



Investigations of Improper Activities by State Employees:

January 2008 Through June 2008

October 2008 Report I2008-2



CALIFORNIA
STATE AUDITOR

The first five copies of each California State Auditor report are free. Additional copies are \$3 each, payable by check or money order. You can obtain reports by contacting the Bureau of State Audits at the following address:

California State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, California 95814
916.445.0255 or TTY 916.445.0033

OR

This report is also available on the World Wide Web <http://www.bsa.ca.gov>

The California State Auditor is pleased to announce the availability of an on-line subscription service. For information on how to subscribe, please contact the Information Technology Unit at 916.445.0255, ext. 456, or visit our Web site at www.bsa.ca.gov.

Alternate format reports available upon request.

Permission is granted to reproduce reports.

For questions regarding the contents of this report, please contact Margarita Fernández, Chief of Public Affairs, at 916.445.0255.

Elaine M. Howle
State Auditor
Doug Cordiner
Chief Deputy

CALIFORNIA STATE AUDITOR

Bureau of State Audits

555 Capitol Mall, Suite 300

Sacramento, CA 95814

916.445.0255

916.327.0019 fax

www.bsa.ca.gov

October 2, 2008

Investigative Report I2008-2

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

Dear Governor and Legislative Leaders:

Pursuant to the California Whistleblower Protection Act, the Bureau of State Audits presents its investigative report summarizing investigations of improper governmental activity completed from January through June 2008.

This report details nine investigations into improper governmental activities at several state departments. Through our investigative methods, we found incompatible activities, improper payments, improper contracting, and misuse of state resources. For example, an employee at the Department of Housing and Community Development (HCD) worked simultaneously at HCD and at a nonprofit organization that was receiving grants from HCD. The dual employment violated state and department prohibitions against engaging in incompatible activities. We estimate that the employee's unauthorized absences from HCD while attempting to work at both jobs—as well as other time and attendance abuses that we identified—cost the State \$34,687.

In addition, this report provides an update on previously reported issues and describes any additional actions taken by state departments to correct the problems we previously identified. For example, the Department of Corrections and Rehabilitation reported that it canceled its lease with a private parking facility after we reported it wasted \$11,277 during just a three-month period on leased parking spaces that it did not need.

Respectfully submitted,



ELAINE M. HOWLE, CPA
State Auditor

Contents

Summary	1
Chapter 1 Department of Housing and Community Development: Incompatible Activities, Time and Attendance Abuse, Dishonesty, and Inadequate Supervision	7
Chapter 2 Department of Corrections and Rehabilitation: Improper Overtime Payments	17
Chapter 3 Department of Corrections and Rehabilitation: Improper Payments for Inmate Supervision	19
Chapter 4 California Environmental Protection Agency: Failure to Accurately Report Absences, Inadequate Supervision	23
Chapter 5 State Personnel Board: Improper Contracting for Personal Services	29
Chapter 6 Department of Fish and Game: Misuse of a State Vehicle and Employee Time	33
Chapter 7 Department of Consumer Affairs, Contractors State License Board: Misuse of State Resources, Dishonesty	37
Chapter 8 State Water Resources Control Board: Misuse of State Resources	41
Chapter 9 Department of Transportation: Misuse of State Computers	43
Chapter 10 Update of Previously Reported Issues	
Department of Corrections and Rehabilitation	45
Department of Fish and Game	47
Department of Forestry and Fire Protection	50
Department of Parks and Recreation	51

California State Polytechnic University, Pomona	52
Department of Corrections and Rehabilitation	53
Department of Social Services	53
Department of Justice	55
Employment Development Department	56
Department of Justice	56
Appendix	
The Investigations Program	59
Index	65

Summary

Results in Brief

The California Whistleblower Protection Act (Whistleblower Act) empowers the Bureau of State Audits (bureau) to investigate and report on improper governmental activities by agencies and employees of the State. Under the Whistleblower Act, an *improper governmental activity* is any action by a state agency or employee during the performance of official duties that violates any state or federal law or regulation; that is economically wasteful; or that involves gross misconduct, incompetence, or inefficiency.

This report details the results of nine investigations completed by the bureau or undertaken jointly by the bureau and other state agencies between January 1, 2008, and June 30, 2008. The report also outlines the actions taken by state agencies in response to the investigations into improper governmental activities described here and in previous reports. The following paragraphs briefly summarize these investigations and the state agencies' actions, which this report's chapters discuss more fully. For more information about the bureau's investigations program, please refer to the Appendix.

Department of Housing and Community Development

A full-time employee with the Department of Housing and Community Development (HCD) worked simultaneously at the department and at a nonprofit organization (nonprofit) that was receiving grants from HCD. The dual employment violated state and HCD prohibitions against engaging in incompatible activities. We estimate that the employee's unauthorized absences from HCD while attempting to work at both jobs—as well as other time and attendance abuses that we identified—cost the State \$34,687. In addition, in her efforts to conceal her employment with the nonprofit, the employee was dishonest with HCD on several occasions. Furthermore, the employee's managers at HCD did not sufficiently supervise her attendance and failed to respond appropriately to numerous indications that the employee was working simultaneously at the nonprofit.

Department of Corrections and Rehabilitation

From November 2005 through August 2006, the Department of Corrections and Rehabilitation (Corrections) improperly paid two physicians \$108,072 in overtime compensation that the physicians were not entitled to receive.

Investigative Highlights . . .

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

- » *Working simultaneously at a state agency and a nonprofit and committing other time and attendance abuses at a cost to the State of \$34,687. In addition, management failed to sufficiently supervise and respond to indications of the dual employment.*
- » *Improperly disbursing more than \$108,000 in overtime pay that the employees were not entitled to receive.*
- » *Improperly paying \$16,500 to employees for inmate supervision when the employees did not fulfill requirements.*
- » *Failing to promptly submit time sheets that accurately reported absences over a 23-month period, for which the employee was paid \$23,300, and management's neglecting to ensure that absences were accurately reported and charged against leave balances.*
- » *Improperly paying \$14,000 to two retired state employees for personal services.*
- » *Misusing a state-owned vehicle and the state-compensated time of two subordinates.*
- » *Misusing state time and resources to conceal private employment during regular work hours.*

continued on next page . . .

In response to previously reported investigations, state departments and agencies have acted in the following ways:

- » *The Department of Corrections and Rehabilitation canceled a lease with a private parking facility for 29 parking spaces that it did not need.*
- » *The Department of Justice continued to take corrective action regarding a manager and four subordinates who failed to properly account for their absences.*
- » *The Employment Development Department disciplined an employee by suspending him without pay for two days.*

Department of Corrections and Rehabilitation

Corrections improperly granted nine office technicians increased pay to supervise inmates at its R. J. Donovan Correctional Facility. The office technicians were not entitled to receive this increased pay because they did not supervise the required number of inmates or did not supervise inmates who worked the minimum number of hours required for the employees to receive the increased pay. Consequently, between January 1, 2005, and February 29, 2008, Corrections paid these office technicians a total of \$16,530 more than they should have received.

California Environmental Protection Agency

An employee at the California Environmental Protection Agency (Cal/EPA) failed to punctually submit time sheets that accurately reported her absences for the period from August 2006 through June 2008. In addition, the officials responsible for managing her daily activities or for monitoring her time and attendance failed to take sufficient actions to ensure that the employee accurately reported her absences and that staff properly charged the absences to her leave balances. Consequently, Cal/EPA did not charge the employee's leave balances for the 768 hours that she was absent from work, and it inappropriately paid her \$23,320 for these hours.

State Personnel Board

The State Personnel Board (personnel board) improperly paid a retired employee \$8,999 for work that he performed after he had reached the maximum number of hours that he was allowed to work during a year. In addition, the personnel board failed to justify the amount paid to the retired employee or the \$4,999 it paid to another individual for similar services.

Department of Fish and Game

By regularly transporting her child to school in a state-owned vehicle, a manager with the Department of Fish and Game misused that vehicle. The manager also misused the state-compensated time of two subordinates by directing them to repair and build corrals for her private use at the state-owned property where she resides. The manager's improper use of state property and time resulted in a total estimated loss to the State of \$1,962.

Department of Consumer Affairs, Contractors State License Board

An employee with the Contractors State License Board (board), which is part of the Department of Consumer Affairs, used a state vehicle for personal purposes. In addition, the employee falsified board records to hide her actual activities when she was supposed to be performing field inspections. The State incurred a loss when it spent an estimated \$1,896 on expenses related to her personal use of a state vehicle.

State Water Resources Control Board

An employee of a regional water board, which operates under the supervision of the State Water Resources Control Board, used a state telephone to make 54 hours of personal long-distance telephone calls, which cost the State a total of \$137.

Department of Transportation

Two employees of the Department of Transportation used state computers inappropriately by operating them to conduct personal business.

Update on Previously Reported Issues

In April 2008 we reported that Corrections wasted \$11,277 in state funds over a three-month period when it leased parking spaces that it did not need from a private parking facility and allowed state employees to park their personal vehicles free of charge in those spaces. In July 2008 Corrections informed us that in April 2008 it canceled its lease with the private parking facility.

We also reported that a manager and four subordinates at a regional office of the Department of Justice (Justice) failed to properly report on their time sheets an estimated 727 hours of leave taken from April 2006 through December 2006, amounting to \$17,974 in compensation that was potentially unearned. In addition, the manager failed to adequately monitor his subordinates' absences or time worked. Moreover, the manager's supervisor, who worked at Justice's headquarters, failed to ensure that the manager completed his time sheets accurately and that the manager properly monitored his subordinates' time reporting. At the time of our report, Justice stated that it had taken several actions to ensure that the employees appropriately documented all leave and overtime and that they complied with state and Justice policies and procedures. Justice also continued to investigate the amount of unreported leave

taken by the subjects in 2007. Subsequently, Justice completed its investigation and found that the manager and four subordinates continued to report their absences inaccurately in 2007, but it did not quantify the extent of the subjects' unreported absences. Justice continued to take corrective action and documented the manager's failure to follow its policies and procedures for time reporting and leave use. Following these actions, the manager left Justice in July 2008.

We further reported that an employee of the Employment Development Department (Employment Development) drank alcoholic beverages during work hours, and his drinking impeded his ability to perform his duties safely. Moreover, his supervisors had been aware of the situation for years. At the time of our report, Employment Development notified us that it had given the employee a corrective action memorandum to inform him that he was prohibited from working while intoxicated and from consuming alcohol during his work hours and unpaid lunch break. Employment Development also advised the employee that this matter could become the basis for disciplinary action. Subsequent to our report, Employment Development disciplined the employee by suspending him without pay for two workdays. The employee did not appeal the adverse action.

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

Table 1
Issues, Financial Impact, and Status of Corrective Actions for Cases Described in This Report

	CHAPTER	DEPARTMENT	DATE OF OUR INITIAL REPORT	ISSUE	COST TO THE STATE AS OF JUNE 30, 2008	STATUS OF CORRECTIVE ACTIONS
NEW CASES	1	Department of Housing and Community Development	October 2008	Incompatible activities, time and attendance abuse, dishonesty, and inadequate supervision	\$34,687	Complete
	2	Department of Corrections and Rehabilitation	October 2008	Improper overtime payments	108,072	Complete
	3	Department of Corrections and Rehabilitation	October 2008	Improper payments for inmate supervision	16,530	Pending
	4	California Environmental Protection Agency	October 2008	Failure to accurately report absences, inadequate supervision	23,320	Partial
	5	State Personnel Board	October 2008	Improper contracting for personal services	13,998	Complete
	6	Department of Fish and Game	October 2008	Misuse of a state vehicle and employee time	1,962	Complete
	7	Department of Consumer Affairs and Contractors State License Board	October 2008	Misuse of state resources, dishonesty	1,896	Partial
	8	State Water Resources Control Board	October 2008	Misuse of state resources	137	Complete
	9	Department of Transportation	October 2008	Misuse of state computers	NA	Complete
PREVIOUSLY REPORTED ISSUES	10	Department of Corrections and Rehabilitation	September 2005	Failure to account for employees' use of union leave	507,541	Partial
	10	Multiple state departments*	March 2006	Inappropriate gifts of state resources and mismanagement	8,313,600	Partial
	10	Department of Forestry and Fire Protection	March 2006	Improper overtime payments	77,961	Complete [†]
	10	Department of Parks and Recreation	March 2007	Misuse of state resources and failure to perform duties adequately	NA	Partial
	10	California State Polytechnic University, Pomona	September 2007	Viewing of inappropriate Internet sites and misuse of state equipment	NA	Partial
	10	Department of Corrections and Rehabilitation	April 2008	Mismanagement and misuse of state resources as well as waste of state funds	11,277	Complete
	10	Department of Social Services	April 2008	Waste of state and federal funds	14,714	Complete
	10	Department of Justice	April 2008	Inefficiency created by entering into side letters with a bargaining unit without the Department of Personnel Administration's oversight or the Legislature's ratification	2,370,839 [‡]	Complete
	10	Employment Development Department	April 2008	Management's failure to take appropriate action about an employee who drank alcoholic beverages while on duty	NA	Complete
	10	Department of Justice	April 2008	Employees' disregard for time-reporting requirements and management's failure to ensure that employees reported absences properly	17,974 [§]	Complete

Source: Bureau of State Audits.

NA = Not applicable because the situation did not involve a dollar amount or because the findings did not allow us to quantify the financial impact.

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

† We have designated the status of corrective actions as *complete* because it is unlikely that this department can or will take further action.

‡ As we reported in April 2008, the \$2,370,839 expenditure was not improper; however, the failure to disclose properly the side letters that led to the expenditure created an inefficiency in the State's bargaining process.

§ As we reported in April 2008, this amount represents compensation that employees may not have earned.

Blank page inserted for reproduction purposes only.

Chapter 1

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT: INCOMPATIBLE ACTIVITIES, TIME AND ATTENDANCE ABUSE, DISHONESTY, AND INADEQUATE SUPERVISION

Case I2007-1049

Results in Brief

A full-time employee of the Department of Housing and Community Development (HCD) violated state and HCD prohibitions against incompatible activities by simultaneously working full-time for HCD and for a nonprofit organization (nonprofit) that was receiving grants from HCD. We estimate that the employee's unauthorized absences from HCD while she attempted to perform both jobs, as well as her other time and attendance abuses, cost the State approximately \$34,687 in salary for hours that the employee did not work. We also found that in attempting to hide from HCD her employment with the nonprofit, the employee engaged in several acts of dishonesty toward HCD. Meanwhile, HCD managers provided insufficient supervision of the employee's attendance and they failed to respond to indications that the employee was working concurrently at the nonprofit and at HCD.

Background

HCD's mission is to provide leadership, policies, and programs to make safe, affordable housing available to the public. In administering its programs, HCD awards loan and grant funding to local public agencies, nonprofit organizations, and for-profit companies to acquire, build, and preserve reasonably priced housing throughout the State.

Like all other state employees, HCD employees must follow an array of statutes intended to ensure that the employees are devoted to their work and perform their duties in an impartial manner. Specifically, the California Government Code, Section 19990, prohibits every state employee from engaging in any employment, activity, or enterprise that is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee. Section 19990 lists many pursuits that the State considers *incompatible activities* for the employees of every state agency, regardless of the particular functions of the agency. In particular, Section 19990(b) lists as an incompatible activity an employee's using state-compensated time for private gain or advantage. In

addition, Section 19990(g) lists as another incompatible activity an employee's failing to devote his or her full time, attention, and efforts to state employment during hours of duty. Section 19990 goes on, however, to require that every state agency adopt a more detailed Statement of Incompatible Activities in which the agency describes any other activities that present incompatibility problems specific to the work that the agency performs. To fulfill this mandate, HCD adopted a Statement of Incompatible Activities that expressly prohibits any employee from engaging in outside employment with any for-profit or nonprofit entity that does business with the HCD division for which the employee works.

Section 8314 of the California Government Code further amplifies the prohibition against using state-compensated time for purposes unrelated to state employment. This section makes unlawful any state employee's use of public resources—including state-compensated time—for personal enjoyment, private gain or advantage, or any outside endeavor not related to state business, except for incidental or minimal use.

As a means of avoiding conflicts of interest among public officials, Section 87302 of the California Government Code, which is a part of the Political Reform Act, requires the employees of a state agency who are in a position to make or influence governmental decisions to disclose the income they receive from outside sources that may be affected by their decisions. The employees must make this disclosure annually by filing a Statement of Economic Interests. Under Section 87207(a) of the California Government Code, an employee's disclosure that he or she accepted such income must specify certain information about the amount of the income received and about what was provided, if anything, in exchange for the income. The California Government Code, Section 81010(b), then requires the agency to review the statement to determine whether on its face it conforms with the requirements of the Political Reform Act.

Section 19572(f) of the California Government Code provides that state employees have a duty to behave honestly with their state employer, and any acts of dishonesty may be cause for disciplinary action.

Finally, the California Government Code, Section 13401, mandates that all levels of management at a state agency must be involved in assessing and strengthening the agency's administrative controls to minimize fraud, errors, abuse, and waste of government funds.

Facts and Analysis

Our investigation revealed that in December 2006 the employee was serving in a full-time position with HCD. She had applied for a similar full-time position at the nonprofit and was successful in obtaining that position. The nonprofit is a national organization, with a major business center in California, that acquires and develops housing for a variety of low-income populations, including families, seniors, and people with special needs. The nonprofit receives approximately 40 percent of its funding for California projects in the form of grants from HCD.

The employee told the manager who hired her at the nonprofit that she wanted to leave state service to accept the new position. However, after accepting employment at the nonprofit, the employee continued to hold her position at HCD. She held both full-time positions from December 2006 until December 2007, when the employee's second-level supervisor at HCD was told during a meeting with the nonprofit's manager that the employee was working for the nonprofit. During that meeting, the nonprofit manager learned that the employee had not left her position with HCD as he had understood and, therefore, immediately terminated her employment with the nonprofit. The employee later resigned from HCD after it served her with a notice of disciplinary action.

The employee held full-time positions at both HCD and the nonprofit from December 2006 until December 2007.

The Employee's Work at the Nonprofit Was Incompatible With Her Employment at HCD

As previously explained, HCD's Statement of Incompatible Activities expressly prohibits any HCD employee from outside employment with any for-profit or nonprofit entity that conducts business with the division of HCD at which the employee works. Although our investigation did not identify any instances in which the employee personally performed work on a project that involved the nonprofit, the division of HCD in which the employee worked did a significant amount of business with the nonprofit. The employee's dual employment therefore constituted an impermissible incompatible activity.

Shortly after the employee accepted employment with the nonprofit, HCD's legal counsel gave a copy of HCD's Statement of Incompatible Activities to the employee under circumstances discussed later in this chapter. Additionally, in May 2007, HCD provided the employee with a memorandum, also discussed later in this chapter, which explicitly advised the employee that she could not perform work for the nonprofit while she was employed by HCD because doing so would constitute a prohibited incompatible activity. When we interviewed the employee, she

assured us that she had understood the memorandum when it was given to her in May 2007. The employee nonetheless continued her dual employment for seven additional months, in violation of HCD's prohibition against incompatible activities. As a result, the employee created an appearance, during the period of her dual employment, that the nonprofit had an unfair advantage in obtaining funding from HCD, and that the nonprofit might receive more favorable treatment during HCD's monitoring and oversight of the nonprofit's HCD-funded projects.

The Employee's Misuse of Her State-Compensated Time Was Also Incompatible With Her Employment at HCD

At HCD the employee was required to work Monday through Friday from 7 a.m. to 4:30 p.m. At the nonprofit during the same period, the employee was generally expected to be available for work Monday through Friday from 8 a.m. and 5 p.m., although the nonprofit allowed her significant flexibility in her work schedule and work location. Even with this flexibility in her schedule at the nonprofit, the manager at the nonprofit estimated that the employee was present at the nonprofit's office an average of 30 hours per week during hours that the employee was scheduled to work for HCD. According to witnesses, the employee was regularly absent from the HCD office for approximately two to six hours during her scheduled workday. Using witness statements and estimates from the nonprofit manager about the number of hours that the employee was present in the nonprofit's office, we calculate that during the one-year period that the employee engaged in dual employment, she was absent at least 800 hours from her duties at HCD. The employee nonetheless received state compensation for those hours.¹

When we interviewed the employee, she acknowledged that during her concurrent employment, she occasionally spent state-compensated time performing work for the nonprofit, but she asserted that she always made up the time by staying late at HCD or taking work home. However, the employee's direct supervisor at HCD, Manager A, stated that the employee rarely stayed late, and HCD's records for the employee's computer use support Manager A's statement.

In addition to leaving HCD during her scheduled workday to work at the nonprofit, the employee regularly arrived at HCD late and left early. We learned about her HCD work patterns after reviewing

The manager at the nonprofit estimated that the employee was present at the nonprofit's office an average of 30 hours per week during hours that the employee was scheduled to work for HCD.

¹ We arrived at the estimate of 800 hours based on an assumption that the employee was absent from HCD for an average of four hours per day.

the employee's computer records at HCD from September 2006 through January 2008, a period that includes months before and after the employee took the job at the nonprofit. The computer records indicate that the employee was absent from HCD at the beginning and end of her workday for a total of 256 hours during the period we reviewed.² When we questioned the employee about her work schedules at HCD and at the nonprofit, the employee admitted that she regularly left work at HCD 30 minutes early. The employee's late arrivals and early departures did not appear to relate directly to her employment at the nonprofit.

Further, the computer records indicate that the employee was absent from HCD for the entire day on 15 separate occasions, totaling 131 additional hours, without these absences being reported by the employee on her time sheets and charged against her leave balances. We were unable to determine whether these absences for entire days were related to the employee's dual employment.

The employee's unauthorized absences from HCD constitute additional incompatible activities under Section 19990 of the California Government Code, as they are a reflection of using state-compensated time for private gain or advantage and not devoting one's full time, attention, and efforts to state employment during hours of duty. Moreover, the employee misused a state resource—her state-compensated time—in violation of Section 8314 of the California Government Code.

Table 2 shows the estimated number of hours that the employee was absent from HCD and the costs associated with the hours that she was absent:

Table 2
Estimated Number of Hours That the Employee Was Absent From Work

CATEGORY	HOURS ABSENT	COST OF ABSENCES
Hours absent during the middle of workdays	800	\$23,409
Hours absent at the beginning and end of workdays	256	7,507
Hours absent for full workdays	131	3,771
Totals	1,187	\$34,687

Sources: Bureau of State Audits' analysis of the Department of Housing and Community Development time sheets and computer logs, witness statements, and salary data from the State Controller's Office.

² We calculated these hours by computing the difference between the employee's scheduled arrival and departure times and the times she logged in and out of her HCD computer.

We estimate that the employee failed to account on her time sheets for 1,187 total hours of absences from HCD, and these absences cost the State \$34,687. In addition, because the employee did not include her absences on her time sheets, her leave balances were not charged for the hours she was absent from the workplace. Consequently, the employee was paid by the State for these 1,187 hours she did not work in addition to receiving compensation for the leave time she did not use.

The Employee Was Dishonest With HCD Management

In order to hide that she was working at the nonprofit, the employee was dishonest on several occasions with HCD's management and legal counsel about her relationship with the nonprofit. For example, in mid-December 2006, even though she was already a full-time employee of the nonprofit, the employee told Manager A that she wanted to start performing part-time volunteer work for the nonprofit. Manager A responded by directing the employee to discuss the issue with HCD's legal counsel. The employee subsequently met with an HCD attorney to discuss her "proposed" work for the nonprofit, which she then described as paid employment. The employee apparently told the attorney that her duties at the nonprofit would be unrelated to her job duties at HCD. She later provided information to the attorney that appeared to indicate that the nonprofit received no funding from HCD and has no business interests in California. Based on the inaccurate information supplied by the employee, the attorney may have indicated that the employee might be allowed to engage in the proposed dual employment. However, the attorney informed us that he never formally responded to the employee's inquiry about the proposed employment. The employee asserted to us that because HCD's legal counsel did not provide a formal communication about whether it would be acceptable for her to work at the nonprofit while working at HCD, she continued to work for the nonprofit.

The employee made false and misleading statements in connection with the disclosures that she made in her 2006 Statement of Economic Interests.

As another example of dishonesty, the employee made false and misleading statements in connection with the disclosures that she made in her 2006 Statement of Economic Interests. In March 2007 the employee filed an annual Statement of Economic Interests for the 2006 calendar year. In the statement, she disclosed on a Schedule C that the nonprofit had been a source of income to her. However, while the employee correctly identified the name of the nonprofit and her business position with that entity, she failed to disclose the amount of income she received. The employee also failed to disclose that the income was provided as salary, and indicated that she had been performing consulting work for the nonprofit instead of serving as an employee. When questioned

by Manager A about this Statement of Economic Interests, the employee falsely told Manager A that she completed the schedule because she had received a one-time gift of travel and accommodations from the nonprofit so that she could visit its headquarters outside of California and learn about a prospective employment opportunity with the nonprofit. She gave this explanation to Manager A even though the schedule she used to disclose receiving income from the nonprofit clearly states that it is to be used to report income other than gifts and travel payments.

Manager A recounted that she subsequently notified HCD's legal counsel about the employee telling her that the employee had received a gift from the nonprofit. In May 2007 HCD's legal counsel drafted a memorandum to the employee in response to the employee's stated interest in working for the nonprofit and her claim that the nonprofit had given her a gift of travel. This memorandum, delivered to the employee by Manager A, advised the employee that working for the nonprofit while working for HCD would be a prohibited incompatible activity. In addition, the memorandum explained that state law prohibited the employee from receiving a gift from the nonprofit, so she must refrain from accepting such gifts in the future. By this time, the employee had already offered yet another story about her relationship with the nonprofit: She told Manager A in April 2007 that she had been performing volunteer work for the nonprofit on weekends.

Finally, in December 2007, when HCD management confronted the employee with information confirmed by the nonprofit that she was indeed engaged in dual employment, the employee continued to assert that she had only been working as a volunteer. Section 19572 of the California Government Code strictly prohibits such acts of dishonesty, which may serve as a basis for disciplinary action.

The Employee's Supervisors Failed to Provide Adequate Supervision and to Respond Appropriately When Given Information About the Employee's Dual Employment

Not only did the HCD employee pursue activities prohibited by state law and HCD policies, but HCD's management also failed to properly monitor the employee's work schedule and failed to respond appropriately to indications that the employee was working concurrently for the nonprofit. Through their inaction, HCD's management permitted the employee's improper conduct to occur and continue. HCD management, particularly Manager A and Manager B, the employee's first- and second-level supervisors, should have noticed the employee's extensive absences. If the two managers did not notice the absences, they failed to adequately oversee the employee's work schedule. If they noticed the absences

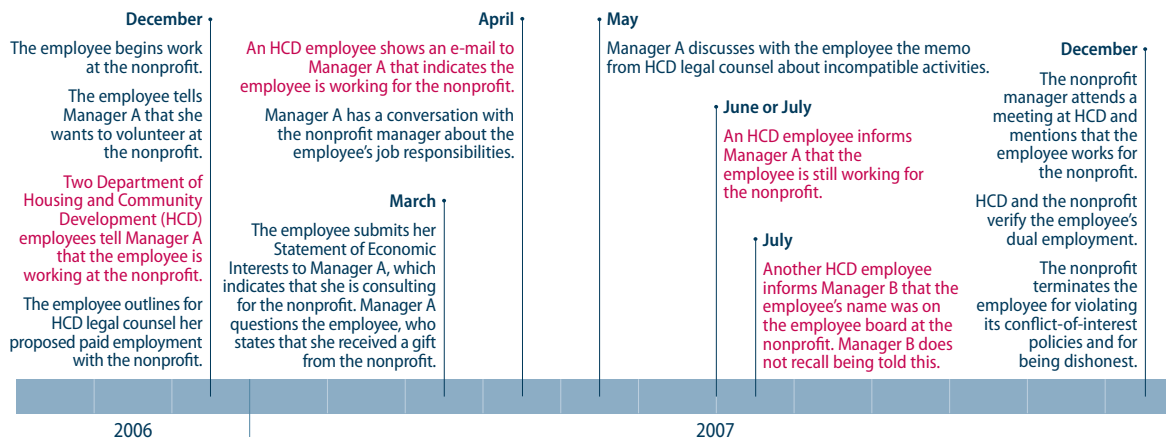
Through their inaction, HCD's management permitted the employee's improper conduct to occur and continue.

but did not act to address them, they failed to provide sufficient supervision. In either case, the managers neglected their duty to ensure that HCD received work that was commensurate with the compensation being paid to the employee.

Perhaps even more significantly, the two managers had received information on several occasions that the employee was engaging in impermissible dual employment, yet they did not act to confirm the information. Manager A, in particular, failed to address the situation promptly even though several of the employee's coworkers informed this manager independently that a nonprofit employee had mentioned that the employee was working for the nonprofit. Manager A also did not confirm with the nonprofit that the employee had been working as a consultant for the nonprofit as she had reported on the 2006 Statement of Economic Interests. The figure indicates that at various times during the employee's year of dual employment, Manager A and Manager B received information that should have alerted one or both of them that the employee was working at the nonprofit and at HCD concurrently.

Figure

Timeline Illustrating That Department of Housing and Community Development Managers Did Not Act on Indications That the Employee Was Working at the Nonprofit



Sources: HCD's records, the nonprofit's records, and Bureau of State Audits' interviews.

Even when evidence of the employee's dual employment appeared in a document, Manager A overlooked obvious signs of incompatible activities. In April 2007 a coworker hand-delivered to this manager a printed copy of an e-mail message that contained a forwarded e-mail that had originated from the employee's e-mail account at the nonprofit and that included a signature block showing her position at the nonprofit. Manager A stated that the

e-mail might have indicated that the employee was consulting for the nonprofit but nothing more, and she insisted that she did not see the second page of the e-mail, which included the employee's signature block. Further, Manager A made a point of stating that the employee's title at the nonprofit was very similar to her title at HCD, implying that Manager A may have seen the signature block but mistakenly thought it was the employee's signature block from her state e-mail account. Shortly after Manager A saw the e-mail, she had at least one telephone conversation with the nonprofit's manager about the employee's responsibilities at the nonprofit. In an interview with us, Manager A claimed that during the telephone call she wanted to determine the employee's proposed responsibilities at the nonprofit if she were to work there as the employee had indicated she wanted to do. Manager A asserted that she did not ask whether the employee was already working for the nonprofit. In addition, Manager A did not question the nonprofit manager about either the employee's consulting work or her position at the nonprofit, which were indicated in the e-mail. In fact, she insisted that based on the conversation, she did not know that the employee was already working or volunteering at the nonprofit. However, given that other HCD employees had previously expressed to her their concern about the employee's relationship with the nonprofit and that the employee had reported a gift from the nonprofit, Manager A should have questioned the nonprofit's manager more thoroughly about the specific nature of the employee's work.

Moreover, Manager A did not explore the employee's reported volunteer work with the nonprofit. In May 2007, when Manager A delivered to the employee the memorandum from legal counsel advising the employee that she could not work for the nonprofit, the employee had already told Manager A that she had volunteered with the nonprofit on weekends. Manager A told us that she did not ask the employee whether she was still volunteering, and the manager did not attempt to determine the true extent of the employee's relationship with the nonprofit.

In June or July 2007, HCD staff notified both Manager A and Manager B that the employee was still working for the nonprofit even after the employee received the memorandum instructing her that working for the nonprofit was prohibited. Specifically, an HCD staff member informed us that she performed a site visit at the nonprofit in June 2007 and noticed the employee's name on a board listing the names of the employees at the nonprofit. Shortly thereafter, in July 2007, the coworker informed Manager B about this observation. Manager B told us that she did not recall being told about this situation; however, she also said that she did not have any reason to believe that the staff member who reported her observation was being dishonest. Another of the employee's

Manager A should have questioned the nonprofit's manager more thoroughly about the specific nature of the employee's work, given the concerns previously expressed by the employee's coworkers.

The managers clearly had reason to inquire whether the employee was a paid employee at the nonprofit and, in doing so, they would have discovered her prohibited conduct.

HCD coworkers informed us that when she heard that a board posted at the nonprofit listed the employee's name on it, she alerted Manager A. However, Manager A told us that she did not believe this coworker because of disharmony that existed between the employee and the coworker. Therefore, Manager A took no action.

Because the employee was absent from the HCD office for many work hours, and because Manager A and Manager B received various types of information and expressions of concern about the possibility that the HCD employee was working concurrently at the nonprofit, these managers clearly had reason to inquire whether the employee was indeed a paid employee at the nonprofit. In doing so, the two managers would have discovered the employee's prohibited conduct. These failures to question the situation and to act on other employees' concerns demonstrate a lack of adequate oversight by these two managers, who have a duty to assess and strengthen their agency's administrative controls to minimize fraud, abuse, and waste of government funds.

Agency Response

HCD informed us that it reduced the employee's salary by 10 percent for six months effective in April 2008. The disciplinary action taken against the employee cited many of the improper acts that the employee committed, but did not address the employee's misuse of state-compensated time. The employee subsequently resigned in May 2008. In addition, HCD stated that it determined the managers responded adequately and that they were not negligent of their supervisory duties. Nevertheless, HCD noted that it would have preferred the managers to take quicker and more definitive action. Consequently, HCD stated that it informally counseled the managers regarding the matter.

Chapter 2

DEPARTMENT OF CORRECTIONS AND REHABILITATION: IMPROPER OVERTIME PAYMENTS

Case I2007-0917

Results in Brief

From November 2005 through August 2006, the Department of Corrections and Rehabilitation (Corrections) improperly paid two physicians \$108,072 in overtime compensation that they should not have received.

Background

Corrections employs physicians who administer health care to the State's institutionalized inmates. A labor agreement between the State and the physicians' collective bargaining unit (Unit 16) governs the terms of the physicians' employment. Under the labor agreement, the physicians earn salaries rather than hourly wages, and they are scheduled to work an average of 40 hours per week. The salaries that the physicians receive are generally intended to compensate them fully for all the work that they perform during a workweek, even if they must work more than 40 hours to complete their assignments. However, one exception to this general rule is that a physician who must return to an institution for work hours in addition to his or her regularly scheduled workweek is entitled to receive compensation for the additional work hours, known as *call-back hours*. According to the labor agreement, a physician receives compensation for call-back hours on an hour-for-hour or *straight-time* basis instead of a time-and-a-half or overtime basis. In addition, for each return visit by a physician, the agreement guarantees a minimum of four hours of compensation and one additional hour of compensation for travel time. Thus, a physician earns pay for a minimum of five hours of work each time he or she must return to an institution, but the State does not use a time-and-a-half basis when calculating the additional compensation.

Upon receiving an allegation that two Corrections' physicians received compensation that they were not entitled to receive, we asked the California Prison Health Care Receivership (receivership) to help us investigate the matter. The receivership manages medical care operations in Corrections' institutions.

Two physicians at San Quentin State Prison claimed a total of 3,025 call-back hours from November 2005 through August 2006, for which Corrections overpaid them \$108,072.

Facts and Analysis

The investigation revealed that from November 2005 through August 2006, two physicians at San Quentin State Prison (San Quentin) claimed a total of 3,025 call-back hours. Instead of paying these physicians on an hour-for-hour basis, Corrections compensated them for the call-back hours on a time-and-a-half basis. As a result, they received a minimum of 7.5 hours of credit each time San Quentin called them back to work even though the labor agreement specified that they were entitled to receive only five hours of credit. Consequently, Corrections overpaid the physicians a total of \$108,072.

Physician A claimed 1,795 call-back hours from November 2005 through August 2006, and he received \$192,293 in call-back pay for those hours in addition to his base pay of \$124,053 for the 10-month period. However, because he was paid at a time-and-a-half rate for each hour worked, in violation of the labor agreement, he should not have received \$64,097 of this call-back pay.

Similarly, Physician B claimed 1,229 call-back hours during the same 10-month period, and he received \$131,924 in call-back pay for those hours in addition to his base pay of \$122,142 for the period. Because Corrections also paid Physician B at a time-and-a-half rate for each hour worked, in violation of the labor agreement, he was not entitled to \$43,975 of this call-back pay.

We found that these physicians received overpayments for call-back hours because the clerk at San Quentin who was responsible for entering information into the computer system for managing payroll entered the call-back hours erroneously. The clerk entered the hours as if the physicians were entitled to compensation at a time-and-a-half rate rather than at the hour-for-hour rate required by Unit 16's labor agreement.

Agency Response

The receivership agreed with our findings and reported that in May 2008 it had established accounts receivable for both physicians, who agreed to make monthly payments to the State. In addition, the receivership stated that the overpayments probably occurred because San Quentin staff lacked proper training. In July 2008 the receivership transferred responsibility for processing all personnel transactions for San Quentin medical, mental health, and dental staff to the human resources staff at the receivership's headquarters to ensure better accountability and oversight.

Chapter 3

DEPARTMENT OF CORRECTIONS AND REHABILITATION: IMPROPER PAYMENTS FOR INMATE SUPERVISION Case I2006-0826

Results in Brief

Between January 1, 2005, and February 29, 2008, the Department of Corrections and Rehabilitation (Corrections) improperly paid nine office technicians a total of \$16,530 for supervising inmates when the technicians did not qualify to receive the money. Corrections also failed to maintain adequate accounting and administrative controls that would prevent such improper payments.

Background

Corrections regularly assigns prison employees, including office technicians, to supervise the work of inmates who perform jobs inside its prisons. Under the collective bargaining agreement between the State and Bargaining Unit 4, which represents state office workers, prison employees assigned to supervise inmates are entitled to earn \$190 in additional pay per month if the employees meet certain requirements. The prerequisites are that the employees have regular, direct responsibility for supervising the work of at least two inmates who must collectively work 173 hours each month, providing the inmates with on-the-job training, and evaluating the inmates' work performance.

In providing employees with this additional earned pay, Corrections, like all other state agencies, has a duty under the California Government Code, Section 13403(a)(3), to maintain internal accounting and administrative controls. These controls must include a system of authorization and record-keeping procedures that provides effective accounting controls over the payments to its employees.

Upon receiving information that office technicians at the R. J. Donovan Correctional Facility (facility) near San Diego had received improper pay for supervising inmates, we conducted an investigation at the facility. During our investigation, we sought evidence to support that the office technicians who had received pay for supervising inmates were entitled to receive this compensation. We focused specifically on inmate time sheets, which are supposed to identify the name and identification number of each inmate who needed supervision as well as the number of hours that the inmate worked under the assigned office technician.

Each time sheet should also include the supervising office technician's signature contemporaneously certifying the inmate's hours for each day that the inmate worked.

Facts and Analysis

Our investigation revealed that from January 2005 through February 2008, Corrections made 239 payments to the nine office technicians for inmate supervision; however, for 87 of these payments, Corrections could not demonstrate that the employees satisfied the requirements for earning this compensation. In some instances, employees had not supervised any inmates during a given pay period. In other cases, employees supervised only one inmate during the pay period, or they had supervised at least two inmates but the inmates did not collectively work the required number of hours for the employees to qualify for supervision pay. Thus, Corrections paid the employees a total of \$16,530 that they were not entitled to receive under the collective bargaining agreement. This amount constitutes 36 percent of the total spent for inmate supervision for the period that we reviewed. The results of our investigation appear in Table 3.

Table 3
 Department of Corrections and Rehabilitation's Improper Payments to Employees for Supervising Inmates
 January 2005 Through February 2008

EMPLOYEES	NUMBER OF MONTHS EMPLOYEES RECEIVED PAYMENTS FOR SUPERVISING INMATES	TOTAL PAYMENTS FOR INMATE SUPERVISION	REASONS EMPLOYEES DID NOT QUALIFY FOR PAYMENTS TO SUPERVISE INMATES			TOTAL NUMBER OF IMPROPER MONTHLY PAYMENTS	TOTAL IMPROPER PAYMENTS FOR INMATE SUPERVISION	PERCENTAGE OF TOTAL PAYMENTS THAT WERE IMPROPER
			NUMBER OF MONTHS EMPLOYEE SUPERVISED NO INMATES	NUMBER OF MONTHS EMPLOYEE SUPERVISED ONE INMATE	NUMBER OF MONTHS EMPLOYEE SUPERVISED TWO OR MORE INMATES FEWER THAN 173 HOURS			
A	32	\$6,080	3	6	2	11	\$2,090	34%
B	28	5,320	12	0	0	12	2,280	43
C	25	4,750	5	2	0	7	1,330	28
D	23	4,370	3	7	2	12	2,280	52
E	38	7,220	4	4	0	8	1,520	21
F	23	4,370	10	7	0	17	3,230	74
G	23	4,370	5	1	0	6	1,140	26
H	23	4,370	0	1	3	4	760	17
I	24	4,560	0	9	1	10	1,900	42
Totals	239	\$45,410	42	37	8	87	\$16,530	36%

Source: Bureau of State Audits' analysis of inmates' time sheets from the R. J. Donovan Correctional Facility.

Our investigation further determined that Corrections paid the nine employees incorrectly because the facility lacked proper controls—including adequate oversight—to ensure that the employees qualified for the increased pay by supervising at least two inmates who collectively worked for 173 hours. For example, according to our examination of inmates' time sheets—and our observation that inmates' time sheets were missing in certain instances—two of the nine employees who received supervision pay for August 2006 did not supervise any inmates during the month. Thus, these employees received the increased pay even in extreme cases in which inmates submitted no time sheets to support the employees' earning supervision pay.

Moreover, the number of improper payments may be even higher given what we discovered about the facility's system for recording inmate supervision. Specifically, we found that employees who supervised inmates routinely signed inmates' time sheets regardless of whether the employees or the inmates were present for work. Our comparison of the inmates' time sheets to the employees' official attendance reports for four months in 2006 identified at least 34 days when employees signed their approval of the work hours that inmates recorded even though the employees were not present at the facility to supervise inmates on those days. For example, time sheets for August 2006 show that employees A, C, F, and G certified inmates' work hours during a total of 16 days that these employees' official attendance reports show they did not work.

Our investigation revealed that the discrepancies between inmate time sheets and employee attendance reports were particularly significant in the case of Employee F, who indicated on the time sheets that she supervised one inmate for 23 days during August 2006. However, her attendance report shows that for the 23 days the inmate worked, Employee F was absent from work for 10 full days and two partial days. Because she supervised only one inmate and she was absent from work for about one-half of the 23 days that she claimed to supervise the inmate, Employee F did not satisfy the bargaining agreement's requirement to qualify for the extra compensation that she supervise two inmates who collectively worked at least 173 hours during the month. Although the absences of employees A, C, F, and G during three other months that we reviewed did not affect their meeting the requirements for earning the increased pay, we are nevertheless concerned that the facility lacks sufficient controls to ensure the accuracy of the records that justify employees receiving extra pay for supervising inmates. In particular, if these records are inaccurate, we have no assurance that the employees receiving the increased pay have properly earned it.

Because Employee F supervised only one inmate and was absent from work for about one-half of the days she claimed to supervise the inmate, she did not satisfy the requirement to supervise two inmates who collectively worked at least 173 hours during the month.

Similarly, we found that for most inmate time sheets that we reviewed, the employees who supervised inmates signed their approval of inmates' work hours for every day of the month regardless of whether inmates actually worked. Thus, these employees appear to have routinely signed the inmate time sheets in advance whether or not the time sheets accurately reflected the number of hours that the inmates actually worked and whether or not the employees actually supervised the inmates.

When we asked Corrections about the noted discrepancies between inmate time sheets and employee attendance reports, an official at the facility told us that the employees' supervisors indeed compare inmate time sheets with employee attendance reports. When we asked Corrections to identify the conditions under which an employee could indicate that he or she had supervised an inmate even though neither the inmate nor the employee had worked that day, a Corrections representative told us that no such conditions exist and that doing so would be "illegal." The representative added that the facility's supervisors should have addressed this type of reporting problem immediately.

Nevertheless, the results of our investigation demonstrate that for the inmate time sheets we reviewed, the facility's supervisors did not compare inmate time sheets with employee attendance reports, and they have not addressed the problem of employees granting blanket certification of work hours for every day of the month, regardless of whether the inmates worked or the employees supervised.

Consequently, Corrections did not adhere to the collective bargaining agreement between the State and Bargaining Unit 4 when Corrections made \$16,530 in improper payments to office technicians for supervising inmates. Corrections also failed to maintain an adequate authorization and record-keeping system, as required by statute, to prevent it from making improper payments.

Agency Response

Corrections reported that the findings of our investigation affect several areas of the facility, including personnel, inmate assignments, labor relations, and business services. As a result, it has assigned a team to determine the best approach for addressing our findings. In addition, Corrections stated that it would conduct a review for any statewide issues, and it would initiate recovery for any overpayments to its employees. Finally, Corrections reported that the facility would develop procedures to ensure that it correctly authorizes duties and pay associated with inmate supervision.

Chapter 4

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY: FAILURE TO ACCURATELY REPORT ABSENCES, INADEQUATE SUPERVISION

Case I2008-0678

Results in Brief

An employee of the California Environmental Protection Agency (Cal/EPA) failed to promptly submit time sheets that accurately reported her absences from work during the period August 2006 through June 2008. In addition, the officials responsible for managing her daily activities and for monitoring her time and attendance did not ensure that the employee documented her absences correctly and that Cal/EPA charged the absences against her leave balances. Consequently, Cal/EPA did not charge the employee's leave balances for the 768 hours that the employee was absent from work; instead, it paid her \$23,320 for these hours.

Background

Cal/EPA is responsible for restoring, protecting, and enhancing the environment to ensure public health, environmental quality, and economic vitality in the State. Like all other state agencies, Cal/EPA is subject to laws and regulations governing the accurate reporting of employee time and attendance, and these laws and regulations mandate that Cal/EPA maintain adequate administrative controls to safeguard the accuracy of that reporting.

Specifically, in accordance with the California Code of Regulations, Title 2, Section 599.665, and the State Administrative Manual, Section 8539, all state agencies have the responsibility to keep complete and accurate time and attendance records for each employee. To comply with this mandate, Cal/EPA requires its employees to submit monthly time sheets at the end of each pay period to document their attendance and absences. Employees and their supervisors must sign the monthly time sheets to certify their accuracy. Once the time sheets receive approval, Cal/EPA uses them to enter the employees' absences into a leave accounting system that charges the employees' leave balances for the employees' absences.

In addition, the California Government Code, Section 13401, mandates that all levels of management at state agencies must be involved in assessing and strengthening administrative controls to minimize fraud, errors, abuse, and waste of government funds.

As part of these administrative controls, the California Code of Regulations, Title 2, Section 599.702, and the collective bargaining agreement between the State and the employee's bargaining unit (Unit 1), provide that employees are required to obtain prior authorization from their supervisors before working compensated overtime, except in case of an emergency.

Upon receiving an allegation that an employee at Cal/EPA failed to submit her monthly time sheets accurately and on time, we began an investigation. During our investigation, we learned that a high-level administrator, Official A, manages the employee's daily activities. However, Official A had directed two lower-level officials, Official B and Official C, to monitor the employee's time and attendance at various times from August 2006 through June 2008, which was the period we investigated.

Facts and Analysis

Our investigation found that during a 23-month period, the employee failed to submit accurate time sheets at the end of each monthly pay period to report the hours that she worked and the hours that she was absent. In addition, officials at Cal/EPA did not act promptly and effectively to correct this problem and ensure that the leave accounting system charged the employee's absences against her leave balances.

The Employee Failed to Submit Time Sheets to Accurately Account for When She Worked and When She Was Absent

From August 2006 through June 2008, the employee did not submit monthly time sheets at the end of each pay period that accurately documented the time she spent working and the time she was absent. For the 23 pay periods we examined during the investigation, the employee never submitted time sheets for five pay periods, she submitted time sheets up to several months late for 12 pay periods, and she promptly submitted time sheets for just six pay periods. However, management declined to approve nearly all of the time sheets that the employee submitted late or on time because the time sheets either did not account for all absences or because the time sheets reported overtime work that had not received preapproval.

When we interviewed the employee, she admitted that she was frequently absent from work, and acknowledged that she did not include all of her absences on her time sheets. However, the employee claimed that she simply overlooked the absences. The employee also stated that Official C, who currently reviews her time

For the 23 pay periods we examined, the employee never submitted time sheets for five pay periods, submitted time sheets up to several months late for 12 pay periods, and promptly submitted time sheets for just six pay periods.

sheets, has helped to identify any absences that she overlooked. Although she acknowledged her familiarity with Cal/EPA's time-reporting requirements, the employee also admitted that she went many months without submitting some time sheets for supervisory approval. The employee explained that she was unable to complete and submit the time sheets punctually because of her heavy workload. However, it appears that the employee's inability to keep track of her frequent absences contributed to her failure to submit time sheets accurately and on time.

The employee also acknowledged that she did not receive prior authorization for the overtime that she claimed to have worked during the period we examined. She asserted that in practice, Cal/EPA does not require preauthorization for overtime. However, Official A stated that the employee's overtime must be preapproved, even though Official A does not go through the formality of signing a written preauthorization for the employee's compensated overtime. Official A stated that her being in the office and needing the employee to work late constituted sufficient preapproval for overtime. On the occasions when Official A was away on state business, officials B and C affirmed that they expected the employee to request prior authorization for overtime work. However, Official C stated that when Official A was away the employee claimed overtime even though Official C had never formally authorized the employee to work overtime and that she could not substantiate whether the employee actually worked the overtime. Furthermore, when Official C questioned the employee about the general nature of her overtime, the employee responded that she worked overtime to "catch up" on routine tasks that she could not complete during her regular work hours.

Because the employee did not regularly submit time sheets that accurately accounted for her absences and did not obtain preauthorization for all of her overtime, officials B and C did not approve the employee's time sheets. Without the approved time sheets, Cal/EPA did not record the employee's absences or overtime in its leave accounting system. Consequently, Cal/EPA did not charge the employee's leave balances for the 768 hours that she was absent from work during the 23-month period; instead, it paid her \$23,320 for these hours.³

The employee acknowledged that she did not receive prior authorization for the overtime she claimed to have worked.

³ During the same period, the employee claimed to have worked 166 hours of overtime.

Cal/EPA Officials Failed to Take Sufficient Actions to Correct the Employee's Lax Time Reporting and Because of Their Inaction, the Employee's Absences Were Not Charged Against Her Leave Balances

Not only did the employee fail to submit her time sheets accurately and promptly, but the Cal/EPA officials responsible for managing her day-to-day activities and monitoring her time and attendance also failed to ensure that the employee submitted monthly time sheets that correctly reported her absences and time worked. As mentioned previously, the employee works for Official A, who assigned Official B and then Official C to monitor the employee's time and attendance and to approve her time sheets.

By October 2006 Official A became aware of the employee's neglect in accurately completing and submitting her monthly time sheets. Official A responded by directing human resources staff to prepare two memoranda and a list of "talking points" to address the employee's attendance problems and the official's concerns about the time that the employee reported on her August and September 2006 time sheets. However, according to Official A, when she received the two memoranda for review, she found the documents too personal and harsh, so she did not deliver the memoranda to the employee and did not discuss the attendance or time-reporting issues with her. Instead, Official A requested that human resources staff revise the memoranda. Official A then took no further action on the attendance or time-reporting issues in 2006. Official A attributed her inaction to her never receiving the revised memoranda from the human resources personnel. However, it is unclear why Official A, once she had taken personal responsibility for handling the matter, did not follow up with human resources staff to make sure that she received the revised memoranda or why she did not use some other means to resolve the employee's attendance and time-reporting issues when they surfaced in 2006. In the absence of timely action by Official A, the problem of the employee failing to accurately report her absences and to complete her time sheets continued.

In particular, the employee did not submit any time sheets for the five months from October 2006 through February 2007. Although Cal/EPA asserted that Official B had responsibility for monitoring the employee's attendance, we found little documentation showing that anyone made efforts to ensure the employee submitted her time sheets. Moreover, even though Cal/EPA contended that Official B declined to approve the time sheets for these months, it could not produce the time sheets for these five months at the time of our investigation.

Although Cal/EPA asserted that Official B had responsibility for monitoring the employee's attendance, we found little documentation that anyone made efforts to ensure the employee submitted her time sheets.

Moreover, the efforts made by Official A and Official C in 2007 and early 2008 did little to resolve the employee's failure to accurately report her absences and overtime, and to promptly complete her time sheets. Official A assigned Official C around March 2007 to monitor the employee's time and attendance and to approve her time sheets.⁴ In May 2007 Official A met with the employee to counsel her about her absenteeism. However, the meeting notes indicate that Official A did not discuss the employee's failure to submit her time sheets promptly and accurately. Furthermore, Official C told us that she was unable to obtain completed time sheets from the employee for most of the months from March 2007 through March 2008. Apparently, the employee submitted only the time sheets for March, July, and November 2007 on time. Official C offered evidence that she tried to pressure the employee to comply with the time-reporting requirements through some oral conversations and numerous e-mails but the employee did not comply. Yet Official C took no action to enforce her requests for compliance. As a result, the employee did not submit until April 2008 the time sheets for March 2007 through March 2008, and these time sheets were found to be inaccurate.⁵

When we interviewed Official C in May 2008, she had not approved any of the employee's monthly time sheets starting with the March 2007 time sheet. Official C stated that the time sheets did not account for all of the employee's absences and included overtime that had not been preapproved. That same month Official C issued the employee an informal counseling memorandum that required the employee to follow specified procedures when she is late or absent from work, and Official C notified the employee that all requests for overtime must receive prior approval. However, the memorandum did not discuss the employee's failure to promptly submit time sheets that accurately account for each of her absences.

In September 2008 Cal/EPA informed us that it had resolved the employee's failure to accurately account for her absences and overtime and to punctually complete her time sheets for the 23-month period. Specifically, that same month—more than two years after the employee failed to promptly submit the first of her inaccurate time sheets—Official A approved 10 of the employee's 23 time sheets and Official C approved the remaining 13 time sheets.

As of May 2008, Official C had not approved any of the employee's time sheets starting with the March 2007 time sheet because the time sheets did not account for all of the employee's absences and included overtime that had not been preapproved.

⁴ In information Cal/EPA subsequently provided to us, it stated that Official A formally assigned Official C to monitor the employee's attendance and to approve time sheets in June 2007.

⁵ The employee again submitted time sheets for March, July, and November 2007 that she had previously completed and submitted to Official C. The employee had not made any changes to the time sheets.

In addition, the officials approved 90 hours of overtime for the employee, a reduction of 76 hours from the 166 overtime hours the employee originally claimed, during the period.

Not surprisingly, when we reviewed these 23 approved time sheets, we identified discrepancies totaling as much as 40 hours between the hours the employee was reported to be at work and the hours we determined the employee was probably absent, based on documents we collected during our investigation. Given the long delays between the time the absences occurred, the time the employee reported the absences on her time sheets, and the time the Cal/EPA officials approved her time sheets, ambiguities have naturally arisen regarding the employee's actual attendance. This is why contemporaneous time reporting is so important. We, therefore, remain concerned about whether Cal/EPA has sufficient administrative controls in place to ensure the accuracy of the employee's time sheets, particularly if it does not ensure that the employee completes her time sheets punctually and that the time sheets are reviewed and approved promptly.

Agency Response

After we provided Cal/EPA with a draft copy of this chapter, Cal/EPA reported in September 2008 that it had recalculated, updated, and corrected the employee's leave balances to reflect her actual absences and overtime worked, based on the now-approved time sheets, for all pay periods through August 2008. In addition, Cal/EPA notified us that it plans to establish an accounts receivable for 24 hours the employee was docked pay in September 2006. It also informed us that Official A had issued a counseling memorandum to the employee, which discussed the employee's failure to promptly submit time sheets that accurately accounted for her absences. Moreover, Cal/EPA notified us that Official C had issued another counseling memorandum to the employee, which described the implementation of administrative controls to ensure that the employee correctly accounts for her absences and promptly completes her time sheets and other time reporting documents. Furthermore, Cal/EPA reported that, as soon as possible, it plans to transfer the employee to another position with a different assignment that does not require significant overtime. It stated that the new assignment would allow the employee to be more closely monitored by a different supervisor.

Chapter 5

STATE PERSONNEL BOARD: IMPROPER CONTRACTING FOR PERSONAL SERVICES

Case I2007-0771

Results in Brief

The State Personnel Board (personnel board) improperly entered into two personal services contracts with a retired civil service employee at a total cost of \$8,999. In addition, the personnel board had no records to justify either the price of these two contracts or the \$4,999 cost of a third personal services contract with another retired employee. Moreover, the cost of each of these contracts fell just below \$5,000, which is the amount at which state law requires competitive bidding for a contract and the approval of a contract by the Department of General Services (General Services).

Background

The personnel board was created in 1934 to administer the State's civil service system and to ensure that state employment is based on merit and free of political patronage. As the administrators of the State's civil service system, the personnel board and its employees are subject to the same rules governing contracting and employment practices as other state agencies and employees.

Specifically, the Public Contract Code, Section 10410, prohibits state employees from contracting with any state employer to provide goods or services as an independent contractor. As defined in the California Government Code, Section 18526, individuals retired from state employment whom the State has reinstated to perform work for a limited duration are among those persons considered state employees. Under Section 21224 of the California Government Code, these persons—known as *retired annuitants*—may only receive pay when they perform work for the State as civil service employees for up to 960 hours per year.⁶

Additionally, the Public Contract Code, Section 10335, provides that even though contracts for services generally must be preapproved by General Services, such advance approval is not required if the amount of the contract is less than \$5,000. Similarly, although agencies are generally required to obtain three competitive bids

⁶ Before 2006 the 960-hour limit applied to each calendar year. Effective January 1, 2006, the limit applies to each fiscal year.

when awarding a services contract, Section 10335.5 of the Public Contract Code states that agencies are not required to obtain competitive bids for consulting services contracts that are less than \$5,000.

Facts and Analysis

Our investigation revealed that in both 2003 and 2005, the personnel board improperly entered into a personal services contract with a retired annuitant who had already worked for the board the maximum number of hours permitted by law in each of those years. In August 2003, within 90 days after the retired annuitant had worked the maximum number of hours permitted for the year, a personnel board manager approved the personnel board's paying this individual an additional \$4,999 as a private contractor. The justification for the payment stated that the amount was to compensate the retired annuitant for reviewing and analyzing 30 appeals cases for the personnel board in July 2003. He had performed similar work as a state employee. In a similar instance that occurred in November 2005, within 90 days after the retired annuitant had worked the maximum number of hours permitted for the year, a second personnel board manager approved paying the same retired annuitant another \$4,000 as a private contractor. The justification for this payment also stated that the amount was to compensate the retired annuitant for reviewing and analyzing 30 appeals cases for the personnel board in September 2005. Because the retired annuitant was considered to be a civil service employee in 2003 and 2005, the law prohibited him from being paid as a private contractor to provide additional services to the State. The personnel board paid the retired annuitant a total of \$8,999 under these two impermissible contracts.

Because the retired annuitant was considered to be a civil servant, the law prohibited him from being paid as a private contractor to provide additional services to the State.

We interviewed the manager who approved the second payment to the retired annuitant in 2005. The manager stated that a personnel board official, who has since retired, directed her to approve the payment. The manager stated that she did not question the payment. Other information we received suggests that the former personnel board official also prompted the first payment to the retired annuitant in 2003.

When we tried to determine how the personnel board decided how much to pay the retired annuitant under each of the contracts, the personnel board was unable to provide any documents justifying the amounts. The lack of documentation was particularly troubling because the second contract was priced \$999 lower than the first contract even though the stated number of cases the retired annuitant was being paid to review and analyze was the same for

both contracts. In fact, the \$999 difference suggests there was not a solid relationship between the amount of money being paid and the amount of work being performed under the two contracts.

During our investigation, we also found that in March 2004, the personnel board paid \$4,999 under a contract for the personal services of another individual who was a retired state employee but not a retired annuitant during the contract period. The same manager who approved the August 2003 payment to the retired annuitant also approved the payment to this second individual. Evidence suggests that the now-retired official who prompted the payments to the retired annuitant also orchestrated the payment to the second individual. The justification for the payment to this individual stated that the contractor reviewed and analyzed an unspecified number of appeals cases from November 2003 through February 2004. We tried to find out how the personnel board determined the amount to pay under this contract, but the personnel board was unable to provide any documents to support its decision regarding the amount of the payment.

In the absence of any documentation to justify the amounts paid for the three personal services contracts, we note that the personnel board priced all three contracts just below the \$5,000 limit that would have made them subject to General Services' prior approval and that would have triggered the requirement that the personnel board open the contracts to competitive bidding. In fact, two of the contracts were priced just one dollar below the \$5,000 threshold. Consequently, we are concerned that the now-retired personnel board official may have intentionally set the cost of the contracts to fall below the \$5,000 limit to avoid the scrutiny of General Services and the competitive bidding process.

Agency Response

The personnel board agreed with the findings of our investigation. The personnel board informed us that because the official who initiated the three contracts retired in 2007, it cannot take action against that individual. The personnel board also told us that it admonished the contracts manager who approved the second payment to the retired annuitant. In addition, it informed the contracts manager that she must raise concerns regarding the validity of contracts with the personnel board's legal counsel if she does not receive satisfactory responses within her chain of command. Finally, the personnel board implemented several procedures to ensure that all contracts initiated by its personnel meet all applicable contracting requirements. These procedures include additional documentation, increased reviews, and restricting the authority to approve contracts to selected staff. The personnel board stated that it plans to explain the enhanced

Two of the contracts were priced just one dollar below the \$5,000 threshold that would have made them subject to prior approval by General Services and competitive bidding requirements.

procedures to its business services office and fiscal office staff, and it will require these employees to provide written verification that they understand all applicable contracting procedures.

Chapter 6

DEPARTMENT OF FISH AND GAME: MISUSE OF A STATE VEHICLE AND EMPLOYEE TIME

Case I2007-0680

Results in Brief

A manager with the Department of Fish and Game (Fish and Game) regularly misused a state vehicle to transport her child to school. In addition, she misused the state-compensated time of two subordinate employees by directing them to repair and build corrals for her private use on the state-owned property where she resides. These improper uses of state resources cost the State an estimated \$1,962.

Background

To administer some of the programs under its jurisdiction, Fish and Game stations certain employees in remote wildlife locations. Because private housing may be difficult to obtain in the areas where staff members work, Fish and Game sometimes permits these employees to live in state-owned housing. Fish and Game also allows these employees to use state-owned vehicles to perform their duties.

Various state laws and regulations ban state employees from using public resources improperly. Specifically, Section 8314 of the California Government Code prohibits state employees from using public resources, including state-owned vehicles and state-compensated time, for the employees' personal enjoyment, private gain, or advantage. To help ensure that state employees do not operate state-owned vehicles for private advantage, the California Code of Regulations, Title 2, Section 599.802, declares that an employee is misusing a state-owned vehicle if the employee carries anyone in the vehicle who is not directly involved with official state business unless the employee obtains prior approval from his or her supervisor. Under the California Code of Regulations, Title 2, Section 599.803, a state employee who uses a state-owned vehicle improperly is subject to discipline and is liable to the State for the actual costs attributable to the misuse. Moreover, the California Government Code, Section 19990, affirms that a state employee's use of state time, facilities, or equipment for private gain or advantage is grounds for discipline.

When we received an allegation that an employee of Fish and Game was misusing both a state-owned vehicle and the compensated time of subordinates, we asked Fish and Game to assist us in investigating the matter.

Facts and Analysis

The investigation revealed that from January 2002 through December 2006, a Fish and Game manager, who was stationed in a remote location, misused a state-owned vehicle and generated unnecessary costs to the State.⁷ The manager drove her child to school at least once a week even though she had no job-related purpose for using the vehicle and had not obtained the prior approval of her supervisor to do so. Further, the manager could have sent her child to school on a district bus, which provided transportation between the manager's residence and the child's school. To calculate the cost to the State of these trips, we applied the State's mileage reimbursement rates for the period and estimated that the manager's misuse of the state-owned vehicle cost the State \$783 over the nearly five years that she used the vehicle improperly.⁸

In 2006 the manager misused the state-compensated time of two of her subordinate employees when she directed them to repair and build corrals on state time.

The investigation also revealed that in 2006 the manager misused the state-compensated time of two of her subordinate employees when she directed them to repair and build corrals on state time. The manager contended that the employees spent only one or two days working on these corrals; however, the investigation determined that the two employees worked on the project for one week. Although the employees completed the work on the state property where the manager resides, they performed the repairs and construction to enclose the manager's pets and private livestock and not to accomplish any state purpose. Thus, the state employees worked solely for the manager's personal benefit. Based on the two employees' pay rates during the time that they built and repaired the corrals, we determined that the manager's misuse of the employees' time cost the State \$1,179. Taken together, the manager's improper use of a state vehicle and her misuse of the two state employees' time produced an estimated loss to the State of \$1,962.

⁷ We used January 2002 as the starting point for the vehicle misuse. Despite our requests for the information, Fish and Game has been unable to pinpoint the month that the misuse began.

⁸ We based our estimate on the local school district's 37-week school year.

Agency Response

Fish and Game reported that it found the manager's misuse of state employees to repair and build corrals for her private use on state time constituted a neglect of duty and a failure to maintain good behavior that caused a discredit to the State. Consequently, Fish and Game reduced the manager's pay by approximately five percent for three months. In addition, Fish and Game stated that prior to the investigation, it provided corrective counseling to the manager about her misuse of a state vehicle to regularly transport her child to school. It further stated that this counseling remedied her behavior.

Blank page inserted for reproduction purposes only.

Chapter 7

DEPARTMENT OF CONSUMER AFFAIRS, CONTRACTORS STATE LICENSE BOARD: MISUSE OF STATE RESOURCES, DISHONESTY

Case I2007-1046

Results in Brief

An employee with the Contractors State License Board (board) used a state vehicle for personal reasons and falsified board records to hide her actual activities when she was supposed to be performing field inspections for the board. The State incurred an estimated \$1,896 loss due to her personal use of a state vehicle from April 2007 to August 2007.⁹

Background

The board operates as part of the Department of Consumer Affairs (Consumer Affairs). It licenses and regulates contractors in the construction industry, and it investigates consumer complaints about licensed and unlicensed contractors. Employees of the board are subject to state prohibitions against engaging in activities that are incompatible with their state employment, misusing state resources, and behaving dishonestly toward their state employer.

Specifically, the California Government Code, Section 19990(b), mandates that state employees cannot use state time, facilities, equipment, or supplies for private gain or advantage. Section 19990(g) prohibits state employees from failing to devote their full time, attention, and efforts to their state employment during hours of duty. Additionally, the California Government Code, Section 8314, directs state employees not to use public resources—including state-compensated time, equipment, and vehicles—for personal enjoyment, private gain or advantage, or for any outside endeavor not related to state business, except for incidental or minimal use. Finally, the California Government Code, Section 19572(f), provides that state employees engaging in dishonesty is grounds for discipline.

Upon receiving an allegation that a board employee was privately employed during state time, we asked the board to assist us in conducting this investigation.

⁹ Board records used in the investigation were not available for June 2007.

Facts and Analysis

The investigation showed that a board employee used a state vehicle for personal purposes and falsified board records to hide her actual activities while she was being paid to perform work for the board. The employee's job required her to conduct field inspections so that she could gather information in response to consumer complaints. These inspections necessitated the employee spending a significant amount of time visiting construction sites, to which she traveled in a state-owned vehicle. The board also required the employee to maintain daily activity logs that recorded her physical location, work activities, and mileage.

The Employee Used a State Vehicle for Purposes Unrelated to Her State Employment

From April 2007 to August 2007, the board employee drove her assigned state vehicle 1,922 miles more than her job required, improperly claimed 29 extra hours of travel time for which she received compensation from the State, and drove her state vehicle while she was on medical leave. In her daily activity logs, the employee reported that she traveled 3,428 miles in her state-owned vehicle. However, the board found that the employee's duties required her to travel only 1,506 miles during this period. Using the standard mileage reimbursement rate applicable to state employees at the time, we estimate that this difference of 1,922 unauthorized miles cost the State \$932.

Moreover, the employee consistently reported that—regardless of the actual time required—travel between locations took one hour. Using information from the board, we calculated that the employee claimed 29 hours in excess travel time. Based on the employee's salary for that period, we estimate that this travel time, which the employee had incorrectly reported, cost the State \$872.

The employee's activity logs not only exaggerated her on-the-job travel but also indicate that she drove her state vehicle 189 miles during three days she was on medical leave.

Not only did the board employee's activity logs exaggerate her on-the-job travel, but they also indicate that she drove her state vehicle 189 miles during three days that she was on medical leave. Using the standard mileage reimbursement rate applicable to state employees at the time, we estimate that this unauthorized use of a state vehicle cost the State \$92. Therefore, this employee's improper uses of a state vehicle and incorrect reporting of travel time cost the State \$1,896. Moreover, the employee's operation of a state vehicle for purposes other than her state job violated prohibitions included in sections 19990(b) and 8314 of the California Government Code.

The Employee Falsified Board Records to Hide Her Engaging in Activities Unrelated to Her Board Work During State Time

In her daily activity log, the employee regularly misrepresented her physical location and work activities in order to hide that she was apparently engaging in activities not related to her job with the board. In particular, the employee's daily activity logs show that the employee claimed to be working on cases that the board never assigned to her, assigned to her on a later date, or had already closed. By falsifying entries in her daily activity log, the employee was dishonest with her employer. Section 19572(f) of the California Government Code prohibits such dishonesty.

The evidence suggests that the employee's misreporting of her whereabouts and work activities may have been related to her employment at a restaurant that was open for lunch and dinner. Although her daily logs showed that she was elsewhere, the employee's cell phone records regularly placed her in the same city as a restaurant where she worked. When interviewed by her supervisor, the employee admitted that she worked at the restaurant, but she claimed that she did not work at the restaurant during the hours that she was supposed to be working for the State. She said that she only went to the restaurant during work hours when she performed inspections near it and stopped at the restaurant to eat lunch and work on reports. However, the restaurant's Web site identifies the employee as a restaurant director and states that she personally selects all ingredients for the items on the menu. Such responsibilities make it difficult to believe that the employee did not attend to restaurant business during hours that she was on duty with the State.

By engaging in non-work activities when she was being paid by the State to perform field inspections, the employee did not devote her full time, attention, and efforts to state employment during her hours of duty, and she misused her state-compensated time as prohibited by sections 19990(b), 19990(g), and 8314 of the California Government Code.

Agency Response

The board informed us in August 2008 that it has taken several corrective measures. In particular, the board stated that it gave the employee a counseling memorandum and a copy of the current departmental policy pertaining to incompatible work activities. The board also counseled the employee's supervisor to regularly review daily activity logs and other reports prepared by employees for accuracy and completeness. Further, the board stated that it intends to seek reimbursement from the employee for the unauthorized

Although the employee's daily logs showed that she was elsewhere, her cell phone records regularly placed her in the same city as a restaurant where she worked.

miles she drove her state vehicle when she was on medical leave. Finally, the board terminated the telecommute agreements of the employee and other board employees, and it instituted organizational changes to enhance the oversight of employees engaged in field inspections.

Chapter 8

STATE WATER RESOURCES CONTROL BOARD: MISUSE OF STATE RESOURCES

Case I2007-0776

Results in Brief

An employee of a regional water board used a telephone belonging to the State to make 54 hours of personal long-distance telephone calls that cost the State a total of \$137.

Background

The State Water Resources Control Board (state board) supervises nine regional water boards. The employees of each regional water board are state employees and subject to state prohibitions against either engaging in activities that are incompatible with their state employment or using state resources for personal advantage.

Specifically, the California Government Code, Section 19990(b), mandates that state employees cannot use state time, facilities, equipment, or supplies for private gain or advantage. Additionally, the California Government Code, Section 8314, prohibits state employees from using public resources for personal purposes, except for incidental or minimal use that may include an occasional telephone call.

Upon receiving an allegation that an employee of a regional water board misused state resources, we asked the state board to help us conduct this investigation.

Facts and Analysis

The investigation verified that from December 2006 through December 2007, the employee of the regional water board used a state-owned telephone to make 430 personal telephone calls to two out-of-state locations, and these unauthorized calls totaled 54 hours of call time and \$137 in long-distance charges to the State. When interviewed by the state board, the employee admitted to making the calls to family members. The state board determined that the employee's calls exceeded the minimal and incidental use allowed by state law.

The employee used a state-owned telephone to make 430 unauthorized personal calls at a cost of \$137.

The state board also reported that the regional board's management did not fully understand or know where to locate the state board's policy implementing the State's restriction on the personal use of state telephones. Consequently, the regional board may not have adequately conveyed the State's restriction on employees making no more than minimal or incidental use of state telephones for personal purposes.

During an interview, the employee's supervisor stated that the employee had informed him of the employee's need to make personal calls on state time and had promised to make up the work time sacrificed for the calls. The supervisor asserted that he was confident that the employee had made up all of the time used for the personal calls; however, the supervisor did not keep any records to support this assertion.

Agency Response

In February 2008 the state board issued a corrective memorandum to the employee's personnel file, and in March 2008 the employee repaid the State for the long-distance charges incurred for his personal calls. Further, the state board reported that it would monitor the employee's telephone use. In August 2008 the state board sent an e-mail to its staff reminding them of its policy on the use of state resources.

Chapter 9

DEPARTMENT OF TRANSPORTATION: MISUSE OF STATE COMPUTERS

Case I2007-0705

Results in Brief

Two employees of the Department of Transportation (Caltrans) misused state computers by operating them to conduct personal business.

Background

Caltrans assigns state-owned laptop computers to many of its employees who use the computers to complete various projects, including highway design plans. Like all other state employees, Caltrans employees are subject to Section 8314 of the California Government Code, which states that they cannot use public resources, including state-owned computers, for their personal enjoyment, private gain, or advantage. Moreover, the California Government Code, Section 19990, declares that a state employee's use of state time, facilities, or equipment for private gain or advantage is grounds for discipline. Likewise, Section 19572 of the California Government Code affirms that a state employee's misuse of state property is grounds for disciplinary action.

When we received an allegation that two Caltrans employees were misusing state computers, we asked Caltrans to assist us in investigating the matter.

Facts and Analysis

The investigation found that a Caltrans supervisor and a subordinate employee misused their state computers to conduct personal business and to pursue activities unrelated to Caltrans work. Specifically, from September 2005 through April 2007, Caltrans identified 170 instances of the supervisor's computer misuse, including the creation and storage of numerous documents and files related to the supervisor's private business activities and personal matters, such as plot maps, contracts, and invoices. The supervisor also frequently used his state computer to access personal e-mail accounts. The supervisor engaged in this misuse of his state computer despite being warned by his superior in July and August 2005 not to use state resources to conduct personal business.

The investigation identified 170 instances of a supervisor misusing his state-owned computer.

Likewise, the investigation determined that another Caltrans employee, a staff member who worked for the supervisor, used his state computer to visit Web sites unrelated to Caltrans work, access a personal e-mail account, and store 170 sexually explicit pictures. Furthermore, the employee's computer was used to store two plot maps unrelated to Caltrans projects that were also stored on the supervisor's state computer.

Agency Response

Caltrans reported that it demoted the supervisor and transferred him to another unit, where he works under a different manager. In addition, Caltrans reported that it suspended the subordinate employee for 10 working days without pay.

Chapter 10

UPDATE OF PREVIOUSLY REPORTED ISSUES

Chapter Summary

The California Whistleblower Protection Act requires an employing agency or appropriate appointing authority for the State to report to the Bureau of State Audits (bureau) any corrective action, including disciplinary action, that it takes in response to an investigative report no later than 30 days after the bureau issues the report. If it has not completed its corrective action within 30 days, the agency or authority must report to the bureau monthly until it completes that action. This chapter summarizes corrective actions taken on 10 cases described in our previous reports.

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

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

The Department of Corrections and Rehabilitation (Corrections) did not track the total number of hours available in a rank-and-file release time bank (time bank) composed of personal leave hours donated by members of the California Correctional Peace Officers Association (union) for union representatives to conduct union business. As a result, Corrections released employees to work on union-related activities without knowing whether the time bank had sufficient balances to cover the releases. In addition, the management reports from the system that Corrections used to track time-bank charges and donations did not capture a significant number of leave hours used by union members. Corrections charged nearly 56,000 hours against the time bank for hours that union members spent conducting union-related activities between May 2003 and April 2005. However, we identified 10,980 additional hours that three union representatives used to conduct union business but that Corrections failed to charge against the time bank.

Although Corrections asserted that it had reconciled its time-bank balances, records from the State Controller's Office (Controller) did not show that Corrections had charged the 10,980 hours to the time bank through the State's leave accounting system. This evidence indicates that the State unnecessarily paid for those hours through its regular payroll system at a cost totaling \$395,256.

In a subsequent update, Corrections reported that it had modified and implemented several changes to its tracking system that allowed it to track, report, and seek payment for union leave. In addition, records from the Controller indicate that Corrections began to charge union leave for some of the hours that the three union representatives spent working on union activities after we issued our report.

Rather than improving, however, this situation has gotten worse. In fact, when we updated this issue in April 2008, we determined that Corrections had failed to account for 14,808 hours of union leave at a cost to the State of \$544,213.

Updated Information

The Controller's records indicate that Corrections made retroactive adjustments totaling 2,720 hours to the three representatives' leave balances. However, Corrections failed to account for an additional 1,118 hours of union leave for these representatives from January 2008 through June 2008. Table 4 shows the adjustments and the time that Corrections should have charged against the representatives' union leave categories. With these changes, the total cost to the State was \$507,541 as of June 30, 2008.

Table 4

Total Hours of Union Leave Time That the Department of Corrections and Rehabilitation Failed to Charge for Representatives A, B, and C From May 2003 Through June 2008

	REPRESENTATIVE A	REPRESENTATIVE B	REPRESENTATIVE C	TOTAL HOURS
Hours previously identified from May 2003 through December 2007	5,988	4,784	4,036	14,808
Department of Corrections and Rehabilitation's retroactive adjustments of hours from January 2003 through December 2007	(2,944)	(128)	352	(2,720)
Union leave hours not charged from January 2008 through June 2008	176	942	0	1,118
Totals	3,220	5,598	4,388	13,206

Source: State Controller's Office.

In addition, since our last update in April 2008, Corrections completed reviews of union leave used by employees to perform union-related activities in fiscal years 2005–06 through 2007–08.

The reviews included the three representatives. As a result of the reviews, Corrections issued invoices to the union requesting reimbursements totaling \$546,979—the cost of salaries and benefits—for the three representatives’ union leave. As of July 2008 Corrections had not received any payments so that it could reimburse the State for the costs of the three representatives performing union-related activities.

**Department of Fish and Game
Case I2004-1057**

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

Between January 1984 and December 2005, the Department of Fish and Game (Fish and Game) allowed several state employees and volunteers to reside in state-owned homes without charging them rent. Consequently, Fish and Game violated the state law prohibiting state officials from providing gifts of public funds. Additionally, Fish and Game deprived tax authorities of as much as \$1.3 million in revenue for tax years 2002 through 2005 because it did not report to the Controller the taxable fringe benefits that its employees received when they lived in state-owned housing at rates below fair market value.

Although Fish and Game was the focus of this investigation, we also discovered that all state departments that own employee housing may be underreporting or failing to report to the Controller housing fringe benefits totaling as much as \$7.7 million annually. Moreover, because these departments charged employees rents at rates far below market value, the State may have failed to capture as much as \$8.3 million in potential rental revenue in 2003.

When we updated this issue on April 3, 2008, departments reported the following:

The Department of Personnel Administration (Personnel Administration) informed us that it had distributed a Master Service Agreement User’s Manual (user’s manual) and a Reporting and Withholdings Requirement Manual to affected state departments. Personnel Administration also reported that it had developed a Web page covering state-owned housing, and this Web page includes resource links and electronic copies of the manuals mentioned above as well as seven state contracts with appraisal firms that can assist departments in obtaining fair market appraisals of their state-owned housing.

Fish and Game reported that it entered into a contract with an appraisal firm, which began conducting appraisals in December 2007. Expecting that appraisals for all of its state-owned homes would take approximately six months to complete, Fish and Game informed us that these appraisals would allow it to determine the gap between market value for each property and the rent currently paid by the homes' occupants. Fish and Game could then establish the amount of taxable fringe benefits that it needs to report.

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

Corrections told us that it had submitted a contract request package to secure an appraisal contractor.

The Department of Developmental Services (Developmental Services) reported that it was awaiting appraisal reports and anticipated making any needed adjustments to rental rates by July 2008.

As of March 2008 the Department of Forestry and Fire Protection (Forestry) had not given us information beyond what it offered for our September 2007 report.

As of March 2008 the Department of Mental Health (Mental Health) stated that it had no additional information to report.

The Department of Transportation (Caltrans) reported that it raised its rates to fair market value for all of its properties except some units within one of its districts. It also affirmed that it has continued to raise the rates for properties in the remaining district in accordance with bargaining unit limitations.

As of March 2008 the California Highway Patrol (CHP) told us that it had no additional information to report.

The California Conservation Corps (Conservation Corps) informed us that it had taken steps to report taxable fringe benefits for employees occupying trailer pads at one of its facilities because it had charged \$50 per month less than the appraised value for each of the trailer pads.

Updated Information

Personnel Administration stated that in July 2008 it updated and distributed to departments with state-owned housing its annual State-Owned Housing Survey spreadsheet. In addition, Personnel Administration developed an instruction guidebook to assist departments in capturing information—such as tenant names, rents, and utility rates—for the survey.

Fish and Game reported in August 2008 that appraisals have been completed for housing at one of its wildlife areas. Fish and Game also stated that it anticipated receiving appraisals on its remaining properties by October 2008. Further, Fish and Game informed us that in an October 2007 meeting with representatives from the union and Personnel Administration, it agreed to put on hold any rental rate increases until all appraisals are complete. The parties will then resume negotiations on increasing rental rates for state-owned housing.

Fish and Game reported that appraisals have been completed for housing at one of its wildlife areas and it anticipated receiving the appraisals on its remaining properties by October 2008.

Parks and Recreation notified us in August 2008 that it plans to increase rents in January 2009. It also reported that it has improved its record keeping and reporting procedures for state-owned housing. These improvements include developing and maintaining a database of its housing, reporting taxable income monthly to the Controller, and providing analyses of the fair market rental value of its housing.

Corrections reported in August 2008 that pursuant to Executive Order S-09-08, it had temporarily suspended the appraisal contract for its state-owned housing program. The executive order prohibits departments from contracting for services, unless those services are deemed critical, until a fiscal year 2008–09 budget is adopted and the Department of Finance director confirms that an adequate cash balance exists to meet the State's fiscal obligations.

Developmental Services informed us in August 2008 that it had received updated appraisals for all of its state-owned housing and had raised rental rates at all but one of its facilities, which is in the final months of operation before closure.

In August 2008 Forestry stated that it had raised its total rents from \$197,730 in May 2006 to \$237,730 in June 2007; however, due to increased vacancies in its state-owned housing, rental revenue had decreased to \$192,659 as of August 2008. Forestry also reported that it recently obtained new appraisals for 35 of its 40 occupied state-owned homes and was in the process of issuing rent increase notices to reflect the newly appraised values. It planned to obtain appraisals for the five remaining homes in late 2008 and in 2009.

Mental Health notified us that it had updated its guidelines regarding state-owned housing, which included requirements for performing fair market value appraisals and timely reporting of housing fringe benefits. In addition, Mental Health stated that it thoroughly reviews housing appraisals every year.

Caltrans told us in September 2008 that it had no additional information to report.

The CHP reported in August 2008 that its employees reside in state-owned housing as a condition of employment; thus, it complies with Internal Revenue Service regulations. As a result, the CHP stated that the difference between the fair market rent and the amount it charges its employees is not considered a taxable fringe benefit. In addition, the CHP stated that it received appraisals for housing at two of its locations and stated that it annually reviews rents for its state-owned housing.

Conservation Corps informed us in August 2008 that it contracts to receive appraisals for its state-owned housing and it reports monthly all taxable fringe benefits to the Controller.

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

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

From January 2003 through July 2005, five air operations officers working as pilots for Forestry received more than \$58,000 for overtime hours charged in violation of both department policy and their union agreement. In addition, two air operations officers working in maintenance received nearly \$3,907 for overtime hours that they may not have worked.

Further, between January 2004 and December 2005, Forestry paid a heavy fire-equipment operator \$3,445 for 147 overtime hours that we identified as improper and \$12,588 for 549 overtime hours that we identified as questionable. After we completed our investigation, Forestry obtained information to support that the employee worked for 401 of the 549 questionable hours.

In a subsequent update, Forestry stated that it had started in February 2007 to process as receivables the \$61,907 in overpayments made to the air operations officers. However, it reported in March 2008 that its ability to recover the overpayments was limited given the length of time since our initial report. As we

commented in April 2008, we believe Forestry had ample time after we reported the results of our investigation to recover a portion of the overpayments that it made between January 2003 and July 2005.

As for the heavy fire-equipment operator, Forestry asserted in March 2008 that it had justified all but 24 of the overtime hours that we originally reported in March 2006. Our review of Forestry's support for its assertion determined that its methodology had flaws and contained inconsistencies.

Updated Information

As of July 2008 Forestry informed us that it had no additional information to report.

Department of Parks and Recreation Case I2005-1035

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

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

At the time of our report, Parks and Recreation stated that it had conducted and documented a corrective interview with the employee, and it had submitted a draft departmental notice updating its policy about the use of personal communications devices by its staff. As of March 2008 Parks and Recreation reported that it had not finalized this policy because it needed to determine the standard for its personal communications devices.

Updated Information

Parks and Recreation informed us in August 2008 that its draft departmental policy notice about the use of personal communications devices contained some information that it could more appropriately present in a Parks and Recreation handbook for its employees. As a result, Parks and Recreation stated that it plans

Parks and Recreation intends to finalize its policy about personal communications devices after its handbook is published in February 2009.

to incorporate the procedures and instructions about personal communications devices in the handbook it intends to publish by February 2009. Parks and Recreation intends to finalize its personal communications device policy after its handbook is published. Although we acknowledge Park and Recreation's efforts to notify its employees, we are concerned about the length of time it has taken to finalize its policy.

**California State Polytechnic University, Pomona
Case I2007-0671**

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

An official at California State Polytechnic University, Pomona (Pomona), repeatedly used university computers to view Web sites containing pornographic material. Specifically, Pomona found that the official viewed approximately 1,400 pornographic images on two university computers during several weeks in 2006 and from February 2007 to May 2007.

When we issued our report, Pomona indicated that the official was no longer working on campus. Pomona stated that it had negotiated a resignation that permitted the official to exhaust all earned leave credits and other paid leave before resigning. We later confirmed the official's separation from Pomona. Pomona also indicated at the time that it had an Appropriate Use Policy for Information Technology. However, Pomona did not indicate whether it had implemented any new controls or software filters to prevent any future access to pornographic Web sites by its employees.

Moreover, in January 2008, Pomona stated that its academic senate approved an Interim Appropriate Use Policy (interim policy), which states that administrators, faculty, and staff must not use computers for personal purposes. The policy further states that inappropriate use of computers includes using computing facilities for purposes other than those for which they were intended or authorized. Pomona reported that to become official, the interim policy must go through a meet-and-confer process with the unions for staff and faculty.

Updated Information

In August 2008 Pomona reported that it met with the two employee unions in July 2008 to start the meet-and-confer process. Pomona stated that the unions requested changes to Pomona's interim policy and that all parties must agree to the changes before the policy becomes official. We are concerned about the length

of time Pomona has taken to institute a policy in response to an official accessing pornographic Web sites because one year after we issued our report, Pomona has not yet finalized its policy on the appropriate use of university equipment.

One year after we issued our report about an official accessing pornographic Web sites, Pomona has yet to finalize its policy on the appropriate use of university equipment.

**Department of Corrections and Rehabilitation
Case I2006-0665**

We reported the results of this investigation on April 3, 2008.

Corrections mismanaged 27 state-owned and 29 privately owned parking spaces that it used for one of its regional headquarters. Specifically, between at least October 1, 2007, and December 31, 2007, Corrections leased 26 more parking spaces than it needed at a privately owned facility. Consequently, Corrections wasted at least \$11,277 in state funds during the period. In addition, it misused state resources when it allowed at least five state employees to park their personal vehicles at no charge in parking spaces not authorized for that purpose.

When we reported on our investigation, Corrections stated that it would notify the Department of General Services (General Services) that it needed only five spaces at the private parking facility and that it would ask General Services to renegotiate Corrections' lease. Corrections also reported that it would reassign parking spaces at the private and state-owned facilities to accommodate only state vehicles and that it would notify all employees who were parking their privately owned vehicles at either facility to make alternative parking arrangements.

Updated Information

Although Corrections initially reported that it needed to lease five spaces at the private parking facility, it subsequently informed us that it canceled its lease with the private parking facility in April 2008. As a result, Corrections is no longer paying for the 29 parking spaces it had leased in the private facility.

**Department of Social Services
Case I2006-1040**

We reported the results of this investigation on April 3, 2008.

From 2004 through 2007, the Department of Social Services (Social Services) entered into seven contracts with one entity for conference-planning services that contained overhead charges that

violated a state policy. The state policy requires state agencies to ensure that overhead fees are reasonable; thus, agencies may pay overhead charges only on the first \$25,000 for each subcontract. However, for these seven contracts, Social Services did not limit payments for overhead costs to the first \$25,000 of subcontracts. Instead, it paid overhead costs on the entire subcontract amounts when the subcontracts exceeded \$25,000. As a result, Social Services made \$14,714 in improper payments, resulting in a waste of state and federal funds.

In addition, our review of four additional contracts that Social Services had in place or was completing for upcoming conferences also improperly included overhead costs applied to the portion of subcontracts in excess of \$25,000. If Social Services were to pay for the improper overhead costs included in the four contracts, it would waste an additional \$13,000 in state and federal funds.

At the time of our report, Social Services stated that it had revised its standard contract language to cite the state policy that limits the application of overhead charges on subcontracts. Social Services also reported that it planned to similarly amend the contracts for its upcoming conferences. In addition, Social Services told us that it had requested more detailed budgets from its contractor to better distinguish the services provided by subcontractors. Further, Social Services stated that it planned to develop guidelines that would assist staff in the appropriate application of indirect cost rates and identify subcontracts during contract development. However, Social Services did not indicate whether it would recover any of the improper overhead costs that it had paid for subcontracts.

Updated Information

Social Services informed us in May 2008 that the exclusion from its standard contract language of a provision implementing the state policy that limits charges for overhead costs to the first \$25,000 of subcontracts was an administrative oversight and that it did not intend to take any disciplinary action against any of its employees. In September 2008 Social Services reported that it had recouped \$13,171 in overpayments from the contractor. In addition, Social Services indicated that the remaining \$1,543 was not improper because it determined that one of the subcontract line items greater than \$25,000 contained in the contractor's invoice was for multiple subcontracts, which were each less than \$25,000. Finally, Social Services told us that the contractor had revised its budget detail to facilitate the identification of subcontractors.

Social Services reported that it recouped \$13,171 in overpayments.

**Department of Justice
Case I2007-0728**

We reported the results of this investigation on April 3, 2008.

The Department of Justice (Justice) created an inefficiency in the collective bargaining process when it entered into a series of side letters negotiated directly with a bargaining unit. Justice never formally submitted these letters to Personnel Administration, the agency designated by the governor to oversee the collective bargaining process, and as a consequence, the Legislature did not ratify the side letters as required by the Ralph C. Dills Act (Dills Act). The Dills Act's purpose is to promote communication between the State and its employees by providing a reasonable method of resolving disputes about wages, hours, and other terms and conditions of employment.

Bargaining units and Personnel Administration have sometimes supplemented the formal bargaining process with side letters to amend the terms of collective bargaining agreements. However, Personnel Administration had no formal record of Justice's side letters. Consequently, Justice created an inefficiency in the bargaining process by entering into the independent side letters. It also absorbed the salaries and benefits of four employees who were released from their normal work duties to engage in full-time union activities at various times over a 12-year span from 1995 to 2007 at a cost of \$2.4 million. Justice is unlikely to recover these costs because the bargaining unit relied on the side letters throughout the period.

At the time of our report, Justice reported that it disagreed with our finding that the release-time agreements for the four employees constituted an inefficiency in the collective bargaining process. Nevertheless, Justice indicated that when the release-time agreements expire in April 2008, it would refrain from entering into similar agreements. Justice further stated that it would seek reimbursement for future salary and benefit costs associated with employee release time for union-related activities.

Updated Information

Justice reported that two of the employees returned to their assigned full-time duties in May 2008, following the expiration of their release-time agreements. The remaining two employees no longer worked for Justice or the State at the time of our report.

**Employment Development Department
Case I2007-0739**

We reported the results of this investigation on April 3, 2008.

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

At the time of our report, Employment Development reported that it had given the employee a corrective action memorandum in February 2008 to inform him that he is prohibited from working while intoxicated and from consuming alcohol during his work hours and unpaid lunch break. Employment Development also stated that the employee's supervisor would closely monitor his activities, and it advised the employee that this matter could become the basis for disciplinary action.

Updated Information

In May 2008 Employment Development disciplined the employee by suspending him without pay for two workdays. The employee did not appeal the adverse action.

In May 2008 Employment Development suspended the employee without pay for two workdays.

**Department of Justice
Case I2007-0958**

We reported the results of this investigation on April 3, 2008.

A manager and four of his subordinates at one of Justice's regional offices failed to follow state regulations and policy when they did not properly report hours on their time sheets. Based on our investigative methodology, we estimate that from April 2006 through December 2006, these individuals took 727 hours of unaccounted leave, for which the State paid \$17,974 in compensation that the five employees may not have earned. Although the scope of our investigation was limited to the nine-month period in 2006 for which we received documentary evidence of unreported absences, the manager and four subordinates also continued to inaccurately report their time worked and their absences taken in 2007.

We also found that the manager knowingly failed to monitor his subordinates' absences or time worked. Moreover, we determined that the manager's supervisor, who worked at Justice's

headquarters, failed to ensure that the manager completed his time sheets accurately and that the manager properly monitored his subordinates' time reporting.

At the time we issued our report, Justice indicated that it had taken several actions, including instructing the manager and his supervisor to ensure that employees documented appropriately all leave and overtime and that they complied with state and Justice policies and procedures. Further, Justice distributed a memorandum in January 2008 to its division chiefs reminding them of their time-reporting obligations and policies. Finally, Justice continued to investigate the amount of unreported leave taken by the five employees in 2007.

Updated Information

Justice informed us that it completed its investigation of the five employees' time reporting and found that the manager and four subordinates continued to inaccurately report their absences in 2007. Although it concluded that as in 2006, the employees failed to follow proper state policy and state regulations, Justice did not quantify the extent of the subjects' unreported absences because it had already proceeded to take corrective action for the employees' failure to observe the proper time-reporting requirements. Justice officials counseled the employees—including the manager and his supervisor—about the importance of following its policies for time reporting and leave use. It also documented in the manager's probation report and in a counseling memorandum the manager's failure to follow Justice's policies and procedures for time reporting and leave use.

Following this disciplinary action, the manager left Justice in July 2008. Justice subsequently promoted one of the four subordinates to replace him, and in August 2008 it provided the manager's supervisor and the subordinates with training specifically covering Justice's policies and procedures about leave use and time reporting.

We conducted this review under the authority vested in the California State Auditor by Section 8547 et seq. of the California Government Code and pursuant to applicable investigative standards.

Respectfully submitted,



ELAINE M. HOWLE, CPA
State Auditor

Date: October 2, 2008

Investigative Staff: Russ Hayden, CGFM
Siu-Henh Canimo
Gene Castillo
Lane Hendricks, CFE
Justin McDaid
Kerri Spano, CPA
Michael A. Urso, CFE

Legal Counsel: Steven Benito Russo, JD

For questions regarding the contents of this report, please contact Margarita Fernández, Chief of Public Affairs, at 916.445.0255.

Appendix

THE INVESTIGATIONS PROGRAM

The California Whistleblower Protection Act (Whistleblower Act) contained in the California Government Code, beginning with Section 8547, authorizes the Bureau of State Audits (bureau), headed by the state auditor, to investigate allegations of improper governmental activities by agencies and employees of the State. The Whistleblower Act defines an *improper governmental activity* as any action by a state agency or employee during the performance of official duties that violates any state or federal law or regulation; that is economically wasteful; or that involves gross misconduct, incompetence, or inefficiency.

To enable state employees and the public to report suspected improper governmental activities, the bureau maintains a toll-free Whistleblower Hotline (hotline): (800) 952-5665 or (866) 293-8729 (TTY). The bureau also accepts reports of improper governmental activities by mail and over the Internet at www.bsa.ca.gov.

The bureau has identified improper governmental activities totaling \$27.7 million since July 1993, when it reactivated the hotline. These improper activities include theft of state property, conflicts of interest, and personal use of state resources. The investigations have also substantiated improper activities that cannot be quantified in dollars but that have had negative social impacts. Examples include violations of fiduciary trust, failure to perform mandated duties, and abuse of authority.

Although the bureau conducts investigations, it does not have enforcement powers. When it substantiates an improper governmental activity, the bureau reports confidentially the details to the head of the state agency or to the appointing authority responsible for taking corrective action. The Whistleblower Act requires the agency or appointing authority to notify the bureau of any corrective action taken, including disciplinary action, no later than 30 days after transmittal of the confidential investigative report and monthly thereafter until the corrective action concludes.

The Whistleblower Act authorizes the state auditor to report publicly on substantiated allegations of improper governmental activities as necessary to serve the State's interests. The state auditor may also report improper governmental activities to other authorities, such as law enforcement agencies, when appropriate.

Corrective Actions Taken in Response to Investigations

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

Table A
Corrective Actions
July 1993 Through June 2008

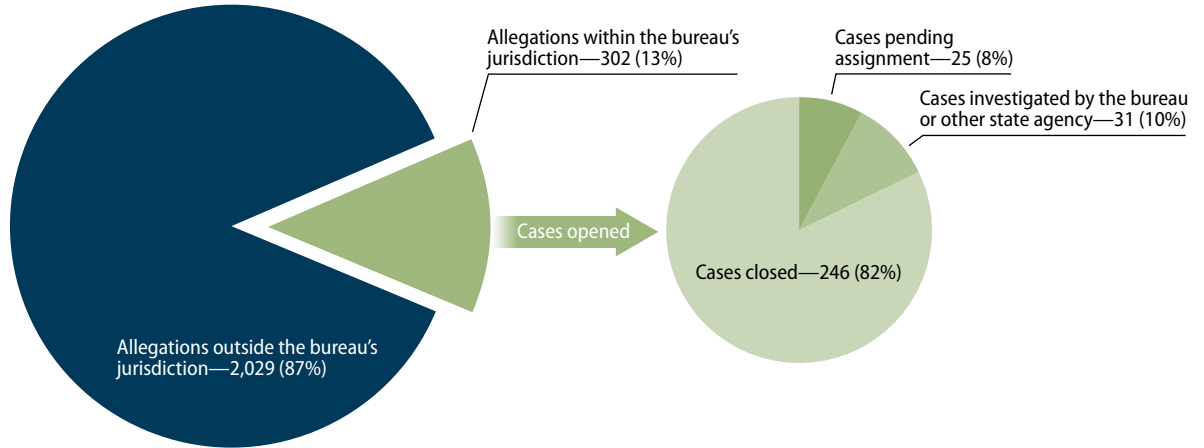
TYPE OF CORRECTIVE ACTION	NUMBER OF INCIDENTS FROM JULY 1993 THROUGH JUNE 2002	NUMBER OF INCIDENTS FROM JULY 2002 THROUGH JUNE 2008	TOTALS
Convictions	7	2	9
Demotions	8	8	16
Job terminations	46	30	76
Pay reductions	10	44	54
Referrals for criminal prosecution	73	5	78
Reprimands	135	137	272
Suspensions without pay	12	12	24
Totals	291	238	529

Source: Bureau of State Audits.

New Cases Opened From January 2008 Through June 2008

The bureau receives allegations of improper governmental activities in several ways. From January 1, 2008, through June 30, 2008, the bureau received 2,331 calls or inquiries. Of these, 1,936 came from the hotline, 212 arrived in the mail, 181 went to the bureau's Web site, and two came from individuals who visited the office. Of these 2,331 calls or inquiries, the bureau opened 302 cases, as shown in Figure A.1. After careful review, the bureau determined that the remaining 2,029 allegations were outside its jurisdiction. When possible, it referred those remaining complaints to the appropriate federal, state, or local agencies.

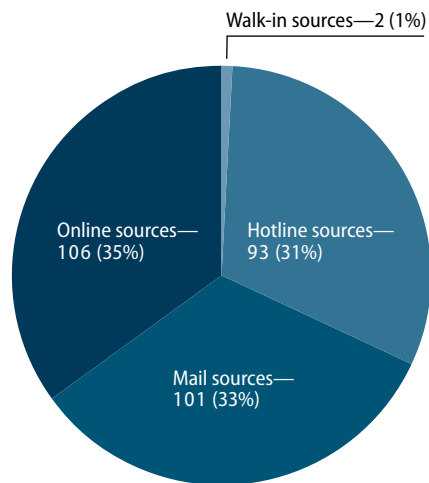
Figure A.1
 Disposition of 2,331 Allegations Received From January 2008 Through June 2008



Source: Bureau of State Audits.

During the six-month period covered by the figure above, callers to the hotline reported 93 of the new cases.¹⁰ The bureau also opened new cases based on 101 complaints that arrived in the mail, 106 complaints that came through its Web site, and two complaints delivered by individuals who visited the office. Figure A.2 shows the sources of all the cases opened from January 2008 through June 2008.

Figure A.2
 Sources of the 302 New Cases Opened From January 2008 Through June 2008



Source: Bureau of State Audits.

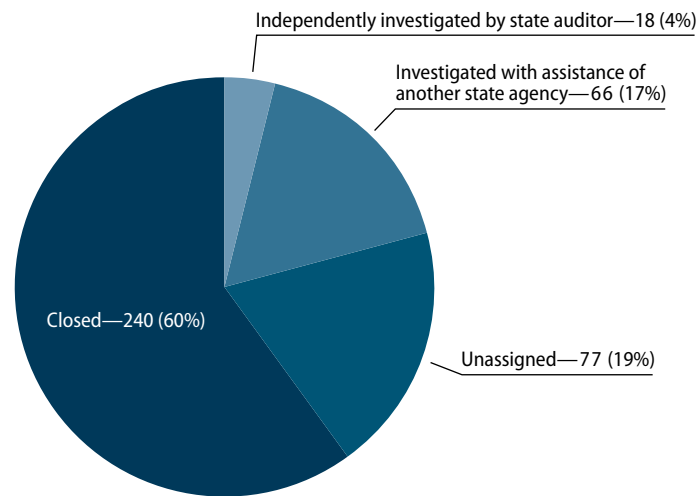
¹⁰ The bureau received a total of 1,936 calls on the hotline from January 2008 through June 2008.

Work on Investigative Cases From January 2008 Through June 2008

In addition to the 302 new cases opened during this six-month period, 68 cases awaited review or assignment as of June 30, 2008. Another 31 were still under investigation by this office or by other state agencies, or they were awaiting completion of corrective action. Consequently, 401 cases required some review during this period.

After conducting a preliminary review of these cases, which includes analyzing evidence and other corroborating information and calling witnesses, the bureau determined that 240 cases lacked sufficient information for an investigation. Figure A.3 shows the disposition of the 401 cases that the bureau worked on from January 2008 through June 2008.

Figure A.3
Disposition of 401 Cases Worked on From January 2008 Through June 2008



Source: Bureau of State Audits.

The Whistleblower Act specifies that the state auditor can request the assistance of any state entity or employee in conducting an investigation. From January 1, 2008, through June 30, 2008, the bureau independently investigated 18 cases and substantiated allegations on five of the 11 completed during the period. In addition, the bureau conducted investigative analyses of 66 cases that state agencies investigated under the bureau's direction, and we substantiated allegations in four of the 31 cases completed during the period. After a state agency completes its investigation and reports its results to the bureau, the bureau analyzes the agency's investigative report and supporting evidence and determines

whether it agrees with the agency's conclusions or whether additional work must take place. The bureau confirmed the results of the four investigations that state agencies substantiated. The results of those investigations appear in this summary report.

Blank page inserted for reproduction purposes only.

Index

DEPARTMENT/AGENCY	CASE NUMBER	ALLEGATION	PAGE NUMBER
California Environmental Protection Agency	I2008-0678	Failure to accurately report absences, inadequate supervision	23
California State Polytechnic University, Pomona	I2007-0671	Viewing of inappropriate Web sites and misuse of state equipment	52
Consumer Affairs, Department of, Contractors State License Board	I2007-1046	Misuse of state resources, dishonesty	37
Corrections and Rehabilitation, Department of	I2004-0649, I2004-0681, I2004-0789	Failure to account for employees' use of union leave	45
Corrections and Rehabilitation, Department of	I2006-0665	Mismanagement and misuse of state resources as well as waste of state funds	53
Corrections and Rehabilitation, Department of	I2006-0826	Improper payments for inmate supervision	19
Corrections and Rehabilitation, Department of	I2007-0917	Improper overtime payments	17
Employment Development Department	I2007-0739	Management's failure to take appropriate action about an employee who drank alcoholic beverages while on duty	56
Fish and Game, Department of	I2004-1057	Inappropriate gifts of state resources and mismanagement	47
Fish and Game, Department of	I2007-0680	Misuse of a state vehicle and employee time	33
Forestry and Fire Protection, Department of	I2005-0810, I2005-0874, I2005-0929	Improper overtime payments	50
Housing and Community Development, Department of	I2007-1049	Incompatible activities, time and attendance abuse, dishonesty, and inadequate supervision	7
Justice, Department of	I2007-0728	Inefficiency created by entering into side letters with a bargaining unit without the Department of Personnel Administration's oversight or the Legislature's ratification	55
Justice, Department of	I2007-0958	Employees' disregard for time-reporting requirements and management's failure to ensure that employees reported absences properly	56
Parks and Recreation, Department of	I2005-1035	Misuse of state resources and failure to perform duties adequately	51
Social Services, Department of	I2006-1040	Waste of state and federal funds	53
State Personnel Board	I2007-0771	Improper contracting for personal services	29
State Water Resources Control Board	I2007-0776	Misuse of state resources	41
Transportation, Department of	I2007-0705	Misuse of state computers	43

cc: Members of the Legislature
Office of the Lieutenant Governor
Milton Marks Commission on California State
Government Organization and Economy
Department of Finance
Attorney General
State Controller
State Treasurer
Legislative Analyst
Senate Office of Research
California Research Bureau
Capitol Press