

# **OFFICE OF THE INSPECTOR GENERAL**

**MATTHEW L. CATE, INSPECTOR GENERAL**



## **QUARTERLY REPORT**

**JANUARY - MARCH 2005**

**STATE OF CALIFORNIA**

## INTRODUCTION

This quarterly report summarizes the audit and investigation activities of the Office of the Inspector General for the period January 1, 2005 through March 31, 2005.

The report satisfies the provisions of California Penal Code sections 6129, subdivision (c)(2), and 6131, subdivision (c), which require the Inspector General to publish a quarterly summary of investigations completed, including the conduct investigated and any discipline recommended and imposed. To provide a more complete overview of the Inspector General's activities and findings, this report reaches beyond that requirement to also summarize audits and special reviews performed by the office during the first quarter period. All of the activities reported were carried out under California Penal Code section 6125 *et seq.*, which assigns the Office of the Inspector General responsibility for independent oversight of the Youth and Adult Correctional Agency and its subordinate entities.

## BACKGROUND

The Office of the Inspector General investigates and audits the state's correctional departments, programs, and institutions to uncover criminal conduct, administrative wrongdoing, poor management practices, waste, fraud, and other abuses. Established in its present form in 1998, the office has undergone significant change in the past five years, and particularly in the months leading up to and extending through the first quarter of 2005. Between 1999 and the end of 2003, the Office of the Inspector General conducted 48 management review audits and special reviews of state correctional entities, responded to 16,000 complaints concerning the correctional system, and conducted more than 1,400 investigations into allegations of misconduct and other improprieties by correctional staff and management. The office also performed quality control reviews of more than 4,000 internal affairs investigations conducted by the investigative units of the Department of Corrections and the California Youth Authority.

As a result of the state's fiscal crisis, however, the Inspector General's budget was cut 77 percent between 2001 and 2003, from \$11.1 million to \$2.7 million. The budget cuts resulted in a reduction in staff from 114.9 funded positions to 23 and the closing of all regional offices, even though the Office of the Inspector General's statutory mandates remained unchanged.

After months of downsizing, the Inspector General's responsibilities dramatically expanded in January 2004 as a result of actions by the Legislature and the U. S. District Court, Northern District of California. As an integral part of a settlement between the Department of Corrections and plaintiffs in a court action involving illegal use of force by correctional officers at Pelican Bay State Prison, the Inspector General was assigned responsibility for increased oversight of state prison internal affairs investigations. The terms of the settlement called for the establishment of a Bureau of Independent Review within the Office of the Inspector General to provide real-time evaluation of every Department of Corrections abuse of force and employee ethics internal affairs case, including all cases involving use of the correctional officers' "code of silence." The

settlement plan requires Bureau of Independent Review attorneys and investigators to be co-located throughout the state with each of the three offices of the Department of Corrections, Office of Investigative Services.

In accordance with the U. S. District Court settlement, the Legislature provided for the establishment of the Bureau of Independent Review within the Office of the Inspector General, effective January 1, 2005. The Legislature also set out specific audit and investigative responsibilities for the Office of the Inspector General, including specific new responsibilities for publicly reporting the results of its audits and investigations.

To fulfill the new mandates, the Governor appointed a new Inspector General in March 2004 and the Office of the Inspector General's budget for 2004-05 was restored to \$8.8 million.

The months following the appointment of the new Inspector General have been devoted to a rapid reconfiguration, re-staffing, and re-building of the office. During fiscal year 2004-05, the Inspector General hired 32 new staff members, and between March and December 2004, opened three regional offices in Rancho Cordova, Bakersfield, and Rancho Cucamonga for attorneys and investigators assigned to the Bureau of Independent Review. In addition, a new Bureau of Audits and Investigations was established within the office to conduct management review audits of state prison wardens and youth correctional facility superintendents, as well as special reviews of correctional agencies and programs and investigations into alleged misconduct by correctional agencies and employees. The Inspector General's proposed 2005-06 budget has been increased to \$15.5 million and the office anticipates hiring 43 additional employees in fiscal year 2005-06, bringing the staff total to 96.

Concurrent with re-building and re-staffing the office in 2004 and 2005, the Office of the Inspector General has continued a vigorous schedule of investigations and audits. The following pages summarize those activities. A separate semi-annual report summarizing internal affairs investigations monitored by the Bureau of Independent Review, will be published in August 2005 and will be posted on the Inspector General's website at <http://www.oig.ca.gov/>.

## SUMMARY OF INVESTIGATIONS

The Office of the Inspector General receives about 300 complaints a month concerning state correctional departments and institutions. Most of the complaints arrive by mail or through the Inspector General's 24-hour toll-free telephone line, while others are brought to the attention of the Office of the Inspector General in the course of audits or related investigations. The Office of the Inspector General may also conduct investigations at the request of agency or department officials in cases involving potential conflicts of interest by high-level administrators. The Inspector General's staff responds to each of the complaints and requests for investigation, with those involving urgent health and safety issues receiving priority attention through the Inspector General's rapid response process. Most often the Inspector General's staff is able to resolve the complaints at a preliminary stage through informal inquiry or preliminary investigation by contacting the complainant and the institution or department involved and either establishing that the complaint is unwarranted or bringing about an informal remedy. Some of the complaints, however, warrant a full official investigation.

During the first three months of 2005, the Office of the Inspector General completed 12 full investigations. Following is a summary of those investigations.

**Board of Prison Terms.** The Office of the Inspector General investigated the case of an independent contractor who provided part-time language interpretation services to the Board of Prison Terms. The investigation resulted from information submitted by an investigator from the San Diego County District Attorney's Office, who had determined that the employee, who also worked full-time for the San Diego County Public Defender's Office, was claiming full-time hours with the County of San Diego on days she also invoiced the Board of Prison Terms for services. The investigator suspected the employee was submitting fraudulent claims to the Board of Prison Terms.

**Result:** The Office of the Inspector General found that the employee had billed the Board of Prison Terms for excessive hours and duplicate claims totaling \$11,862. The Inspector General forwarded the results of the investigation, along with a Declaration in Support of Arrest Warrant, to the San Diego County District Attorney for consideration. Upon completion of the investigation, the Office of the Inspector General conducted a special review of Board of Prison Terms interpretation services procedures. The findings of the special review are reported elsewhere in this report.

**Status:** As the result of a March 1, 2005 plea agreement, the suspect pleaded guilty to a felony count of grand theft under California Penal Code section 487 and was ordered to pay full restitution to the Board of Prison Terms in the amount of \$11,862. The court placed the defendant on probation, suspended a 120-day jail sentence, and ordered her to serve 160 hours of community service.

**Department of Corrections, Office of Investigative Services/Office of Internal Affairs.** The Office of the Inspector General investigated a complaint that staff members,

including a supervisor, in the Department of Corrections, Office of Internal Affairs, contrary to the instructions of a higher authority, granted administrative immunity to witnesses during administrative investigations involving the department's Law Enforcement and Investigations Unit and Parole and Community Services Division. The complaint also alleged that the staff members had been dishonest in reporting to the assistant director of the Office of Investigative Services whether administrative immunity had been granted to the witnesses.

**Result:** The Office of the Inspector General found sufficient evidence to sustain the first allegation, but did not find sufficient evidence to sustain the second allegation.

**Recommendations:** The Office of the Inspector General recommended adverse action against the supervisory staff member for insubordination, neglect of duty, and dishonesty. The Office of the Inspector General recommended corrective action against two of the other staff members for violation of department policy. In addition, the Office of the Inspector General recommended that the director of the Department of Corrections establish clear policy and procedures governing the use of administrative immunity and provide training to all employees assigned to conduct internal affairs investigations.

**Status:** The Office of the Inspector General referred the matter to the director of the Department of Corrections for appropriate action. The supervisory employee was terminated. That case is scheduled for hearing before the State Personnel Board. The Department of Corrections has established an interim policy to prohibit the granting of administrative immunity in administrative cases unless approved by the assistant director of the Office of Investigative Services or the chief deputy director of Field Operations. The department is developing a policy governing the use of immunity.

**Department of Corrections, Office of Investigative Services.** The director of the Department of Corrections requested that the Office of the Inspector General investigate allegations presented in legislative testimony that department management retaliated against special agents of the Office of the Investigative Services as part of an attempt to close the southern office of the Office of Investigative Services. In testimony before the Senate Select Committee on Government Oversight and the Senate Select Committee on the California Correctional System, special agents also testified under oath that the former department director conspired with the California Correctional Peace Officers Association to obstruct justice and that the agents were ordered to release evidence to the California Correctional Peace Officers Association during an open criminal investigation. The allegations stemmed from an attempt for the first time by the California Correctional Peace Officers Association to use provisions of section 9.09 of the memorandum of understanding between Bargaining Unit 6 and the State of California to obtain evidence in an active criminal case. To avoid turning over the evidence to the California Correctional Peace Officers Association and to protect the chain of custody in an

investigation concerning the California Institution for Men, the special agents had contacted the Attorney General's Office, which subsequently secured the evidence.

**Result:** The Office of the Inspector General found that the case did not meet the *prima facie* standard for a protected activity to establish a legally cognizable claim of retaliation. In response to the allegations that the department director conspired with the California Correctional Peace Officers Association to interfere with and obstruct an active criminal investigation, the Office of the Inspector General found that no motive for personal gain, favors, or personal benefit was discovered or provided in evidence.

**Recommendations:** The Office of the Inspector General recommended that the Department of Corrections close the case without further investigation.

**Status:** The Office of the Inspector General referred the case to the Office of Investigative Services for closure.

**Correctional Training Facility.** The Office of the Inspector General conducted an inquiry into an allegation that a correctional officer at the Correctional Training Facility used excessive force on an inmate. The complainant alleged the correctional officer kicked the inside of the inmate's knee, causing injury to his knee and wrist. The Office of the Inspector General determined that the inmate had filed an appeal of the incident with the institution and after interviewing the inmate, the correctional officer, and witnesses and reviewing pertinent documents, the institution had not sustained the allegations.

**Result:** The Office of the Inspector General determined that the institution may not have followed required policies and procedures for reviewing and investigating use-of-force incidents.

**Recommendations:** The Office of the Inspector General requested that the warden explain why required policies and procedures may not have been followed.

**Status:** The Office of the Inspector General is awaiting response from the warden and will take appropriate action after reviewing the response.

**California State Prison, Los Angeles County.** The Office of the Inspector General investigated a complaint that California State Prison, Los Angeles County improperly places inmates who have been recommended by mental health clinicians for single-cell status into double cells. The complaint centered on an inmate in the mental health treatment program who was allegedly murdered by his cellmate in the administrative segregation unit on September 10, 2004. As a result of the investigation, the Office of the Inspector General found that employees in the administrative segregation unit at California State Prison, Los Angeles County violated department policy by failing to complete a cell compatibility form before assigning the murder victim and his alleged assailant in the same cell.

**Result:** The Office of the Inspector General found that the murder victim and his alleged assailant should not have been celled together because both had long histories of criminal violence and violent behavior toward other inmates. Both had also been diagnosed with serious mental disorders. Investigators identified two other instances in which institution employees failed to complete the cell compatibility form before assigning inmates to the same cell. The Office of the Inspector General also found, however, that the Institutional Classification Committee at California State Prison, Los Angeles County did not violate existing policy when it assigned the murder victim and his alleged assailant to double-cell status.

**Recommendations:** The Office of the Inspector General recommended that the Department of Corrections investigate the employees who failed to complete the cell compatibility forms in the three instances identified. In addition, the Office of the Inspector General recommended that the Department of Corrections modify the existing double-cell policy to include special consideration for inmates diagnosed with mental illness and also require Institutional Classification Committees to verify the cell status of inmates and review the cell compatibility form for accuracy and completeness.

**Status:** The Office of the Inspector General referred the case to the Department of Corrections, Office of Investigative Services for investigation of the failure of institution employees to comply with department policy. The Inspector General's Bureau of Independent Review is monitoring that investigation and is also conducting a special review of the department's policy of housing administrative segregation inmates in double cells.

**California Institution for Men.** The Office of the Inspector General investigated a series of complaints from the family members of an inmate alleging that the inmate suffers from ongoing problems as a result of a hernia operation performed by an outside health care facility while he was in the custody of the Department of Corrections and that he has not received proper treatment from the medical staff at the California Institution for Men. The Office of the Inspector General determined that the institution opened an investigation concerning the inmate's medical care as a result of an appeal filed by the inmate and that the institution has continued to provide medical care. The Office of the Inspector General also found that the inmate has refused treatment in some instances and that he refused a medical evaluation by an outside specialist because of his upcoming release date. The Inspector General's staff worked to facilitate communication between the institution and the inmate's family members.

**Result:** The Office of the Inspector General determined that the institution is aware of and is monitoring the inmate's medical concerns.

**Recommendations:** None.

**Status:** The Office of the Inspector General has received no additional complaints from the inmate or family members concerning this matter in more than 45 days.

**Substance Abuse Treatment Facility and State Prison, Corcoran.** The Office of the Inspector General investigated a complaint from an inmate at the Substance Abuse Treatment Facility and State Prison that a 72-year-old inmate at the prison died from an apparent hunger strike. The complaint mirrored a complaint received from another source.

**Result:** The Office of the Inspector General determined the institution had not been monitoring the inmate for weight or fluid loss at the time of his death and that the Department of Corrections, Office of Investigative Services has investigated the circumstances surrounding the death.

**Recommendations:** The Office of the Inspector General recommended that the Office of Investigative Services provide the Inspector General with a copy of the investigation report when it is released.

**Status:** The report of the Office of Investigative Services investigation is undergoing review by Office of Investigative Services management. The Office of the Inspector General continues to monitor and track the progress of the Office of Investigative Services investigation.

**California State Prison, Corcoran.** The Office of the Inspector General conducted an inquiry into a complaint that a staff member at California State Prison, Corcoran used excessive force on an inmate who had been admitted to the acute care hospital because of suicidal ideation. The complainant alleged the inmate was placed in five-point restraints during the incident. The Office of the Inspector General determined from institution records that the inmate had been found to be drunk and out of control and was placed in five-point restraints on the order of a staff psychiatrist. The inmate complained to the medical staff of a swollen left eye and was prescribed eyewash the following day. The inmate informed a nurse that the eye problem began when he was drunk. He was subsequently prescribed antibiotics for an infected eye.

**Result:** The Office of the Inspector General found no reference to unusual activity and no evidence of use of force. The inmate was subsequently discharged back to the security housing unit and did not file an inmate appeal with the institution.

**Recommendations:** None.

**Status:** Case closed.

**California State Prison, Los Angeles County.** The Office of the Inspector General independently initiated an investigation into the reasons for an inmate's self-imposed hunger strike at California State Prison, Los Angeles County. The inmate's weight had

fallen from 265 pounds in April 2004 to 138 pounds on November 18, 2004. The Office of the Inspector General determined that the inmate had a history of poor health, suffered from diabetes and hypertension, and had told Department of Corrections staff that he no longer wanted to live. The inmate received a court-ordered feeding tube on November 13, 2004, but the court ruled against extending the feeding tube beyond November 17, 2004, when it had been scheduled to be removed. The inmate was transported to Antelope Valley Hospital on November 19, 2004 pursuant to a court order to remove the feeding tube and was returned to California State Prison, Los Angeles County after the feeding tube was removed.

**Result:** The Office of the Inspector General found that the inmate's hunger strike did not involve a claim of unfair treatment at the institution.

**Recommendations:** None.

**Status:** The Department of Corrections advised the Office of the Inspector General that the inmate began eating intermittently after he returned from the hospital. The Office of the Inspector General has closed the case.

**Salinas Valley State Prison.** The Office of the Inspector General investigated a complaint that correctional employees at Salinas Valley State Prison, Soledad were setting up gladiator-type fights between inmates in one of the yards. The complaint centered on an inmate who alleged that the staff allowed an inmate to enter his cell and attack him. The inmate further alleged the correctional staff assaulted him after he was attacked.

**Result:** The Office of the Inspector General found the allegations to be unsubstantiated.

**Recommendations:** None.

**Status:** Case closed.

**El Paso de Robles Youth Correctional Facility.** The Office of the Inspector General conducted a preliminary investigation into a complaint filed by the Youth Law Center concerning a ward with mental health disorders who had been on extended lockdown. The complaint, which was filed on behalf of the ward's mother, reported that the ward had previously attempted suicide and had been diagnosed with bipolar disorder, attention deficit, and hyperactivity disorder. The complainant requested that the Inspector General take immediate steps to remove the ward from extended lockdown and ensure that he receives intensive mental health treatment.

**Result:** The Office of the Inspector General determined that the ward is no longer under the jurisdiction of the California Youth Authority. He was convicted for violation of Welfare and Institutions Code section 1768.8B and was in custody in

the San Luis Obispo County jail awaiting sentencing and subsequent transfer to the Department of Corrections.

**Recommendations:** None

**Status:** The Office of the Inspector General has closed the case.

**Deuel Vocational Institution.** The Office of the Inspector General conducted a preliminary investigation into a complaint filed by a correctional officer alleging that he was illegally placed under surveillance and video-recorded by his sergeant. The correctional officer alleged that a video recording camera was installed in a radio in the office of the Investigations Services Unit security squad to determine whether he was sleeping on duty. The correctional officer was subsequently removed from his position with the security squad. The complainant asked the Office of the Inspector General to review the Category II investigation by the Department of Corrections, Office of Investigative Services into the correctional officer's allegations to determine whether the investigation had been proper and thorough.

**Result:** The Office of the Inspector General determined that the Office of Investigative Services investigation was properly and thoroughly conducted. The Inspector General concurred with the "not sustained" finding of the Office of Investigative Services. The Office of Investigative Services found no evidence that any of the parties interviewed knew of a camera installed in a radio and found no evidence to support the officer's allegations.

**Recommendations:** The Office of the Inspector General recommended the Department of Corrections close the case with no further action.

**Status:** The complainant was informed that the Office of the Inspector General's case has been closed unless and until new evidence is produced.

## SUMMARY OF AUDITS AND SPECIAL REVIEWS

The Office of the Inspector General completed one audit and two special reviews during the first quarter of 2005. The audit and special reviews are summarized below.

**Accountability Audit: Review of Audits of the California Youth Authority, 2000-2003.** In January 2005, the Office of the Inspector General issued a 200-page audit of the California Youth Authority, which assessed the department's progress in implementing recommendations from nine previous audits conducted by the Inspector General. The audit determined that the California Youth Authority had fully implemented only 43 percent of 241 previous recommendations and that many of the remaining deficiencies were central to the department's core mission of providing education and counseling services to the youths in its custody. The full text of the report can be viewed by clicking on the following link to the Inspector General's website: [Accountability Audit: Review of Audits of the California Youth Authority, 2000-2003 \(January 2005\)](#).

**Special Review into the Death of Correctional Officer Manuel A. Gonzalez, Jr.** In March 2005, the Office of the Inspector General completed a special review into the circumstances surrounding the January 10, 2005 stabbing death of Correctional Officer Manuel G. Gonzalez, Jr. at the California Institution for Men. The review determined that numerous security problems at the institution led up to the attack and that the failure of correctional officers, including the victim, to follow security requirements may have contributed to the incident. The full text of the special review can be viewed by clicking on the following link to the Inspector General's web page: [Special Review into the Death of Correctional Officer Manuel A. Gonzalez, Jr. on January 10, 2005 at the California Institution for Men \(March 2005\)](#).

**Special Review of the Board of Prison Terms Interpretation Services Procedures.** In March 2005, the Office of the Inspector General completed a special review into the procedures used by the Board of Prison Terms to secure the services of foreign language interpreters. The review followed an investigation by the Office of the Inspector General into the case of a foreign language interpreter who was found to have received payment from the Board of Prison Terms for \$11,862 in fraudulent claims. The special review determined that the board routinely paid invoices from interpreters without confirming that the services had been provided or checking to determine whether the invoice had already been paid. The review also found that the board did not fully specify in writing the terms of the agreement when it arranged for interpretation services. In response to the special review and the Office of the Inspector General's recommendations, the Board of Prison Terms developed a comprehensive corrective action plan. The full text of the special review and the corrective action plan submitted by the Board of Prison Terms can be viewed by clicking on the following links to the Inspector General's web page: [Special Review of the Board of Prison Terms Interpretation Services Procedures \(March 2005\)](#) and [Response of the Board of Prison Terms to the March 2005 Special Review \(April 2005\)](#).

## **CONCLUSION**

A second quarterly report covering the period April through June 2005 will be released and posted to the Inspector General's website in July 2005, followed by a third quarterly report in October 2005 and a 2005 annual report in January 2006.

**RESPONSE FROM THE BOARD OF PRISON TERMS**

**TO THE  
SPECIAL REVIEW CONDUCTED  
BY THE OFFICE OF THE INSPECTOR GENERAL  
IN MARCH 2005  
OF THE  
BOARD OF PRISON TERMS  
INTERPRETATION SERVICES PROCEDURES**

**APRIL 2005**

**STATE OF CALIFORNIA**



Application Interpreter Appointment: This form (page 1 of packet) is completed by the potential organization/interpreter in which they request to be placed on the Interpreter Contact List to provide services at Lifer Parole Consideration Hearings, Revocation/Revocation Extension Hearings, Mentally Disordered Offender Hearings, and Probable Cause Hearings for Sexually Violent Predators. The form requires the potential organization/interpreter to provide contact information, the language(s) they interpret and, preferred locations for assignment.

Letter of Agreement: This document (pages 3, 4 of packet) states the guidelines for persons wishing to provide interpretation services for the BPT. The responsibilities and expectations are stated regarding punctuality, proper attire, compliance with California Rules of Court in relation to interpreters conduct, the interpreters review and acceptance of the BPT's assignment. The process for submitting invoices for payment is detailed, to include verification and documentation for services provided. It is explained that failure to complete the invoice as required will result in the invoice being returned for correction. Unfortunately, there are no laws or regulations that mandate the submission for payment within a prescribed time limit. Appropriations are authorized and available for a three-year period; therefore, the BPT cannot mandate submission of invoices within a particular amount of time. However, to encourage timely submissions, the form advises that those provided beyond a two-month period of the date of the hearing could experience a delay in payment. It is explained that any invoice submissions determined to be fraudulent may result in criminal prosecution. Upon submitting a signed Letter of Agreement, the party acknowledges that failure to abide by the Agreement may result in their removal from the BPT's list of eligible interpreters. The BPT develops a list of interpreters who are annually certified by the State Personnel Board (Cooperative Personnel Services) and the California Judicial Council.

BPT Interpreter Payment Policies: This proposed document (pages 6,7,8,9 of packet) describes the mission of the BPT and its need for the use of interpreters during the different type of hearings. In addition, it contains the Government Code sections that give discretionary authority to the BPT on use of interpreters. The form provides the location of the Internet website for information on obtaining interpreter certification and the website of the organization that maintains a listing of interpreters in good standing with the California Judicial Council. The next section lists the rates for reimbursement for interpreter services provided. Although the rates are aligned with the rates as established by the Judicial Council's Court Interpreters Program, it does not preclude the BPT from reimbursing interpreters above the standard rate for other circumstances. The circumstances that affect the rate of reimbursement are clearly detailed in various categories such as what constitutes a half or full day session, the cancellation fee policy, the payment policy for multilingual interpreters, payment rate for mileage reimbursement, and the policy regarding payment for travel time.

Request for Invoice Correction: The BPT will mail this form (page 10 of packet) to the interpreter/organization with the invoice or confirmation letter attached asking for the appropriate correction(s) to be made. Corrections needed on invoices might include failure to submit a duplicate copy, the invoice or confirmation letter was not signed in blue ink,

determination that the invoice was unintentionally submitted a second time for payment, and other reasons.

Interpreter Packet Cover Letter: This document (page 11 of packet) is the cover letter mailed to persons seeking consideration for providing interpreter services for the BPT. Included with the cover letter are the Application Interpreter Appointment and Letter of Agreement forms. The letter instructs the prospective interpreter to complete and return the forms to the BPT, where they will remain on file.

We have implemented a Letter of Agreement as part of a packet for issuance to all foreign language interpreters used by the BPT. This letter includes the terms and services to be provided for payment, cancellation policy, timeframes for submitting claims for payment, and the policy for travel reimbursement. Each interpreter will be expected to review the terms of the letter. If they agree to the conditions, they shall sign and date the acknowledgement letter, then forward it to BPT Headquarters where it will be maintained on file.

#### **OIG RECOMMENDATION**

4. *Use electronic methods to systematically record, track, and monitor payments to interpreters so as to detect duplicate claims.*

The OIG reported that invoices submitted by interpreters were not being verified for services rendered. In response, the BPT has developed the Invoice Tracking database (Attachment 1) to include fields to reflect the type of interpretation (foreign or sign language), the language that was interpreted (Spanish, Korean, etc.), and with which database (Lifer Hearing System, Revocation Scheduling or Tracking System) the information on the invoice was cross checked for verification of the hearing (lifer, revocation, revocation extension, mentally disordered offender and probable cause hearings for sexually violent predators). For the Lifer Hearing System (LHS) database, fields are available to identify the interpreter by an assigned number and their respective organization (Attachment 2). The Revocation Scheduling and Tracking System (RSTS) Version 2.5 and 3.0 database "Comments" section identifies the date and name of the interpreter (Attachment 3). As the information contained on the RSTS and LHS databases are independent of the data on the Invoice Tracking database, this allows for an accurate verification system. For example, if an interpreter claim is submitted for a Lifer hearing that did not in fact take place, there will be no existing information on the LHS database to corroborate the invoice. Once a month, the Invoice Tracking database is reviewed to insure all claims have been verified. Those lacking verification will be researched to determine the validity of the payment claim. This new monitoring system was implemented in mid-March 2005, and thus far, has resolved the verification/duplicate payment issues.

## OIG RECOMMENDATION

5. *Require interpreters to submit invoices within prescribed time limits specified in the hearing confirmation letter.*

The BPT agrees with the expectation for interpreters to comply with this recommendation, and as noted in our response to Recommendation #1, will have each one sign the Letter of Agreement acknowledging such time limits. However, there are no laws or regulations that mandate the submission for payment within a prescribed time limit.

Thank you for the opportunity to respond to your report.

RODRICK Q. HICKMAN  
Secretary  
Youth and Adult Correctional Agency

Attachments

**BOARD OF PRISON TERMS**

1515 K Street, 6th Floor  
Sacramento, CA 95814



Date \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
City, State Zip \_\_\_\_\_

Re: Inmate/Parolee  
CDC Number \_\_\_\_\_

Dear \_\_\_\_\_:

This will confirm your appointment to interpret for the above-named inmate/parolee as follows:

**Type of Hearing:** \_\_\_\_\_  
**Date:** \_\_\_\_\_  
**Time:** \_\_\_\_\_ a.m./p.m.  
**Location:** \_\_\_\_\_

**Telephone Number for Institution Coordinator:** \_\_\_\_\_

Compensation for your interpreting services in (LANGUAGE) will be reimbursed at the rate of \_\_\_\_\_ for the hearing plus 34 cents per mile for travel.

To allow sufficient time for your entry into the hearing site and to ensure the hearing is timely, please plan to be at the hearing one-half hour prior to the scheduled hearing start time. Upon completion of your services, present this letter to the hearing officer (Commissioner or Deputy Commissioner) for signature documenting your attendance at the hearing. This original, signed letter shall be attached to your original invoice for payment by the Board.

If you have any questions regarding this matter, please contact me at \_\_\_\_\_.

Sincerely,

XXXXXXXXXXXXXXXXXXXX

The interpreter or interpreter from the organization identified above, was present at the hearing.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
Commissioner/Deputy Commissioner

**BOARD OF PRISON TERMS**

1515 K Street, 6th Floor  
Sacramento, CA 95814



**APPLICATION INTERPRETER APPOINTMENT**

Place me on your list of interpreters for the following hearings:

- Life Parole Consideration Hearings
- Revocation and Revocation Extension Hearings
- Mentally Disordered Offender Hearings
- Probable Cause Hearing (Sexually Violent Predator)

Name or Organization: \_\_\_\_\_ Street Address: \_\_\_\_\_  
 City, State and Zip: \_\_\_\_\_  
 Business Number: ( ) \_\_\_\_\_ Facsimile Number: ( ) \_\_\_\_\_  
 Cellular Number: ( ) \_\_\_\_\_ Pager Number: ( ) \_\_\_\_\_

Certification Number: \_\_\_\_\_ Registration Number: \_\_\_\_\_  
 Languages: \_\_\_\_\_ Dialect: \_\_\_\_\_  
 Language: \_\_\_\_\_ Dialect: \_\_\_\_\_  
 Language: \_\_\_\_\_ Dialect: \_\_\_\_\_

Please indicate the counties and prisons for which you wish to receive appointments. A list of counties and a map of California State Institutions is attached.

Counties	Institutions
_____	_____
_____	_____
_____	_____
_____	_____

Comment: \_\_\_\_\_  
 \_\_\_\_\_

Dated: \_\_\_\_\_ Signed: \_\_\_\_\_

**Return to: Board of Prison Terms**  
1515 K Street, 6<sup>th</sup> Floor  
Sacramento, CA 95814  
Attention: Scheduling Unit  
Fax: (916) 324-9962

Please be sure to include the following completed forms:  
Application Interpreter Appointment, Letter of Agreement, Payee Data  
Record (Std. 204)

## California County Map



This map identifies the 58 California counties. Please place the corresponding county code number(s) and the county(ies) in which you are interested in interpreter assignments on the Application Interpreter Appointment.

- |                 |                |                    |                 |
|-----------------|----------------|--------------------|-----------------|
| 01 Alameda      | 16 King        | 31 Placer          | 46 Sierra       |
| 02 Alpine       | 17 Lake        | 32 Plumas          | 47 Siskiyou     |
| 03 Amador       | 18 Lassen      | 33 Riverside       | 48 Solano       |
| 04 Butte        | 19 Los Angeles | 34 Sacramento      | 49 Sonoma       |
| 05 Calaveras    | 20 Madera      | 35 San Benito      | 50 Stanislaus   |
| 06 Colusa       | 21 Marin       | 36 San Bernardino  | 51 Sutter       |
| 07 Contra Costa | 22 Mariposa    | 37 San Diego       | 52 Tehama       |
| 08 Del Norte    | 23 Mendocino   | 38 San Francisco   | 53 Trinity      |
| 09 El Dorado    | 24 Merced      | 39 San Joaquin     | 54 Tulare       |
| 10 Fresno       | 25 Modoc       | 40 San Luis Obispo | 55 Tuolumne     |
| 11 Glenn        | 26 Mono        | 41 San Mateo       | 56 Ventura      |
| 12 Humboldt     | 27 Monterey    | 42 Santa Barbara   | 57 Yolo         |
| 13 Imperial     | 28 Napa        | 43 Santa Clara     | 58 Yuba         |
| 14 Inyo         | 29 Nevada      | 44 Santa Cruz      | 59 All counties |
| 15 Kern         | 30 Orange      | 45 Shasta          |                 |

## LETTER OF AGREEMENT

The Board of Prison Terms (BPT) wants to ensure interpreters appearing to provide services for the BPT understand and meet the minimum standards of compliance and behavior required.

For the purposes of this agreement, an interpreter is defined as anyone who interprets for a witness or defendant who speaks or understands little or no English. Court interpreters must accurately interpret for individuals with a high level of education and an expansive vocabulary, as well as persons with very limited language skills without changing the language register of the speaker. Interpreters are also sometimes responsible for translating written documents, often of a legal nature, from English into the target language and from the target language into English.

The following standards delineate the appointment and responsibilities of interpreters during the course of their services at hearings and subsequent submission of invoice(s).

By signing below, the interpreter understands the following:

The Interpreter/organization will be provided a confirmation letter, advising them of the type of hearing, date, time, location, institution contact, and reimbursement rate. The interpreter is required to bring the confirmation letter with them to the hearing. Upon completion of services, the interpreter shall present this letter to the hearing officer (Commissioner, Deputy Commissioner) for signature as proof of attendance.

1. The interpreter will appear on time and in attire appropriate to proceedings in a state court;

2. The interpreter will follow California Rules of Court, Rule 984.4 regarding the Professional Conduct of Interpreters (attached). This includes representation of qualifications; complete and accurate interpretation; impartiality and avoidance of conflicts of interests; confidentiality; giving legal advice; professional relationships; continuing education and duty to the profession; assessing and reporting impediments to performance; and, duty to report ethical violations.

3. The interpreter will acknowledge acceptance of the reimbursement rates for appointment, travel costs and cancellation of assignment as outlined in the BPT's Interpreter Payment Policy.

4. Upon completion of services rendered, the confirmation letter and two completed BPT 1077 Invoice forms (original plus duplicate) shall be submitted by the interpreter/organization. Multiple hearing assignments may not be combined on one BPT 1077. The confirmation letter and one of the BPT 1077 forms must contain an original signature. The BPT 1077 form shall contain the following information:

a. Parole/Inmate Name

- b. CDC Number
- c. Location and Time of Hearing
- d. Hearing Officer (This information shall be included in the Description portion of the invoice.)
- e. Language Provided
- f. Type of Hearing (i.e., Lifer, Revocation, Revocation Extension, etc.)
- g. Date Services Provided
- h. Description of Services Rendered
- i. Name of BPT staff who made appointment contact. (This information shall be included in the Description portion of the invoice.)

If the confirmation letter and/or an invoice are received and do not include all the required information as outlined above, the document(s) will be returned to the interpreter/organization with a cover letter identifying the reason(s) for return and will result in delayed payment. To ensure timely processing, the BPT's Request for Invoice Correction letter must be attached to the resubmitted confirmation letter and/or BPT 1077 invoice containing the requested corrections and/or modifications.

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5. All original BPT 1077 Invoices must be signed in blue ink. All forms must have an original signature in order to be processed for payment. Any invoice submitted in a color other than blue ink will be returned to the interpreter/organization and will result in delayed payment of the invoice.

6. All invoices submitted for payment to the BPT shall be submitted within two (2) months from the date of the hearing to ensure expediency of processing. Any invoice(s) submitted after the two (2) month period may cause delay in payment to the interpreter/organization.

If payment of an invoice is not received by the interpreter/organization within two (2) months of its original submission date, a duplicate invoice may be submitted by the interpreter/organization. The interpreter/organization must clearly identify "DUPLICATE" on the top of the resubmitted invoice. If an interpreter submits duplicate claims for their services and the BPT determines the claim(s) are fraudulently submitted, the matter shall be submitted to the appropriate law enforcement agency for prosecution.

I, the undersigned, certify I have read the Letter of Agreement set forth above and the BPT's Interpreter Payment Policies and understand I will be required to meet them at any future proceedings for which I have been appointed. I understand failure to meet the Letter of Agreement may result in my removal from the list of eligible interpreters before the BPT. I also understand failure to return this Letter of Agreement will result in my removal from the list of eligible interpreters before the BPT.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Organization/Signature

## CALIFORNIA RULES OF COURT

### Rule 984.4. Professional conduct for interpreters

(a) **[Representation of qualifications]** An interpreter shall accurately and completely represent his or her certifications, training, and relevant experience.

(b) **[Complete and accurate interpretation]** An interpreter shall use his or her best skills and judgment to interpret accurately without embellishing, omitting, or editing. When interpreting for a party, the interpreter shall interpret everything that is said during the entire proceedings. When interpreting for a witness, the interpreter shall interpret everything that is said during his or her testimony.

(c) **[Impartiality and avoidance of conflicts of interest]** An interpreter shall be impartial and unbiased and shall refrain from conduct that may give an appearance of bias. An interpreter shall disclose to the judge and to all parties any actual or apparent conflict of interest. Any condition that interferes with the objectivity of an interpreter shall constitute a conflict of interest. A conflict may exist if the interpreter is acquainted with or related to any witness or party to the action or if the interpreter has an interest in the outcome of the case. An interpreter shall not engage in conduct creating the appearance of bias, prejudice, or partiality. An interpreter shall not make statements about the merits of the case until the litigation has concluded.

(d) **[Confidentiality]** An interpreter shall not disclose privileged communications between counsel and client.

(e) **[Giving legal advice]** An interpreter shall not give legal advice to parties and witnesses, nor recommend specific attorneys or law firms.

(f) **[Professional relationships]** An interpreter shall maintain an impartial, professional relationship with all court officers, attorneys, jurors, parties, and witnesses.

(g) **[Continuing education and duty to the profession]** An interpreter shall, through continuing education, maintain and improve his or her interpreting skills and knowledge of procedures used by the courts. An interpreter shall seek to elevate the standards of performance of the interpreting profession.

(h) **[Assessing and reporting impediments to performance]** An interpreter shall assess at all times his or her ability to perform interpreting services. If an interpreter has any reservation about his or her ability to satisfy an assignment competently, the interpreter shall immediately convey that reservation to the court or other appropriate authority.

(i) **[Duty to report ethical violations]** An interpreter shall report to the court or other appropriate authority any effort to impede the interpreter's compliance with the law, this rule, or any other official policy governing court interpreting and legal translating.

Rule 984.4 adopted effective January 1, 1999

**BOARD OF PRISON TERMS**

1515 K Street, 6th Floor  
Sacramento, CA 95814



**Board of Prison Terms  
Interpreter Payment Policies**

The Board of Prison Terms (BPT) is responsible for providing interpreters to inmates/parolees for all parole proceedings, including lifer, revocation, revocation extension, mentally disordered offender and probable cause hearings for sexually violent predators, if necessary. These hearings are administrative in nature and are not a criminal trial.

It is the policy of the BPT to ensure all inmates and parolees are able to effectively communicate during parole proceedings. To ensure the terms and conditions for appointment of foreign language and sign language interpreters are adhered to, the BPT established the following criteria for assignment of interpreters and interpreting organizations.

**Background**

Government Code Section 11435.15 requires the BPT to provide language assistance in adjudicative proceedings. Pursuant to Government Code Section 11435.25 the cost of providing an interpreter is paid by the Board.

Further, Government Code Section 11435.55 directs the BPT to provide certified interpreters in all cases and grants them "discretionary authority" to qualify and use another interpreter. The section specifically states:

*(a) An interpreter used in a hearing shall be certified pursuant to Section 11435.30. However, if an interpreter certified pursuant to Section 11435.30 cannot be present at the hearing, the hearing agency shall have discretionary authority to provisionally qualify and use another interpreter.*

**Certification**

The California State Personnel Board through Cooperative Personnel Services (CPS), as a joint powers public agency, administers the State Certification Exam for Administrative Hearing and Medical Interpreters. Government Code Section 11435.40 provides the State Personnel Board be responsible to designate the languages for which certification shall be established. The certified languages may change periodically, depending on the results of studies of language used in the courts. The languages currently designated for

certification include: Spanish, Tagalog, Arabic, Cantonese, Japanese, Korean, Portuguese and Vietnamese.

To learn more information about becoming a certified interpreter you may access CPS's website at: <http://www.cps.ca.gov/>.

Interpreters of languages for which there is no state certifying examination can become "registered interpreters of nondesignated languages" through the California Judicial Council (Council). Nondesignated languages are languages for which there are no state certifying examinations. Registered interpreters must meet the requirements developed for court interpreters as well as pass an English proficiency exam that tests their knowledge of English, court procedure, and professional ethics.

The Council, through the Court Interpreters Program, maintains a list of certified court interpreters and registered court interpreters who are in good standing with the Council. Additional information can be obtained by accessing the Council's website at: <http://www.courtinfo.ca.gov/programs/courtinterpreters/>.

<b>Reimbursement Rates</b>
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It is the BPT's intent to establish a comprehensive payment policy for reimbursement of interpreters and at the same time allow for those instances where flexibility of payment is available. While it is the BPT's intent to follow Government Code Section 11435.55 and hire all certified interpreters, the BPT acknowledges not all languages are certified. In addition, availability of interpreters, the demand for exotic languages and the location of the interpreter assignment often require flexibility of reimbursement.

Therefore, the BPT is adopting the current payment practices and policies of the Judicial Council's Court Interpreters Program. Although the BPT is not obligated to hire interpreters certified and registered by the Council, the below rates reflect those who meet the Council's standards and receive a higher rate of reimbursement. In addition, the payment policy does not restrict the BPT from reimbursing interpreters above the standard reimbursement rate in unique circumstances. The daily reimbursement rates are as follows:

	<b>Certified and/or Certified and Registered Interpreters</b>	<b>Non-Certified and Non-Registered Interpreters</b>
Full Day	\$265	\$175
Half Day	\$147	\$92

## *Sign Language Interpreters*

Evidence Code Section 754(i) provides the rate for certified court and registered court interpreters and applies to the reimbursement rate for sign language interpreters for the deaf or hearing impaired. [The Judicial Council has designated the Registry for the Deaf and California Coalition Agency Servicing the Deaf, to certify sign language interpreters.]

### **Definition of Half Day/Full Day Sessions**

A half day and full day of interpreter services are defined as follows:

1. A morning half-day session is any portion of a consecutive four-hour period beginning no earlier than 8:00 a.m. and ending by 12:15 p.m.; an afternoon session is any portion of a consecutive four-hour period beginning no earlier than 1:00 p.m. and ending by 5:15 p.m.
2. A full-day is defined as any time beyond the half-day morning session.

### **Cancellation Fee**

A cancellation fee may be warranted in cases where an interpreter is hired and the hearing is subsequently not held. For example, an interpreter appears at the scheduled time and it is determined the hearing must be postponed or cancelled due to various reasons. The cancellation payment will vary based on the circumstances and is ultimately determined by the Chief of Decision Processing and Scheduling -- the Unit responsible for the hiring of interpreters.

A cancellation fee is paid under the following conditions:

1. An agreement is entered into with the interpreter more than 24 hours or one business day in advance of the assignment.
2. An assignment is cancelled without 24-hour notice, or for assignments beginning on the first business day of the work week, without one business day's notice.

### **Unusual Circumstances**

A premium above the daily rate, mileage reimbursement and/or cancellation fee may be provided under unusual circumstances. The premium payment varies based upon the circumstances and is ultimately determined by the Chief of Decision Processing and Scheduling -- the Unit responsible for the hiring of interpreters. Unusual circumstances are defined, but not limited to one or a combination of the following:

1. There are limited or no certified or registered contract interpreters for the needed language residing within the county.
2. The county is of large geographical size.
3. The alternative is either to postpone the hearing or utilize the services of a non-certified or non-registered interpreter.

#### **Multilingual Interpreters**

A premium above the daily rate may be provided for interpreters who render services in more than one language on the same day. If this occurs, the interpreter will be paid two half-days rather than one-full day.

#### **Mileage Reimbursement**

Mileage is reimbursed when the interpreter travels 60 miles or more roundtrip AND travels outside the county of his or her place of business (address used for tax purposes). The rate of reimbursement is linked to the state rate (currently \$.34 per mile).

Extraordinary travel costs such as airfare may be reimbursed only with advance approval of the BPT's Executive Officer.

#### **Travel Time**

The interpreter is eligible for reimbursement for the time incurred when traveling more than 60 miles AND outside the county of their place of business (the interpreter's business address for tax purposes). The reimbursement amount is based upon the circumstances and is ultimately determined by the Chief of Decision Processing and Scheduling -- the Unit responsible for the hiring of interpreters.

**BOARD OF PRISON TERMS**

1515 K Street, 6th Floor  
Sacramento, CA 95814



Date

Interpreter's Name  
Organization  
Address  
City, State Zip

Re: Request for Invoice Correction  
Inmate/Parolee's Name and CDC Number  
Date of Hearing

Dear Interpreter:

We are returning your submitted invoice with requested corrections:

- Invoices must be submitted in duplicate form (original and two copies).
- Original invoice(s) must be signed in blue ink.
- Duplicate invoice. Our records reflect the invoice was processed for payment on : \_\_\_\_\_
- Incorrect reporting. Our records reflect a hearing for this inmate was not conducted on the date identified on the invoice.
- Incomplete. Please refer to highlighted portion on the original invoice.
- Other: \_\_\_\_\_

To avoid delay in payment of your invoice, please correct the item(s) identified above and return your original invoice, along with a copy of this letter, to the Board of Prison Terms at:

Board of Prison Terms  
1515 K Street, Suite 600  
Sacramento, CA 95814  
**Attention: Invoice Processing**

Thank you.

XXXXXXXXXXXXXXXXXXXX

Enclosure

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**BOARD OF PRISON TERMS**

1515 K Street, 6th Floor  
Sacramento, CA 95814



**Interpreter Packet Cover Letter**

Date

Interpreter's Name  
Organization  
Address  
City, State Zip

Dear Interpreter:

The Board of Prison Terms (BPT) is establishing standards for both the appointment and compliance of interpreters hired by the BPT. Toward this effort, we are enclosing an Application Interpreter Appointment packet. The packet includes: an Application Interpreter Appointment; Interpreter Payment Policies, Letter of Agreement and resource documents.

Upon review of these documents, please return the completed Application Interpreter Appointment, the Letter of Agreement, and a copy of proof of certification or registration to the Board of Prison Terms at the address provided on the bottom of the Application Interpreter Appointment.

The Letter of Agreement will remain on file with the BPT. It is recommended you retain a copy the packet for your records. We note the Application Interpreter Appointment requires a Payee Data Record (Std. 204) be enclosed with your submission. Please note that if you have already performed interpreting services for the Board, it is not necessary for the Payee Data Record (Std. 204) be resubmitted.

If you have any questions, you may contact Sandra Maciel, Chief of Decision Processing and Scheduling Unit at 1515 K Street, Suite 600, Sacramento, California 95814 (916) 324-1931.

Thank you in advance for your cooperation.

Very truly yours,

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Enclosures