

OFFICE OF THE INSPECTOR GENERAL

STEVE WHITE, INSPECTOR GENERAL

**ADMINISTRATIVE REVIEW INTO
ALLEGATIONS OF INAPPROPRIATE
USE OF INMATES AT THE KONOCTI
CONSERVATION CAMP NUMBER 27**



APRIL 2001

Memorandum

Date: April 23, 2001

To: STEVE CAMBRA, JR.
Director (A), California Department of Corrections

ANDREA E. TUTTLE
Director, California Department of Forestry and Fire Protection

From: STEVE WHITE
Inspector General



Subject: ADMINISTRATIVE REVIEW INTO ALLEGATIONS OF INAPPROPRIATE USE
OF INMATES AT THE KONOCTI CONSERVATION CAMP NUMBER 27

At the request of the Office of Internal Affairs, the Office of the Inspector General conducted an administrative review into allegations of inappropriate use of inmate work crews on camp work projects, misappropriation of state funds, and inappropriate use of inmates in the vocational auto body program at the Konocti Conservation Camp. The enclosed report presents the results of that review.

The Office of the Inspector General found that some of the Konocti Conservation Camp work projects violated applicable state laws, state regulations, and departmental policies, and that the camp received inappropriate reimbursements for the work projects. The review also revealed that the Konocti Conservation Camp circumvented state controls and failed to maintain proper accounting for the reimbursement items obtained through inmate labor, and that camp staff failed to observe the requirements set forth for the vocational auto body program. In addition, we found that the California Department of Corrections and the California Correctional Center failed to maintain proper supervision over the Konocti Conservation Camp operations.

As a result of the review, the Office of the Inspector General recommends the following:

- The California Department of Forestry and Fire Protection should discontinue the practice of providing inmate labor to non-governmental entities and using inmates for work normally performed by private industry or citizen labor;
- The California Department of Forestry and Fire Protection and the California Department of Corrections should jointly develop guidelines for allowable standard reimbursements for projects involving the use of inmate labor to ensure proper accountability;

- The California Department of Corrections should assess the advisability of continuing the vocational auto body program in a camp setting; develop a training plan for camp commanders and camp employees; and
- The California Department of Corrections should develop a plan to perform regular audits of camps on a cyclical basis to improve supervision over the Konocti Conservation Camp.

The Office of the Inspector General has also conducted an investigation into criminal allegations of misconduct at the Konocti Conservation Camp. We will submit findings regarding the criminal allegations under separate cover.

This information is provided to assist you in bringing resolution to this matter. If you have any questions, please do not hesitate to contact me.

bc: Richard Ramsdell, Deputy Inspector General, Senior
Lisa Heintz, Deputy Inspector General

OFFICE OF THE INSPECTOR GENERAL



OIG CASE NUMBER 00-154

ADMINISTRATIVE REVIEW INTO ALLEGATIONS OF INAPPROPRIATE USE OF INMATES AT THE KONOCTI CONSERVATION CAMP NUMBER 27

**REPORT
APRIL 23, 2001**

This report presents the results of a review by the Office of the Inspector General into allegations of improprieties at the Konocti Conservation Camp. The camp is jointly operated by the California Department of Corrections and the Department of Forestry and Fire Protection through an interagency agreement. The review by the Office of the Inspector General was conducted at the request of the California Department of Corrections Office of Internal Affairs, which received information of possible misconduct at the camp. As the California Department of Forestry and Fire Protection is outside the jurisdiction of the Office of Internal Affairs, it asked the Office of the Inspector General to perform the review.

Specifically, the purpose of the review by the Office of the Inspector General was to determine:

- Whether state laws, regulations, and department policies were violated in the use of inmate work crews on camp work projects.
- Whether state funds were misappropriated for unauthorized use.
- Whether prescribed policies and procedures were followed in the operation of the inmate vocational auto body program.

In conducting the administrative review, the Office of the Inspector General examined all documentary evidence obtained from both the California Department of Corrections and the California Department of Forestry and Fire Protection staff at the Konocti Conservation Camp. The Office of the Inspector General also conducted interviews with staff from both departments at the Konocti Conservation Camp. In addition, the Office of the Inspector General conducted interviews with officials at the California Correctional Center, which has oversight responsibility for the Konocti Conservation Camp. Witnesses interviewed included the acting warden/chief deputy warden, the associate warden for the Camps Division, the facility captain, two camp

commanders, two correctional lieutenants, the conservation camp liaison, one correctional sergeant and the vocational instruction supervisor.

The Office of the Inspector General investigation found that the Konocti Conservation Camp violated state law and departmental policies by using inmates for work that would normally be performed by private industry or citizen labor and by entering into contracts with non-governmental sponsoring agencies. The camp also charged project sponsors for the cost of inmate labor through a reimbursement arrangement that circumvented state controls designed to provide proper accountability over the use of state funds. This questionable practice appears to be common and long-standing among conservation camps throughout the state. The Office of the Inspector General also found evidence that the camp's staff failed to observe the requirements of the vocational education program. In addition, the Office of the Inspector General found that the California Department of Corrections and the California Correctional Center have failed to maintain proper supervision of Konocti Conservation Camp operations.

The Office of the Inspector General recommends that the California Department of Forestry and Fire Protection immediately discontinue the practice of furnishing inmate labor to non-governmental sponsoring agencies or for work normally performed by private industry or private citizens. Furthermore, the Department of Corrections should assess the viability of continuing with the vocational education program in a camp setting. The Office of the Inspector General also recommends that the Department of Corrections and the California Correctional Center improve supervision over the Konocti Conservation Camp to ensure compliance with state laws and regulations.

BACKGROUND

California maintains 38 fire-fighting conservation camps throughout the state, with 33 of the camps jointly operated by the California Department of Forestry and Fire Protection and the California Department of Corrections. Sixteen of the fire-fighting conservation camps, including Konocti, are under the direct supervision of the California Correctional Center.

The Department of Forestry and Fire Protection is responsible for serving the public by using inmate work crews for fire-fighting and conservation projects. The Department of Corrections is responsible for providing able-bodied inmates to the Department of Forestry and Fire Protection for participation in fire-fighting and conservation projects. To perform these cooperative functions, the two departments enter into interagency agreements supported by *Camp Operations Handbook 6400*. Each department agrees to be responsible for ensuring that camp operations are conducted in accordance with all applicable state and federal laws, state regulations, and California Department of Corrections and California Department of Forestry and Fire Protection departmental policies.

Camp Operations Handbook 6400 establishes that the California Department of Forestry and Fire Protection division chief and the California Department of Corrections camp commander are responsible for approving all conservation camp work projects before project work begins. It is the responsibility of the Department of Corrections to maintain public safety through proper

custody and control of inmates housed at the conservation camps, with the Department of Forestry and Fire Protection authorized to take inmate work crews from the conservation camp to work project sites throughout the community. Inmates engaged in productive work receive compensation in accordance with *California Labor Code* Section 1182 and *California Penal Code* Section 2700.

The California Department of Forestry and Fire Protection enters into contracts for conservation-related projects through the use of California Department of Forestry and Fire Protection Conservation Camp Program Project Request and Record Form FC-32. The work projects are permissible so long as the contract sponsor is a governmental agency and the work is not normally performed by private industry or citizen labor. Agencies may not charge for inmate labor on conservation projects beyond reimbursement for out-of-pocket costs.

In addition to fire-fighting and conservation projects, the Konocti Conservation Camp operates a vocational auto body program to provide vocational education opportunities for inmates. The California Department of Corrections has authority over the vehicles to be repaired during the months of April through September and the Department of Forestry and Fire Protection has authority for months of October through March. To maintain a smooth and constant workflow, the vocational instructor established a waiting list for the program and set a \$25 fee for work performed on the private vehicles of employees.

FINDING 1

The Office of the Inspector General found substantial and credible evidence that some of the Konocti Conservation Camp work projects violate applicable state law, state regulations, and departmental policies.

The Office of the Inspector General determined that the California Department of Forestry and Fire Protection entered into several questionable contracts, either using inmate work crews to perform work that would normally be performed by private industry or citizen labor, or by entering into contracts with non-governmental sponsors.

- **Hidden Valley Lake Association contracts.** The Department of Forestry and Fire Protection entered into contracts with the Hidden Valley Lake Association, a homeowners association for a gated community of privately owned homes and lots surrounding a golf course, whereby the association provided the camp with goods in exchange for inmate labor. Hidden Valley Lake Association is not a governmental entity and the work performed by the inmates normally would have been done by private industry or citizen labor.
- **St. Helena Hospital and Pacific Union College contracts.** The Department of Forestry and Fire Protection entered into contracts with St. Helena Hospital, a nonprofit religiously affiliated hospital, and Pacific Union College, a nonprofit religiously affiliated college, to provide inmate services. Neither St. Helena Hospital nor Pacific Union College is a governmental entity and the work performed by the inmates normally would have been done by private industry or citizen labor.

- **Bothe-Napa Valley State Park contract.** The Department of Forestry and Fire Protection entered into contracts with the Bothe-Napa Valley State Park whereby inmate labor was used for tree removal and cutting and bagging firewood for \$1 per bag. Although Bothe-Napa Valley State Park is a governmental entity, the work performed by inmates normally would have been done by private industry or citizen labor.

The Office of the Inspector General found that these contracts violated *Camp Operations Handbook 6400* Section 6522 and *California Penal Code* Section 2701. Those provisions authorize the employment of inmate work crews on conservation work projects, but require that the projects be sponsored by a governmental agency and that the work of the inmates be of a nature that normally would not be performed by private industry or citizen labor.

Camp Operations Handbook 6400 Section 6522 states:

*Forestry or conservation-related work projects will be developed and scheduled so that conservation camp crews will be productively occupied when they are not engaged in an emergency activity. Such projects **must** be sponsored by a governmental agency and be of a nature that would not normally be performed by private industry or citizen labor (See Sections 6202, 2701, and 2780 of the California Penal Code) [emphasis added].*

California Penal Code Section 2701 states:

*(a) The Department of Corrections is hereby authorized and empowered to cause the prisoners in the state prisons of this state to be employed in the rendering of services as are now, or may hereafter be, needed by the state, or any political subdivision thereof, or that may be needed for any state, county, district, municipal, school or other **public use** [emphasis added].*

RECOMMENDATION

The Office of the Inspector General recommends that the California Department of Forestry and Fire Protection discontinue the practice of providing inmate labor to non-governmental entities or using inmates for work normally performed by private industry or citizen labor.

FINDING 2

The Office of the Inspector General found substantial and credible evidence that the Konocti Conservation Camp improperly charged for inmate labor by collecting reimbursements beyond out-of-pocket costs and used the reimbursements to augment its budget. This practice appears to have afforded preferential treatment to a non-governmental entity to the possible detriment of legitimate fire protection and conservation efforts.

The Office of the Inspector General found that the Department of Forestry and Fire Protection inappropriately used inmate work crews on work project contracts with private sponsors under a scheme that circumvented the state prohibition against charging for inmate labor on conservation projects. According to that arrangement, the camp accumulated “credit” for providing inmate labor and directed the sponsors to use the credit to purchase specified supplies or equipment for the camp. Almost all of the purchases for the camp made by the sponsors appear to be unrelated to the standard reimbursements for fuel, mileage, and equipment allowed under the contract.

Camp Operations Handbook 6400 Section 6527 specifies that no charge will be made for inmate labor or base pay while the inmates participate in conservation projects, but the camp is authorized to recover standard reimbursements from the project sponsor, such as the cost of fuel and equipment incurred as a result of its participation in the conservation projects.

As noted above, the contract between the Department of Forestry and Fire Protection and Bothe-Napa Valley State Park provided for \$1 for each bag of firewood bagged by inmates to be paid to the department as reimbursement credit. In addition to that \$1/bag reimbursement, a review of records by the Office of the Inspector General showed that the Konocti Conservation Camp received the following non-standard reimbursement items from the Hidden Valley Lake Association, Bothe-Napa Valley State Park, and St. Helena Hospital in return for providing inmate labor from 1997 through 1999:

Hidden Valley Lake Association:	
Metal siding and accessories	\$8,848.69
Presario computer	1,285.00
Computer equipment	1,512.56
Viewsonic 21” color T.V.	917.50
Tools	3,980.44
Cement	380.74
Satellite service	180.00
Continental satellite	27.09
Weightlifting equipment	1,442.21
Carpet	232.39
Bothe-Napa Valley State Park:	
Fence Materials	907.81
Lawn Mower	376.97
Patio Umbrellas	707.79
Table saw	171.60
Internet service	138.00
Office chairs	664.98
St. Helena Hospital:	
Glass	511.08
Total	\$ 27,806.87

The camp charged for inmate labor on the conservation projects. Department of Forestry and Fire Protection personnel interviewed by the Office of the Inspector General said they knew department regulations prohibited charging for the inmate labor, but maintained that the reimbursement received was not payment for the labor, but rather standard reimbursement for fuel, mileage, and chain saws used in the projects.

The Office of the Inspector General questions the validity of this assertion. Bothe-Napa Valley State Park officials said the park provided all equipment and supplies required for the job in addition to the \$1 per bag reimbursement credit for firewood gathered by the inmates. It is clear, therefore, that the \$1 per bag reimbursement credit is based on inmate labor, not on the camp's out-of-pocket costs. It is also difficult to envision how the items the camp received from the Hidden Valley Lake Association (satellite service, weightlifting equipment, television set, etc.) can be construed as standard reimbursement for the camp's out-of-pocket costs for tree removal and firewood bagging.

The amounts charged by the camp exceeded actual costs. In addition, reimbursements charged to the Hidden Valley Lake Association and Bothe-Napa Valley State Park, were not standardized, did not equate to actual reimbursement calculations, and appeared to exceed actual costs. The Office of the Inspector General compared accounting documents received from the Hidden Valley Lake Association and Bothe-Napa Valley State Park to the amounts billed by the Department of Forestry and Fire Protection. The Office of the Inspector General evaluated the amounts billed to each entity by the department and compared all original reimbursement receipts recovered from the department's contract files. At each comparison, the documentation did not balance with the amounts billed.

The camp used the reimbursement proceeds from inmate labor to augment its budget. The \$27,806.87 the Konocti Conservation Camp received in goods from contracting with the Hidden Valley Lake Association and Bothe-Napa Valley State Park to provide inmate labor for the period of 1997 through 1999 equals almost 33 percent of the camp's general fund allotment of \$84,784 per year for the same period. The Office of the Inspector General determined from inspecting the camp that nearly all of the reimbursement items, including metal siding and paint to repair camp buildings, were at the camp and were primarily used for camp improvements and maintenance.

The camp's practice of providing low-cost inmate labor may have subsidized a non-governmental entity at the expense of legitimate fire protection and conservation efforts. Evidence obtained by the Office of the Inspector General disclosed that the Department of Forestry and Fire Protection used one, and sometimes two, inmate work crews full-time, five days a week at the Hidden Valley Lake Association. At times, crew time at other entities was reduced in order to accommodate the Hidden Valley Lake project. This practice created the appearance that the camp, in its effort to maximize reimbursements, provided preferential treatment to a non-governmental entity to the possible detriment of legitimate fire protection and conservation efforts. It also appears that the camp subsidized the operations of the Hidden Valley Lake Association and Bothe-Napa Valley State Park by

providing inmate labor at rates substantially below what private industry or citizen labor would charge.

The practice of conservation camps receiving reimbursement for inmate labor appears to be widespread. Konocti Conservation Camp employees with employment experience at other conservation camps throughout the state told the Office of the Inspector General that the practice of receiving reimbursements from inmate labor on camp projects in the form of items other than fuel, mileage, and chains for chain saws, is universal throughout the state conservation camp system and has been in existence since the program's inception.

Finding 3

The Office of the Inspector General found substantial and credible evidence that the Konocti Conservation Camp circumvented state controls and failed to maintain proper accounting for the reimbursement items obtained through inmate labor.

The Konocti Conservation Camp's practice of accumulating credit for reimbursements and requiring project sponsors to purchase non-standard reimbursement items for the camp from credit balance accounts circumvented the state requirement that any proceeds from inmate labor be paid to the State Treasurer.

California Penal Code Section 2780.1 states:

Money received from the rendering of services under the prison camp work program shall be paid to the Treasurer monthly and shall be credited to the support appropriation of the prison rendering such services, in augmentation thereof.

In addition to the specific *California Penal Code* requirement governing proceeds from inmate labor, various other state requirements impose control and accountability over state funds. Some examples include the following:

California Government Code Section 16301 states:

[A]ll money belonging to the State received from any source whatever by any state agency shall be accounted for to the Controller at the close of each month, or more frequently if required by the Controller or the Department of Finance...

California State Administrative Manual Section 3500, states:

The Office of Procurement, Department of General Services, is responsible for every purchase of supplies or equipment in excess of \$100 and for contracts for purchases for every State agency with such exception as stated in Public Contract Code Sections, 10295, 10298, 10430, and 12100.5. See SAM Section 3571.

The Office of Procurement also has responsibility for materials management on a statewide level. The office is responsible for providing leadership and guidance in all phases of material utilization, including acquisition, storage, distribution, reutilization and disposal.

California State Administrative Manual Section 3503, states:

The State is committed to a program of active competition in the purchase of personal property. Public Contract Code Section 10318 makes it illegal for any agency or employee to draft or cause to be drafted any specifications in such a manner as to limit the bidding directly or indirectly to any one specific concern, or any specific brand, product, thing, or service.

California State Administrative Manual Section 8600 states:

Property accounting procedures are designed to maintain uniform accountability for State property. These standard procedures are used to provide accurate records for the acquisition, maintenance, control, and disposition of property. The combination of accurate accounting records and strong internal controls must be in place to protect against and detect the unauthorized use of state property.

California State Administrative Manual Section 8630 states:

There are four ways to acquire property: 1. Purchase, 2. Lease/Installment Purchase, 3. Transfer, and 4. Gift. Accounting for each method is explained in SAM Sections 8631 through 8634.

By engaging in the practice of using inmate labor to accumulate credit and then directing non-governmental entities to purchase supplies and equipment on its behalf, the Konocti Conservation Camp circumvented the state control requirements cited above. All Department of Forestry and Fire Protection employees interviewed said they were unaware of control agency reporting requirements.

RECOMMENDATION

The Office of the Inspector General recommends that the California Department of Forestry and Fire Protection and the California Department of Corrections jointly develop guidelines for allowable standard reimbursements on projects involving the use of inmate labor. Guidelines should also be developed to ensure proper accountability over the standard reimbursements.

FINDING 4

The Office of the Inspector General found substantial and credible evidence that the Konocti Conservation Camp staff failed to observe the requirements of the vocational auto body program. Moreover, some of the work performed appears to have violated the intended purpose and scope of the program.

The memorandum of understanding between the California Department of Forestry and Fire Protection and California Department of Corrections as it pertains to the operation of the auto body vocational training program within the camp setting states:

A sign up sheet and waiting list will be established by the vocational instructor. The original will be maintained at CDC camp office and a copy of completed projects and a copy of the current waiting list will be sent to the supervisor of vocational instruction monthly. The vocational instructor will also make the determination as to what is a reasonable project for this program. No trashed or "basket case" vehicles will be allowed.

[No] privately owned vehicle will be in camp unfinished for more than 60 working days from the date of delivery, by the employee.

The Office of the Inspector General found evidence that employees of both the Department of Corrections and the Department of Forestry and Fire Protection were allowed to circumvent the established waiting list to have work performed on privately owned vehicles and were not charged the required \$25 fee. In addition, some of the work performed by inmates on privately owned vehicles exceeded the scope of work authorized in the vocational education program curriculum.

Waiting list procedures were violated. Witnesses told the Office of the Inspector General that the waiting list was rewritten on several occasions, with names lower on the list moved to the top to allow some employees to bring vehicles into the program without following proper procedures. Some of the employees who had work performed on private vehicles told the Office of the Inspector General that they were not required to pay the \$25 fee. These assertions are not otherwise documented because the camp did not maintain a record-keeping system for private vehicles.

The instructor was not certified to supervise work that exceeded the curriculum. Employees of the camp said that on several occasions, work performed in the auto body shop included brake and other mechanical work that was not part of the vocational education program curriculum. The Office of the Inspector General also found that the auto body instructor was not certified to supervise the work that exceeded the curriculum scope.

Some work extended beyond the 60-day limit. Witnesses also told the Office of the Inspector General that several vehicles remained in the auto body shop for extended periods of time, exceeding the 60-day maximum work requirement. The Office of the Inspector General noted that several vehicles in the shop had been stripped to a shell, providing evidence that some vehicles were being completely restored, not merely repaired, and had remained in the shop for long periods of time. It appears from these circumstances that employees who had private vehicles repaired or restored beyond the intended scope of the vocational auto body program received preferential treatment. As the records pertaining to the program operation are scant, however, it is not possible to determine the extent of the problem.

RECOMMENDATION

The Office of the Inspector General recommends that the California Department of Corrections assess the advisability of continuing the vocational auto body program in camp settings. In the event that the program is to

continue, the department should impose controls and reporting requirements to ensure that the program complies with legal mandates, policies, and procedures.

FINDING 5

The Office of the Inspector General found substantial and credible evidence that the California Department of Corrections and the California Correctional Center has failed to maintain proper supervision of Konocti Conservation Camp operations.

Konocti personnel told the Office of the Inspector General that supervisors from the California Correctional Center — which has responsibility for direct supervision of 16 fire-fighting conservation camps throughout California, including Konocti — typically visit the camp no more than once a year. In some years, according to witnesses, the camp is not visited by supervisors at all. Witnesses said this practice extends to the state's other fire-fighting conservation camps and purportedly results from the remote location of the camps, requiring supervisors to travel long distances. One employee told the Office of the Inspector General that he was left to run a camp for more than two years with only infrequent telephone contact with supervisors at the California Correctional Center.

Training for conservation camp commanders is deficient. The Office of the Inspector General also found that the California Department of Corrections has failed to provide proper training to California Department of Corrections camp commanders. All of the California Department of Corrections personnel interviewed by the Office of the Inspector General said there is no formal training for camp commanders and that camp commanders are put in a camp environment and expected to manage the camp without training.

Post orders for the California Department of Corrections camp commanders provide for specific duties, including:

- Staff training and supervision;
- Operational guidelines;
- Inmate discipline;
- Camp kitchen;
- Canteen;
- Recreation program;
- Camp inspections;
- Camp vehicles;
- Inmate payroll;
- Business services;
- Staff assignments;
- Public relations;
- Inmate work projects;
- Inmate work incentive;
- Classification;
- Camp emergencies;

- In-camp fire plan;
- Fire/flood activity reports;
- Camp office notification; and
- Hazardous materials guidelines.

Without adequate oversight, supervision, and training, the California Department of Corrections has no means of ensuring that the camp operations are conducted efficiently, effectively, and in compliance with applicable state laws and regulations.

Auditing of fire-fighting conservation camps is inadequate. The Office of the Inspector General also found that the fire-fighting conservation camps, including Konocti, are not adequately audited. Prior to 1998, The California Department of Corrections Programs and Fiscal Audits Branch, Office of Compliance and the California Department of Forestry were responsible for conducting annual joint management review audits of the Konocti Conservation Camp. After 1998, however, the Program and Fiscal Audits Branch staffing was cut back and responsibility for the joint management review audits was passed to California Department of Corrections camp office personnel.

The Office of the Inspector General found that these audits are not conducted regularly, that scope of the audits is limited, that the standards used to conduct the audits are inadequate, and that there is no procedure to ensure that the issues identified in the audit are properly addressed.

RECOMMENDATION

The Office of the Inspector General recommends that the California Department of Corrections develop a training plan to assess training needs and provide such training to camp commanders and employees. In addition, the Office of the Inspector General recommends that the Department of Corrections and the California Correctional Center improve supervision over the Konocti Conservation Camp to ensure compliance with state laws and regulations. As part of that improved supervision, the Office of the Inspector General recommends that the California Department of Corrections develop a plan to provide for regular review or audit of the state's fire-fighting conservation camps on a cyclical basis.