wards are not allowed to attend their annual reviews and parole consideration date reviews and have little contact with the California Youth Authority and the Youthful Offender Parole Board.

ORIGINAL RECOMMENDATION(S):	STATUS:	COMMENTS:
<ul style="list-style-type: none"> The California Youth Authority and the Youthful Offender Parole Board should reevaluate the Youth and Adult Correctional Agency legal opinion concerning whether California Welfare and Institutions Code section 1732.8 (e) mandates that wards be given appearance hearings. If appearance hearings are indeed required by law, which is the view of the Office of Inspector General, the department must either provide the wards with appearance hearings or pursue legislation to amend Section 1732.8(e). <p>On the other hand, if it is determined that appearance hearings are not required under the statute, the department should revise the consent form to clearly address the issue of non-appearance hearings.</p>	<p>FULLY IMPLEMENTED</p>	<p>The California Youth Authority informed the Office of the Inspector General that, as the result of a legal opinion by the Youth and Adult Correctional Agency, the director of the California Youth Authority on February 24, 2003 ordered all Welfare and Institutions Code section 1732.8 wards be given the option of appearing at their Youthful Offender Parole Board (Youth Authority Board) hearing or submitting a written statement. If the ward waives the right, the hearing will go on as scheduled. If he or she elects to appear, arrangements for the appearance will be made with the board.</p> <p>The Office of the Inspector General reviewed the files of five wards and found the California Youth Authority had afforded all of them the opportunity to attend their Youthful Offender Parole Board (Youth Authority Board) hearings.</p>

<ul style="list-style-type: none"> The California Youth Authority should send representatives to prisons at designated intervals to communicate with dual-commitment wards or should provide orientation to correctional counselors on Welfare and Institutions Code section 1732.8 requirements. 	<p>FULLY IMPLEMENTED</p>	<p>According to the California Youth Authority staff, the California Youth Authority provided training on Welfare and Institutions Code section 1732.8 requirements to more than 200 Department of Corrections employees, including classification and parole representatives (correctional counselor IIIs), on February 24-27, 2003. The California Youth Authority staff reported that the Department of Corrections employees who attended the training received written procedures governing dual jurisdiction cases.</p> <p>California Youth Authority officials were unable to provide the Office of the Inspector General with the written procedures, but they did provide two letters of appreciation from the Department of Corrections for the training.</p> <p>The Office of the Inspector General reviewed the field files of three wards and listened to audiotapes of the formal meetings at which California Youth Authority representatives explained the purpose of the dual-commitment consent form, described the options available to the ward, and documented the ward's decision to remain at the Department of Corrections institution.</p>
<ul style="list-style-type: none"> Even though the ward's decision is irrevocable once he or she has signed the waiver form, the California Youth Authority should provide the current dual-commitment wards with an opportunity to reconsider their decisions in light of the fact that some wards may have signed the consent form without a clear understanding of its provisions. 	<p>PARTIALLY IMPLEMENTED</p>	<p>The California Youth Authority disagreed with this recommendation, contending that the director of the California Youth Authority does not have the authority to grant wards the opportunity to reconsider the decision to remain at the Department of Corrections under Welfare and Institutions Code section 1732.8.</p> <p>The California Youth Authority also contends that giving dual-commitment wards the opportunity to attend their Youthful Offender Parole Board (Youth Authority Board) hearings should clear up the wards' confusion about the board's programming expectations and give wards the opportunity to present their cases to the Youthful Offender Parole Board (Youth Authority Board).</p> <p>California Youth Authority officials provided the Office of the Inspector General with a copy of a June 9, 2003 memorandum, which they said was distributed to all dual-commitment wards. The memorandum informed the</p>

		wards they could appeal to the director of the Department of Corrections if they wish to return to the California Youth Authority.
--	--	--

FOLLOW-UP RECOMMENDATIONS:

- None

ORIGINAL FINDING NUMBER 2:

The Office of the Inspector General found that in making parole decisions, the Youthful Offender Parole Board does not adequately take into account that dual-commitment wards do not have access to the equivalent of board-ordered programs at Department of Corrections institutions and has not developed programming standards for these wards.

ORIGINAL RECOMMENDATION(S):	STATUS:	COMMENTS:
<ul style="list-style-type: none"> • The Office of the Inspector General recommends that the California Youth Authority and the Youthful Offender Parole Board jointly review the case files of the 14 wards who have had time added to the parole consideration date for additional treatment and training to ensure that due process rights have been fully observed. 	<p style="text-align: center;">PARTIALLY IMPLEMENTED</p>	<p>The California Youth Authority and the Youthful Offender Parole Board (Youth Authority Board) reported they performed a joint review of seven of the 14 cases and that the other seven wards had already paroled. The Office of the Inspector General verified the parole dates of the latter wards and reviewed three of the remaining seven files for evidence of the joint review. Although none of the files contained evidence of the review, a California Youth Authority representative reiterated that the reviews did take place, but reported that neither the California Youth Authority nor the Youthful Offender Parole Board (Youth Authority Board) documented the reviews in the wards' files.</p>
<ul style="list-style-type: none"> • The Office of the Inspector General also recommends that the California Youth Authority modify the dual-commitment consent form to clearly articulate (1) the programming expectations of the Youthful Offender Parole Board, and (2) the potential consequences of a ward's failure to avail himself of programs at the Department of Corrections institution. 	<p style="text-align: center;">FULLY IMPLEMENTED</p>	<p>The California Youth Authority revised the consent form (YA 1.207) in May 2003 in accordance with the Office of the Inspector General's recommendations.</p>

FOLLOW-UP RECOMMENDATION:

- The California Youth Authority should document all file reviews in the wards' files as appropriate.

ORIGINAL FINDING NUMBER 3:

The Office of the Inspector General found no evidence that the California Youth Authority and the Youthful Offender Parole Board have a “blanket policy” of automatically denying parole to dual-commitment wards.

ORIGINAL RECOMMENDATION(S):	STATUS:	COMMENTS:
<ul style="list-style-type: none"> • No recommendations. 	N/A	None.

ORIGINAL FINDING NUMBER 4:

The Office of the Inspector General found no evidence that dual-commitment wards have been purposely denied a means of appealing actions or grieving department policies, but did find that the agencies have not developed appeal and grievance procedures to meet the needs of these wards.

ORIGINAL RECOMMENDATION(S):	STATUS:	COMMENTS:
<ul style="list-style-type: none"> • The Office of the Inspector General recommends the agencies administering Welfare and Institutions Code section 1732.8 modify the memorandum of understanding to specify the agencies' respective responsibilities for handling dual-commitment ward grievances and to establish reasonable time limits for filing and responding to grievances. 	PARTIALLY IMPLEMENTED	The California Youth Authority did not modify the memorandum of understanding, contending that it does not need revision because it is broad enough to allow for the required program modifications. Instead, the California Youth Authority provided the Department of Corrections with copies of the Youth Authority Appeal Form and Ward Grievance Form for distribution to institution inmate appeals coordinators. The California Youth Authority provided the Office of the Inspector General with an undated draft memorandum written by the Department of Corrections Inmate Appeals Branch concerning the distribution, processing, and retention of appeal/grievance forms for Welfare and Institutions Code section 1732.8 wards.

<ul style="list-style-type: none"> The dual-commitment consent form should be modified to incorporate the process and procedures governing appeals and should fully explain the process to the wards. The consent form should also include the agency's address for mailing ward inquiries and grievances. 	FULLY IMPLEMENTED	<p>The California Youth Authority revised the consent form (YA 1.207) in May 2003 to incorporate the grievance procedures. The form includes the following statement:</p> <p>“[A]ny grievances pertaining to CYA issues are to be referred to: Program Administrator, Wards Rights/Grievance, 4241 Williamsborough Drive, Suite 230, Sacramento, CA 95823-2088.</p>
---	------------------------------	---

FOLLOW-UP RECOMMENDATION:

- The California Youth Authority should ensure that the Department of Corrections memorandum concerning the distribution, processing, and retention of appeal/grievance forms for Welfare and Institutions Code section 1732.8 wards is submitted in final form to the inmate appeals coordinators.