

DEC 15 1989
Governor Atiyeh

REPORT
TO
GOVERNOR NEIL GOLDSCHMIDT
OF
JUDGE JOHN C. WARDEN'S
CORRECTIONS
INVESTIGATION

DECEMBER 14, 1989

REPORT TO GOVERNOR GOLDSCHMIDT

In accordance with Executive Order No. EO-89-12, on September 6, 1989, you appointed me to conduct an inquiry as to:

"a. Whether there are reasonable grounds to believe that Department of Corrections officials are involved in any significant illegal activities or other wrongdoing connected with the functioning of the Department;

"b. Whether there are reasonable grounds to believe that the death of Michael Francke was in any way connected to such activities; and

"c. Whether existing means of investigation and enforcement are adequate to respond to any such activities, or whether other means should be put in place."

By that executive order, you required that I report to you my conclusions and recommendations for further action, if any, not later than December 15. This is my report.

In accordance with your directive, I secured contract services of seven investigators for varying lengths of time. Six of them are former agents of the Federal Bureau of Investigation,

one is a former police detective with the City of Eugene. I also engaged the services of three office workers. During the three months of this investigation we communicated with 250 to 300 persons, by phone, mail and in personal interviews. Most of those persons were inmates, former inmates, corrections officers, former corrections officers and administrators in the Corrections Department. We also reviewed more than a thousand police and Corrections Department reports. From all of the material gathered, I conclude that there are reasonable grounds to believe that some officials of the Department of Corrections are involved in significant illegal activities or other wrongdoing, that there are not reasonable grounds to believe that Michael Francke's death was connected to those activities, and that the existing means of investigation and enforcement are not adequate to respond to such activities.

The Department of Corrections under the direction of Fred Pearce has been most responsive during the course of this investigation. The officials of whom cooperation has been requested have responded promptly, courteously, and constructively. The single element which has been absent in the responses of some officials in the institutions is candor. Therefore, it is unlikely that a complete, clear picture has, or can be, developed from the brief investigation of Corrections that we have been able to maintain.

From our daily analysis of developed information, it is clear that there does not exist any organized, sinister

conspiracy among the staff of Corrections to commit illegal acts or other wrongful activity. What does appear to exist is an atmosphere, wherein those who seek personal gain of property, power, or authority, can pursue those ends with little difficulty.

The issue of the relationship of such potential conspiracy, and the murder of Corrections Director Michael Francke, was a constant consideration in the development and analysis of information. No fact or corroborated theory of any such conspiracy was uncovered, nor was evidence that would lead us to reasonably conclude that the murder involved any Corrections employe acting alone or in concert with others. Scenarios were advanced by inmates, staff, and others which appear plausible, but were found to be lacking in specificity or in details conducive to corroboration.

From the outset of this investigation it has been obvious that existing means of investigation and enforcement have been inadequate for the task.

What is needed is to restore and fund the position of Inspector General with an adequate staff under the Director of Corrections, to fill and fund the office of Corrections Ombudsman and to add to the number of officers of the Department of State Police assigned to corrections investigations.

The investigation by the Oregon State Police of the 1986 corrections issues and of subsequent unusual incident reports have been restricted to the essentials of the reported action,

and has been absent of any intelligence-type analysis targeting patterns of criminal activity. A 1988 drug intelligence effort was abandoned due to inadequate detaining of personnel to handle corrections matters. Past staffing efforts has favored continuity over routine rotations to provide experienced personnel for this assignment.

THE 1986 DEPARTMENT OF STATE POLICE INVESTIGATION

The investigation was initiated on June 8, 1986, upon disclosure of wrongdoing by Department of Corrections (DOC) personnel at the Farm Annex of the Oregon State Penitentiary (OSP). It was concluded in November, 1986, after reports of other acts of wrongdoing at the Forest Camp Annex of OSP had also been investigated. There is no indication that the investigation extended to other institutions of DOC.

An immediate result of the investigation was the September 9, 1986, directive of Governor Victor Atiyeh which ordered specific measures to correct the deficiencies detected. These included:

- (1) The establishment of Satellite Facilities Manager to

manage the Farm Annex and Forest Camp, who would report directly to the Administrator (now Director) of Corrections;

- (2) Creation of a four-member search team to address contraband control problems within the various institutions;
- (3) Establishment of drug testing for employment finalists and employes who are believed to be using drugs illegally;
- (4) Further scrutiny of procedures governing searches of persons (employes, volunteers and visitors) and materials entering institutions;
- (5) Establishment of an Internal Affairs Office to conduct investigations into allegations/complaints of improper non-criminal conduct of personnel, to serve as liaison with the Department of State Police, which conducts investigations of alleged criminal acts of employes and inmates, to function as search team coordinator/director and to chair the internal review team's examination of incidents involving use of force and chemical

agents;

- (6) Addressing personnel hiring, selection and promotion practices, to insure confidentiality of examination questions and employment of qualified personnel and to conduct thorough background investigations of job finalists;
- (7) Elimination of the open purchase policy and revision of purchasing procedures by providing controls to prevent misappropriation and/or theft of corrections property;
- (8) Development of an automated inventory system for Farm Annex and institution of regularly scheduled inventories and accurate recording of additions to and deletions from inventory; and
- (9) Providing for appropriate disciplinary action against all employees involved in administrative and/or criminal violations, after consulting with Executive Department, Labor Relations Division and/or the Attorney General's office.

On October 19, 1989, DOC responded to my inquiry regarding action taken by DOC in response to the Governor's directive. That response disclosed that good faith efforts have been made to

correct the deficiencies noted during the 1986 investigation.

A notable exception is the failure to "further scrutinize" the procedures for searching persons. The procedure currently in effect is set forth in OAR 291-41-005 through OAR 291-41-045 (Rule 4) which has an effective date of 8/16/85. The 1986 investigation identified some staff members as being responsible for introduction of drugs into institutions, and the Internal Affairs Officer and Oregon State Police, in the years since that investigation, have indicated that still other staff members have been responsible for introduction of drugs into institutions. The rules provides that employes are "subject to security inspections by means of security device such as a metal detector, if such exists," and that accompanying property may be searched by visual or hand examination. Investigation reveals that hand examination is not being used in searching employe's lunch boxes. The rules do not provide for searches of an employe's person beyond the use of electronic device, except upon "reasonable suspicion." There is no known electronic device capable of detecting drugs.

A policy to conduct background investigations of such a "thorough" nature as to detect present or former drug use/trafficking by employment finalists, was not incorporated into the background check (Procedure 75) established January 16, 1989, (See section on "Recruitment and Selection"), when the directive on drug testing for finalists was established. Drug urinalysis testing was performed under OAR 291-42-005 through OAR

291-42-15, (Rule 42, effective date 3/14/86) until Procedure 75 was adopted, and made no mention of testing of staff. Even the November 16, 1989, Drug Control Plan, (as discussed in more detail elsewhere in this report), resists random testing of staff on the basis of an Attorney General's opinion relying on "research done pursuant to an emergency request." The author stated that that opinion could change, if more time was devoted to research.

The 1986 investigation by the State Police developed information concerning the activities of many DOC employees. Most of them were either witnesses or persons about whom nothing of substance was alleged or sustained.

None of the proceedings involving Judy Walker, James Walker, Steven Budreau, or Dana Dudek, about whom there has been extensive publicity in recent months, was based on the results of the 1986 investigation. It was, rather, the disclosure of activities of those persons that led to the 1986 investigation.

The 1986 investigation uncovered the falsification of background information by candidates for employment, either upon their own volition or upon instructions of senior officers. The applications of 90 such candidates contained background information that could not be verified as follows:

Employee admitted falsification	7
Former employer was unable to verify specific information or had no records	26

Employee was not fully responsive to requested information	42
Former employer could not be located	3
Former employers were not responsive to solicited information	31

No disciplinary action was taken in many of the cases, on review of all the facts and circumstances involved. Decisions to take no action were arrived at after consultation with the Office of the Attorney General. Some of the contributing circumstances were:

- That many of the applications were 8 to 9 years old;
- That thorough background checks had not been conducted at time the employes were hired;
- That employes had shown by interim service that they possessed the necessary skills to perform their duties.
- That other state employes, hired during same time period, were not subjected to investigation; and
- That several employes reported that management staff had instructed them on how to falsify applications, and management staff admitted giving these instructions.

A review of that information as it pertained to individual employes was conducted to assess whether (1) it was deemed worthy of prosecution, (2) was worthy of administrative action, or (3)

was worthy of greater administrative/prosecutive action than had been taken.

Seven current employes of DOC, about whom specific allegations of misconduct were made that were worthy of administrative action if established, were not subjected to any administrative action by DOC. In three of these instances, there is no evidence of an investigation of the allegations. One employe was charged and arrested, but the result of the scheduled 1987 trial is not shown. One employe's admitted misconduct appears to fall within the false background discussion above. Two employes were alleged to be involved with use or distribution of marijuana.

For reasons of privacy, the names of these employes have not been included in this report, but they have been forwarded to Fred Pearce at DOC.

What consideration has been given to information about these employes by DOC during 1986-1987 is not documented and, therefore, is not now available for review. That lack of documentation does not affirmatively support a claim that there was a cover-up, but it does fuel the fires of suspicion that there was, and it suggests possible unevenness of administrative discipline by superintendents.

INTERNAL AFFAIRS OFFICE

The position of Inspector General in the Department of Corrections (DOC) was created in September, 1985, as a result of a reorganization proposal presented by the Administrator Thomas G. Toombs. The Inspector General was to report to the Assistant Administrator for Program Review and Planning, and was to conduct inspections of county detention facilities in addition to some of the duties currently assigned to the Internal Affairs Office.

The Internal Affairs Officer was substituted for the Inspector General in response to the directive of Governor Atiyeh in September, 1986. The functions performed by the Internal Affairs Officer in the three years of its existence have been productive, and have been in accordance with OAR 291-22-005 through OAR 291-22-020 by which it was established. Those rules do not direct the office's efforts toward self-initiating inspection of the operations of DOC. Only in response to complaints has the Internal Affairs Officer acted to determine if staff members were performing their duties in compliance with rules and procedures of the Department.

In the whole of the DOC's organizational structure there is no position whose primary duty is to inspect the various institutions/divisions to determine the degree of compliance by personnel with DOC rules and procedures. The evidence of departures from DOC rules and procedures that have come to light

in 1986 and since demonstrates a need for some affirmative oversight.

One of the duties of the Internal Affairs Officer is to lead or coordinate the special search team developed to look for drugs and other contraband within the institutions. Although good work has been done by the search team, it appears that an administrative procedure has hampered its full effectiveness. The area to be searched on any given day has been made known in advance to the superintendent of the institution to be searched, and the role of search team leader for the purpose of the search has been given to that superintendent and ultimately to the shift commander. Consequently, the Internal Affairs Officer has lost both control of the search team and the element of surprise, diminishing thereby the effectiveness of the searches.

RECRUITMENT AND SELECTION

Like other operations of the Department of Corrections (DOC), the recruitment and selection of personnel is left to the discretion of supervisors of the positions being filled. The Personnel Manager has no substantive role in the selection, even

though the Personnel Manager is responsible for development of position classifications, identification of position requirements, review and approval of the form and statutory requirements of interview questions (the actual questions are devised by supervisors of the positions in question) and processing the papers attendant to hiring.

The required procedure for hiring is contained in Chapter 4 of the Executive Department Rules. Each functional unit has a copy of Chapter 4, but no reference to it appears in any DOC procedure or rule, according to DOC personnel. Likewise, DOC procedures are silent on recruitment and selection. Possession by Functional Units of copies of the Executive Department Rules and availability of the Personnel Officer for consultation make up the extent of DOC guidance. It appears that departures from Chapter 4 procedures are not violations of DOC Rules or Procedures.

The Executive Department rules require that candidates for an open position be obtained from an Executive Department list of certificates of eligibility, that each prospective candidate be interviewed by at least three officials, who are to limit the interview to the pre-approved list of questions, that all questions be asked of every candidate and that each interviewer independently grade (score) the candidates on the answer to each question. Each score becomes part of the composite score on the interview phase of selection. After three finalists are identified, a background check is conducted on each finalist to

aid in the final selection.

The DOC Procedure 75 background check consists of verification of employment for five years, a driver's license check and a criminal history check. Although these checks are pertinent to employment, they do not adequately address the special needs of secure institutions. In other DOC documentation, drug usage and trafficking is identified as a DOC concern, and it is reasonable to assume that trustworthiness, reliability, responsibility, and such character traits are also desired. Procedure 75 refers to evaluation of the background checks, but the emphasis is on file documentation and handling. Nowhere in this procedure or elsewhere, according to the personnel office, is there a standard against which to measure the information developed. The absence of such criteria leaves to the discretion of the hiring supervisor what, if any, criteria to apply and denies to DOC a defensible position against discrimination claims. It also allows for arbitrary or capricious hiring decisions by a supervisor so inclined. The personnel office advises that it does not review the contents of each interview file to insure the procedure employed was in conformity with established procedure.

The disclosures of the 1986 investigation prompted the development of Procedure 75. That investigation had uncovered significant flaws in the hiring practices of DOC, particularly that of preferential treatment for selected candidates. There is evidence that Procedure 75 is being complied with formally, but

that "who you know" and "who knows you" remain as the prime requisites for employment, particularly for Corrections Officer positions. A centralized hiring process, utilizing the expertise of trained personnel specialists, job-oriented specialists and trained management would go a long way in removing such favoritism.

The directive of Governor Atiyeh dated September 9, 1986, and the Corrections Division Task Force, created by the Administrator on September 12, 1986, and assigned to modify the hiring process, refer to a "thorough background investigation". The background check required by Procedure 75 is far short of "thorough". To be as thorough as that employed in "law enforcement agencies throughout the state", the background investigation must identify character traits material to the position to be filled. The Task Force perceived that the governor "envisioned a thorough overhaul of the screening/selection process". Procedure 75 is the only change made in that process in the intervening three years. The "thorough overhaul" has not been completed and no reason for that failure has been produced.

HEARING OFFICER CORPS

The position of Hearing Officer is a subordinate to that of the superintendent of the institution where this officer serves. The function of the position is to review charges against inmates, make findings as to their validity and recommend to the superintendent sanctions to be imposed, usually in the form of restrictions, fines and/or disciplinary segregation. The final decision is that of the superintendent. The hearings system is designed to achieve a degree of justice to the inmate in a society where legal representation is absent. Because they are subordinate to the superintendents, Hearing Officers' findings and recommendations are apt to reflect the superintendents' wishes, rather than the Hearings Officers' objective judgements. It is advanced that the inmates can and do produce written testimony of witnesses and that the hearing officers are fair and impartial, occasionally even finding for inmates. However, the system of advancement, selection and appointment of Hearings Officers within the institutions gives the appearance of having created biased "courts".

A corps of Hearing Officers acting under a set of standards of the Department of Corrections and responsible to its supervision would enhance the appearance of fairness and impartiality of the Hearings Officers.

TRAINING

The 1989 legislature amended ORS 181.610 to 181.690 to include the Department of Corrections (DOC) corrections officers; and provided for the Board on Police Standards and Training to develop the standards for corrections officers training by July 1, 1990, with January 1, 1991, as the effective date of those standards. Corrections officers serving DOC prior to January 1, 1991, shall be exempt from these standards and training requirements. DOC is to assist those corrections officers who are exempt from the minimum standards and training to gain certification and to provide a level of in-service training to bring those corrections officers into compliance with the standards and requirements by January 1, 1993. Before the 1989 enactment, corrections officers at DOC were exempt from the standards and training required of correctional officers at other custodial facilities, i.e., county and municipal jails.

A "centralized" training program was adopted at DOC in 1984, but it was adopted in concept only. In May, 1986, a formal certified training program concept was adopted, but each institution continued to operate its own training program. The training program was described by DOC personnel as "in name only", explaining that the only training was 'on the job', "a process of passing on old methods of operation whether right or wrong".

OSP stands out as the only DOC institution that insisted on new personnel receiving basic training, consisting of instruction on policy, firearms, physical force, "people skills", and related subjects. Other institutions did not pursue even the basic training with any enthusiasm.

In July, 1987, the Tactical Emergency Response Team (TERT) training was funded and initiated. It was the first formal, in-depth program of DOC. Since then, there has been increased support and emphasis on training. The first supervisory management training program was initiated in April, 1989. Parole and probation officers have been covered by the Board of Police Standards and Training standards and instructions, and DOC is taking an active role to improve the standards and training of the parole and probation officers. With the indicated support of the legislature for training and the strong support of the current director, Fred Pearce, it is expected that a higher degree of professionalism will evolve in the corps of corrections officers at DOC.

The increased training emphasis is indeed encouraging. However, unless the option of making personnel available for training is taken from the superintendents, adequate training cannot be assured.

A number of institutions of higher learning have, for years, offered courses of value to corrections officers and corrections managers, in particular, Western Oregon State College and Chemeketa Community College. There has been no incentive offered

by supervisors to individual employes to encourage them to avail themselves of these opportunities.

A reasonable standardized level of training should be developed as a prerequisite for promotional opportunity within the corrections officer ranks.

The increasing need for professionalism in corrections requires that correctional personnel receive more specialized education and regularly scheduled in-service training to keep current in this field.

DRUG USE AND DISTRIBUTION

Illegal drug use and distribution within the walls of the various Oregon Department of Corrections institutions is a problem of significant magnitude. From evidence provided by inmates and staff alike, the problem is not new, and drug use has not been actively interdicted by Corrections staff. Members of the Corrections staff are not subject to search except on "reasonable suspicion", and some staff members actually act as "mules," carrying drugs into the institution. Also, there are numerous instances of failure to enforce existing rules on the

disposition of contraband drugs taken from inmates.

Visitors introduce illegal drugs and contraband into the institutions. "Contact" visits, absent prior thorough searches of visitors, allow illegal drugs and contraband to be passed from visitors to inmates. Absent thorough searches of visitors before they are permitted to have physical contact with inmates, drugs and other contraband can be expected to continue to come into Corrections facilities.

Working inmates are searched cursorily or not at all when working around the visitation center. They are not prohibited from contacting visitors and are permitted passage back into the prison without being searched after such contacts. Inmates who are allowed the greatest freedom to move about within the institutions are also subject to less thorough searches as they pass from location to location. As to them, searches are either not made or are incomplete. Some senior corrections officers favor "pet" inmates with freedom to move about within facilities. With that freedom they are able to facilitate distribution of drugs.

The absence of procedures to detect and discipline the staff "mules," and the uneven enforcement of existing rules for disposing of drugs taken as contraband, make it unlikely that drug use in the institutions will abate in the near future.

In drug tests administered from November, 1988, through October 31, 1989, as reflected in the drug testing logs of six of the eight correctional institutions, 20 percent of the results

were positive for the presence of drugs. (Two other institutions, Eastern Oregon Correctional Institution and the Farm Annex, did not enter the test results in the logs.) As the institution security classification graduated from maximum to minimum, the percentage of positive results rose. The tests were conducted on inmates returning from furloughs, those suspected of drug usage, and of inmates selected at random.

The absence of a standard procedure defining "random" selection affects the integrity of the results of those tests. Each institution head is left to design the method of random selection used by that institution, and the method is not identified on the logs provided. Reference is made on the logs to "guard selection" and to "random," but what constitutes random selection is not defined.

The drug control plan developed and recommended by the Department of Corrections on November 16, 1989, addresses the problem of drugs in the correctional institutions, evidences the department's awareness of the problem, and proposes a variety of actions to deal with the problem. Notably absent from the plan is any further attempt to control the introduction of drugs by staff. Drug urinalysis and background checks of applicants for employment and urinalysis or search of employes on the basis of probable cause are the only efforts referred to in the plan.

The background "check" currently employed in the corrections officer finalist screening is only an employment verification "check" which is augmented by a drivers license check and a

criminal history check. Although the Plan refers to an investigation, these perfunctory tests are all that it calls for.

On October 13, 1989, the Attorney General's office wrote advising against random employe drug testing, but supported employe testing in cases of accidents or on consideration for employment or promotion. The writer, an Assistant Attorney General, cautioned that her "research was done pursuant to an emergency request" and stated "my answer could change given the opportunity to examine the area in more depth."

Training of personnel is an area of the highest priority and is discussed in detail under a separate caption bearing that title. Training of personnel to recognize drug and alcohol aberrant behavior of inmates and staff is an integral part of an effective program to halt the flow of drugs.

The plan calls for evaluating current inmate disciplinary actions with a view to establishing consistency in disciplinary sanctions for drug-related rule violations. It also calls for a rule under recently adopted Sentencing Guidelines to prohibit awarding time credits to inmates involved in the use or possession of drugs or their introduction into a corrections facility. The department's drug control plan emphasizes the control of the inmate population to achieve control of drug use and trafficking. It is hoped that practices aimed at causing the population to cleanse itself through fear of reprisals as the primary means of dealing with the drug problem will be de-emphasized.

INMATE TRUST ACCOUNT

The Inmate Trust Account was established to safeguard inmate funds for use of authorized expenditures during incarceration and to assist in offsetting the cost of the release plan. It has its origin in ORS 179.040 and ORS 423.060. The funds in these accounts are handled pursuant to procedures established in Oregon administrative rules 291-158-005 through ORA 291-158-015.

The Inmate Trust Account consists of three separate parts, the individual inmates' accounts, the Canteen accounts, and administrative accounts. Among the various administrative accounts are the Inmate Welfare Funds, Fines Accounts, Postage Accounts, Photocopy Accounts, and the various group activities such as clubs and special interest groups.

The individual inmates' accounts are made up of general accounts and dedicated funds. An inmate may use the general account within the limitations of the institution rules, but the dedicated funds are those which have been specifically earmarked for special items such as shoes, dentures, medical attention, and other expenses not covered by state funds. When an inmate's conduct is such that it warrants disciplinary action, he can be fined and required to pay for damage that he has caused from his general account. Positive balances remaining in an inmate's account are returned to the inmate at the time he is released. The money which accumulates in the administrative accounts are

transferred to Miscellaneous Receipts accounts which are then, in effect, part of the overall budget of DOC and to subsidize the food budget.

All accounting transactions, with respect to these accounts, take place in the accounting department at the Dome Building. Each entry is supported by appropriate documentation. The signature or the initials of the inmate is required to authorize any withdrawals. All transactions are processed through the accounting system, which is maintained on a mainframe computer of the Mental Health Division. The computer storage of this information remains with Mental Health Division, but the actual source documents are retained by the Department.

In 1987, an audit of the Inmate Trust Account for the calendar year 1986 was conducted by the Secretary of State.

A summary of the findings of that Audit is as follows:

- (1) The Department needs to reassign the duties of individuals involved in handling trust funds and accounting for them.
- (2) The Department needs to start accounting for receipts and disbursements from its canteens, public telephones, and vending machines as state funds rather than trust funds.
- (3) The Department needs to change procedures to

prevent certain cash transfers which have caused overdrafts in some inmate trust accounts and caused movement of too much cash from trust cash accounts to state cash accounts.

(4) The Department needs to change its interest allocation procedure; the current procedure has sometimes resulted in the Department crediting too much to individual inmate trust accounts for interest earned.

A more detailed discussion of each matter is included in the auditor's recommendations for improvement.

The audit findings were forwarded to Mr. Michael Francke, Director of DOC on April 20, 1988, and included comments citing fourteen deficiencies for review and response. Mr. David Caulley answered on behalf of Mr. Francke on June 16, 1988. The answer was not responsive to the comments. Current procedures practiced by DOC suggest that little has been done to implement the recommendations of that audit.

The audit by the Secretary of State which commenced in late November, 1989, will examine the current procedure in light of the earlier findings.

The DOC does not have specific descriptions of the various accounts maintained for the benefit of inmates or written authority for them in the Rules or Procedures. The

administration of these accounts is left to "the good judgment" of the superintendents with whom accountability for the proper handling rests. The reliance solely on "the good judgment" of the superintendents is not consistent with sound administrative procedure.

PRISON INDUSTRIES

The Industries Division of the Department of Corrections (DOC) is under the supervision of Fred Nichols, Assistant Director.

Industries presently operates the laundries, the furniture factory, the upholstery shop, the data processing system, Department of Motor Vehicle clerical assistance, the garment manufacturing and cut stock operations (EOCI only) within the Department of Corrections at OSP and EOCI.

The Corrections Industries Board of Directors was established by the 1983 Legislature under ORS 421.310 to oversee the operations of Corrections Industries and to monitor the compliance of that body with applicable law and administrative rules. This nine member body serves without compensation for

three year renewable terms at the pleasure of the Governor. The Board is governed by OAR 291-700-005 through 291-700-065 to insure that products and services of Industries:

"(1) Does not adversely affect existing production or delivery of such products or services by private industry within the state;

(2) Are not introduced or perpetuated in any work area where the unemployment rate in the industry providing the products or services exceeds the state-wide unemployment rate in that industry; and

(3) Include as wide a variety as practicable to diversify the Industries' products and services."

Corrections Industries is not fully funded by the State General Fund and is charged to be self-sustaining. Recent efforts have not been as successful as desired. Much of the lack of success was due to poor management, lack of diversity, and inefficient production.

Perhaps the most significant impediment was the basic philosophical application of this program to the mission of the Department of Corrections. Past philosophies have included the idea that Industries was merely a place to keep the inmate occupied during the day and to perform some of the support tasks

within the Institutions. Industries was not accountable and often became a place where ranking administrators extended favors to cooperative inmates and inmate talents were then exploited by the administrators.

The Board considers security to be a specific impediment to the efficient productivity of Industries. At present staff personnel of Industries, including management, perform most of the searches of inmates as they enter and leave Industries facilities. The searches take time of Industries staff and administrative personnel from performance of their primary duties, and they lack the basic training attendant to that duty.

The Board adopted the Joint Venture concept January 20, 1987, in order to maximize inmate employment opportunities that have direct links to the private sector business community. It requires that each proposed project be reviewed for financial stability, compatibility with state and federal laws, and impact on overall goals of the Industries program. A Joint Venture operation is approved by the Board, but individual companies in the private sector are not individually endorsed by the Board. Industries has been certified by the federal government to sell and transport inmate made products across state lines.

The Legislature approved a revolving fund of \$500,000 with which Industries can maintain a cash flow which is expected to stabilize the Industries operation.

Persistent reports of mismanagement, favored treatment, private deals for special customers and inflated inventory plague

Industries. There has been no accounting of the closure of the automobile shop and the disposition of tools valued between \$50,000 and \$60,000.

The scheduled audit by the Secretary of State's office will address financial issues raised during this inquiry, and ancillary investigation should resolve the validity of the complaints.

A 1984 Secretary of State audit of the Correction Industries noted as follows:

"(1) The Division needs to improve controls over transactions processed by Corrections Industries data processing systems. Failure to have adequate controls in place resulted in misstatement of several months of Corrections Industries' production cost information. These misstatements totaled approximately \$50,000 per month."

"(2) The Division failed to conduct a feasibility study and use proper system design procedures in developing the specifications for its EDP systems which were acquired in 1983. Extensive modifications and technical assistance were required after the systems were acquired. Some of the acquired system components were used for only a short time before use was discontinued altogether."

"(3) The Division needs to make improvements in its physical inventory procedures at Corrections Industries to correct a number of deficiencies. These deficiencies were noted in our observation of physical inventories at Industries' shops and warehouses in March 1985."

The conditions which prompted those remarks have not been fully addressed to this date. The failure of Corrections Industries to fully comply with the recommended action is, in large measure, the reason for Industries' continued operational problems, and in July, 1988, it did not have an inventory system capable of promptly producing a reliable inventory of the A-Shed after the fire.

The Secretary of State auditors have commenced another audit that will, among other things, review Industries' response to the recommended changes.

THE A SHED FIRE

The A shed at the Oregon State Penitentiary (OSP) was completely destroyed by fire during the early evening hours of July 28, 1988. That wooden structure, originally built as a pole barn 65 years ago, was 300 feet long by 60 feet wide, and was situated just outside the walls of OSP. In May 1988, an A shed inspection had recommended that it be condemned and demolished, because it presented a hazard to safety.

Corrections Industries, now known as Unigroup, used the A shed to store raw materials, including foam rubber and lumber for the furniture factory and sheets and laundry for the Oregon State Hospital, old furniture and equipment accumulated over the years, and material salvaged from the OSP fire of the 1960's.

After the fire, Risk Management Division of General Services, Department of Corrections (DOC), and an independent contractor appraised the replacement value of the A shed at \$330,000. Insurance coverage on state property is based on replacement value, not market value or true cash value. Risk Management negotiated a settlement for loss of the A shed's contents at \$462,000, based on an inventory supplied by DOC.

The cause was not determined at the time of the fire, because hazardous wastes, chemical residues, and the excessive heat created by the fire prevented firefighters from aggressively extinguishing it, and it smoldered for three or four days. The

Fire Cause Investigation by the State Fire Marshall was left open, and the Department of State Police is currently conducting an investigation into the cause of the fire and the correctness of the inventory upon which the settlement was negotiated.

The correctness of that inventory is controverted by persons who claim the A shed was virtually empty at various times contemporaneous to the date of the fire. A DOC search team member has stated that the material listed on the inventory was not observed during any of the periodic searches in which the members participated during the eighteen months preceding the fire. Unigroup personnel defend the accuracy of the inventory, saying that it was painstakingly prepared in the weeks following the fire from a July 1, 1988, physical inventory and lists of material claimed by Unigroup department heads as being in the shed at the time of the fire. The warehouse supervisor states that observations during daily visits support the quantity of material listed on the inventory.

Fred Nichols, Assistant Director for Industries in a quoted remark during the fire said, "it's probably the best thing that could have happened to Industries". Mr. Nichols says that that remark, or words to the same effect, was made as an expression of his relief that the building came down without anyone getting hurt, considering the hazard to safety that it presented because of its lack of structural soundness. He acknowledges that Industries was then in financial difficulty and had been for some time, but denies the fire was an act of arson or that Industries

wrongfully capitalized on its destruction.

This commission refrained from exploring the issue of the Ashed fire, deferring to the investigation by the Oregon State Police.

Had condemnation action been initiated by OSP in response to the May, 1988, inspection, this fire would not have occurred, and certainly the controversy over the validity of the inventory would have been avoided. This speaks to the effectiveness of management, and the need for the Director to have his personal representative reviewing responsiveness of that management to the overall needs of the department.

The absence of an inventory system which could quickly produce a reliable inventory prevents DOC from producing an inventory that is free from challenge.

This one experience should be considered when reviewing the overall accounting system need of Unigroup.

FINANCIAL RECORD AND DATA PROCESSING EQUIPMENT

The Prison Industries and Inmate Trust Accounts are two areas which are alleged by many sources to suffer from irregularities. Those allegations are addressed in separate sections elsewhere in this report.

Many of the problems plaguing these areas result from the manner of keeping financial records. Prison Industries has a series of personal computers (PCs), many operated by inmates, in independent operations. The Inmate Trust Account is still being processed on an antiquated mainframe data base operated by the Mental Health Division. A 1984 audit by the Department of State discussed problems encountered by Prison Industries in responsibly adapting computer technology to its accounting needs. Inept planning and mismatching of software and operator talents for record keeping resulted in unnecessary costs. The Inmate Trust Account accounting has been restricted by the limitations of the Mental Health mainframe program. The Department of Corrections is currently assessing its needs in computer hardware and software to effectively administer the Inmate Trust Account.

In assessing and implementing these and other accounting systems, full advantage of the Executive Department resources should be employed in accordance with ORS 293.590, and plans to acquire any data processing equipment to process accounting records and systems must be under the control and supervision of

the Executive Department as required by ORS 293.595. In the past, DOC has not sought assistance of the Executive Department to solve its complex accounting problems. The need for cost accounting for manufacturing in the Prison Industries and the detailed particularity required in Inmate Trust Accounts call for full use of Executive Department accounting expertise.

FARM ANNEX

In the course of the Department of State Police Investigation of the Oregon State Penitentiary in 1986, a number of Department of Corrections (DOC) staff employed at the Farm Annex were identified as being involved in criminal activities, including theft of state property, drug activities, and other misconduct involving prison inmates. The investigation resulted in indictment and prosecution of some officers and resignations, suspensions, or demotions of other corrections staff.

The DOC Farm Annex and the Forest Camp were responsibilities of the superintendent of the Oregon State Penitentiary (OSP) in 1986. Thereafter, these facilities were separated from OSP and became a combined under the direction of the Satellite Facilities

Manager, a position equivalent to that of superintendent of one of the institutions in the Department of Corrections.

From the outset of this inquiry, a number of reports and complaints have been received, some of which alleged that little has changed at the Farm Annex following the 1986 investigation and that there was continuing theft of cattle, mismanagement and other irregularities. Most of the communications received were anonymous and were general in nature, making them difficult to either prove or disprove.

One specific complaint related to copyright infringement of computer software, and is recorded separately in this report. Investigation of other complaints revealed that they were unfounded or were readily explained.

Complaints of suspicious shredding of documents at the Farm Annex by management and security officers were made. Annex staff explained that two paper shredders were recently acquired and are now being used to shred those documents which must by law be destroyed, such as computerized criminal history records of inmates, personal data of inmate's backgrounds, including transfer documents, investigative reports and correspondence. Prior to acquisition of the shredders, those documents were accumulated and periodically burned under the supervision of staff officers.

One accusation suggested that there was impropriety in breeder bulls being tattooed after delivery to the Farm. Documentation was obtained attesting the bulls had been tattooed

at birth but the tattoos faded because of improper administration of the tattoo stamp, or the use of defective ink, described as not infrequent occurrences.. The second tattooing was done under supervision of officials of the National Shorthorn Breeders Association.

The current Farm Manager, disclosed that he found on taking over the Farm that "the Farm had been raped and pillaged," that is to say, it had been subjected to mismanagement and neglect. The most egregious negligence was in the purchase and treatment of newborn calves and the inadequate record keeping in the overall operation of the Farm. The current manager now has records enabling him to know on a daily basis exactly how many cattle there are, where they are, how many have died or been butchered, and the status of other farm operations. The Farm Annex no longer buys calves; it produces its own.

A representative of the Department of Agriculture which is currently conducting an audit of the Farm Annex operations advised in early December, 1989, that the current manager is obviously one who knows what he was doing, in contrast to previous management. In the brief time during his management, he has "turned the farm operation around."

COPYRIGHT INFRINGEMENT

The issue of infringement upon copyrights on computer software was raised by an inmate at the Satellite Facilities Farm Annex in September 1989, in a letter addressed to Governor Goldschmidt. It alleged that three software packages were purchased and that 51 copies of the three were in use on six personal computers at the Farm Annex and two at the Forest Camp. Copies of that correspondence had wide distribution among state and federal government offices, news media, and software publishers.

Executive Department Administrative Rule 02-020-24 prohibits copying copyrighted software and Title 17, U.S. Code, Sections 503 through 507, provides sanctions for this unlawful activity.

PCs at Satellite Facilities Farm Annex and Forest Camp were stripped of copyrighted software in a matter of days by Department of Corrections personnel, and an action plan was developed to address the problem.

This investigation did not further examine the improper use of copyrighted software at the Satellite Facilities, but our inquiry in other areas uncovered additional instances of copyright infringement in the Prison Industries purchasing office. It is not known whether PCs in other institutions/divisions contain software being used in violation of copyright laws, or if any inquiry was made by the Department

of Corrections (DOC) beyond the September 26, 1989, memorandum directed to all DOC staff calling for self-examination of PCs and removal of unlicensed software.

A sudden increase in orders to purchase new software programs following the issuance of department-wide instructions to delete illegally stored copyright material indicates that this practice was widespread and not limited to the Farm Annex.

The United States Attorney for the District of Oregon has declined to prosecute this misuse of copyrighted material because it was not by a commercial enterprise being operated for profit.

The Office of Internal Affairs has produced a report detailing 51 instances of copyright violations on which administrative action is pending. This report does not refer to the copyrighted infringement in Prison Industries, which had been made known to the Internal Affairs Officer. Further, no reference is made to the survey of department personnel to review their possible use of pirated copies of software.

The report includes recommendations for administrative action but does not address the propriety of the Satellite Facilities manager's authorizing expenditure of Inmate Welfare funds to purchase the computer on which DOC business was being processed.

EXEMPT POSITIONS

There are approximately twenty exempt status employes at the Department of Corrections (DOC) who serve at the pleasure of the Director. Each holds a responsible position, critical to the effective management of the DOC. The personnel files of the current exempt status employes disclose that nearly all possess a Bachelor's degree or above, but none have degrees in either penology or personnel management. Knowledge in penology and personnel management are essential to most effectively execute the mission of corrections. Only a select few gain sufficient knowledge of either skill through on-the-job experience, because that experience tends to pass on old ways, whether right or wrong.

All key personnel should be required to maintain education in recommended changes in established procedures and the development of new techniques in the corrections field.

Training in penology alone, although it incorporates prison management concepts, will not suffice. Training in personnel management should be required of DOC's top managers.

INMATE AUTHORITY

Often repeated reports of the existence of a "con boss" who used his position to exact payments from other inmates led to the identification of the inmate clerk who allegedly made cell assignments, controlled prison jobs and payroll and gave orders to inmates and corrections staff alike. He reportedly had the protection of a senior officer who chastised subordinates who dared to challenge his authority.

That situation was isolated in the Group Living Section at the Oregon State Penitentiary (OSP), where the inmate clerk worked under a Lieutenant but suffered no direction from him. The clerk kept a wide variety of data on a personal computer (PC) and produced reports on daily, weekly and monthly bases in support of OSP operation. Included were reports on purchases of firearms as well as other supplies. The PC had been supplied by the inmate and was operated with commercial software and programs developed by and known only to the inmate. The hard disk operating system is obsolete even to the manufacturer.

The inmate operated the computer in a separate office in Group Living, furnished with a telephone (accessible only to other phones in OSP), radio, TV, VCR and tape deck in addition to the computer and peripheral equipment. The quality of his chair and software selection invoked an envious remark by OSP Office Services Supervisor.

The computer, hard disk and those floppy disks that could be located were confiscated from that office in an attempt to determine the full extent of the inmate clerk's activities. It was later determined that within a one half hour period prior to the "unannounced" visit, the clerk had modified at least six files.

The supervising Lieutenant admitted he knew nothing of what the clerk had on the computers, whether a back up files existed or the extent of his activities. He denied taking orders from or having his orders refused by the clerk. He praised the efficiency of the clerk in producing computer generated reports in a timely fashion but revealed a belief that the inmate was up to something illegal. The Lieutenant disclaimed any knowledge of the inmate's use of password protection on any files or of any such password use controlled by another OSP officer.

Further inquiry showed the inmate was permitted to stay in Group Living area well past normal working hours of inmates and even to sleep within the confines of that space apart from general population.

The inmate had tools and devices capable of intercepting the computer cable linking terminals to OSP's IBM System 38 mini-computer, which was routed above the drop ceiling in the inmate's office. However, no such interception was located.

OFFICIAL MISCONDUCT

We have reviewed hundreds of "Unusual Incident Reports" occurrences in Department of Corrections (DOC) facilities and other reports of the Oregon State Police, personal letters from the inmates of the several institutions of DOC to the Office of Citizen's Representative and letters and telephone calls addressed to me, many of which dealt with relations among inmates and between inmates and corrections staff. A number of instances of physical sanctions, involving the beating of inmates in Disciplinary Segregation at OSP while they were handcuffed, were reported. There were other reports of what appeared as OSP staff overreacting to minor incidents.

The absolute need for discipline within any corrections institutions is fully acknowledged and strongly supported. What is brought into question is whether the proper response to disturbances is to apply excessive physical punishment as the best way to achieve that discipline. The practice of applying physical punishment or sanctions as "the" answer to disturbances should be reviewed against the policy of humane treatment. In selecting Disciplinary Segregation Unit staff at OSP, OAR 291-11-015 appears to have been forgotten or disregarded.

Of interest, too, is the apparent disparity between the medical attention afforded to officers and that given to inmates when either are injured.

Throughout this inquiry, various acts of commission and/or omission on the part of DOC staff were reported. Those activities which were more often reported or were more susceptible to corroboration have been addressed separately in this report. Others are being noted here only to represent the information reported. They fall within the general categories of rule violations, procedure oversight, harassment, retaliation, intimidation, diversion of funds and property, favoritism, brutality of inmates by staff, contract rigging, theft, sexual harassment, manipulation of urinalysis testing, medical treatment, and staff/inmate liaison.

Reports are listed here to show their nature and not to pass on the propriety of the acts or omissions of DOC staff. It is well to keep in mind the motivation and perspective of the complainants, whether inmates or corrections staff, many of whom did not identify themselves.

Following are some of the acts reported:

Payments being exacted by property room manager from inmates being released, who desire having some of their personal property transferred to inmates remaining in the institution.

Corrections officers (COs) providing alcoholic beverages to inmates, and exacting premium payment.

COs carrying concealed firearms while inside prison population.

Concealment of truth that an escapee stole a firearm from a CO.

Inmates extorting funds and favors from other inmates and/or their families.

Planting of contraband to entrap inmates when repeated shake downs are unproductive.

No disciplinary action taken against COs, even when assault on inmates was proved.

Marijuana provided to favored inmate by senior staff officer.

Denial of overtime work or arbitrary change of days off of COs who file grievances against staff officers.

Senior officer promising preferential promotion consideration to subordinates to induce free labor on senior officer's home.

Promotion and favored treatment for subordinates who intentionally lose at private poker game.

Nepotism, cronyism and favoritism in employment, work assignments and discipline of COs.

Use of inmate funds to enable senior officials to have T.V. and VCR in office.

Purchase of personal items such as auto parts, running shoes, and tote bags with appropriated funds.

Demotion and transfer of CO upon reporting senior officer's dereliction of duty.

Senior officials' having items made by inmates from state property for their personal use.

Failure to take effective action against officer who is

subject of multiple sexual harassment complaints.

No disciplinary action taken against CO for repeated theft of welding rods.

Property produced in furniture factory taken for personal use by COs.

Failure to follow up on reports of double billing for expensive equipment.

Contract for gate house awarded to employe's spouse without competitive bid.

Staff person not disciplined for sexual liaison with an inmate.

Senior official accepting use of luxury automobile to pursue questionable activity while on duty.

No discipline of senior officer for excessive gambling and exchanging sexual favors for narcotics.

No record of grievance placed in personnel file of employe.

CO failed to give drug test to selected inmate when CO discovered inmate already high on drugs.

No disciplinary action taken against staff officer who maintained unauthorized liaison with inmate.

Inmates locked down for filing lawsuits.

Inmate placed on one year administrative segregation for persistent litigation.

FREE MATERIALS

The Oregon Free Materials Program is under the direction of John Matthews and operates out of an old warehouse (Building 46) on Oregon State Hospital grounds adjacent to the Women's Release Unit (WRU). It is a division of Department of Corrections Release Center and employs women from WRU to perform inventory, warehouse, and customer assistance functions.

The program started in 1982 as a facility distributing books under the auspices of the American Correctional Association (ACA). The books were provided by publishers for the benefits of inmates. In 1987 the mission of the program was changed to include distribution of a wide variety of toys, clothing, electronic goods, recreational equipment, and other donated materials from numerous businesses in Oregon. Non-profit groups dedicated to needy clientele among the physically limited, incarcerated youths, incarcerated adults and their families, abused women and children, emotionally disturbed children, needy seniors, mental health patients, nursing home patients, indigent disabled veterans, terminally ill persons, and Native Americans are eligible for membership. Membership fees and appropriated budget funds support the program. Individuals and Department of Corrections staff are not eligible for membership, however, staff members may borrow books.

Evidence developed that staff and others have improperly

obtained benefits from this program and that the management has knowledge of these improprieties.

Mr. Matthews knows of no ORS, OAR, or Department of Corrections Rule or Procedure that authorizes or directs this program. To his knowledge it exists only as a budget-justified activity. He is in the process of developing an operations manual for future use, and has been operating on a Program Objectives paper he developed in April, 1987.

The acquisition, receipt, and inventorying of materials are done without a formal procedure and have been recorded on a personal computer without corroboration. Security of the facility is weak, and the procedures employed are ineffective in controlling theft or misappropriation.

The continued operations of this program should be reviewed in the light of the overall mission of the department. Significant accounting procedures and controls are needed to establish it's credibility and preclude abuses.

PAROLE FOR PAY

There have been a few allegations that payment has been made to effect early or undeserved parole of inmates from the institutions of the Department of Corrections. The Department of Corrections Release Center (DCRC) is where this is said to have taken place. It was reported that personnel of DCRC have been able to change items in presentence reports that determine the sentencing matrix score, which, before sentencing guidelines were adopted, determined the length of a convict's incarceration.

These specific allegations could not be corroborated. However, the opportunity for this to occur does exist.

Placing DCRC staff in positions where they can effectively change inmate's matrix scores should be discontinued.

PRISON INFIRMARY

The Oregon State Police and the Mid-Willamette Valley Senior Services Agency conducted separate investigations of allegations of abuse in Oregon State Penitentiary during 1989, the results of which were made available to this Commission.

Information furnished to this Commission during its inquiry did not expand upon that developed in these investigations, consequently, no further study was conducted in this area.

RECOMMENDATIONS

Our inquiry has revealed conditions within Corrections which call for remedy, and therefore prompt the following recommendations:

That the position of Inspector General (IG) be restored, to include an oversight function on behalf of the Director, under which inspections would be conducted of all institutions/divisions periodically; that such inspections be conducted to assure the current rules and procedures are being followed and to test the sufficiency and currency of existing rules and procedures against the mission of the Department; Further, that the IG be charged with investigations of charges of wrongdoing and rule violations by inmates and by members of DOC staff and with development of an intelligence operation designed to learn timely of conditions and activities that militate against the effective operations of the Department of Corrections. That the IG be made responsible to refer matters for investigation by the Oregon State Police or other appropriate authority and serve as the liaison with other law enforcement agencies, roles now performed by the Internal Affairs Officer.

The Search Team leadership role of the Internal Affairs Officer should be vested in a supervisory level officer under the direction of the IG. That position could

coordinate and standardize search efforts throughout the Department. The mission of the Search Team should include safeguards to prevent targets of searches from being alerted in advance.

That the IG position be filled with a person possessing extensive investigative and administrative experience and schooled in penology. That the office of IG be staffed with investigators with criminal and, if possible, corrections experience and with office support personnel capable of operating and maintaining an independent record system similar to that of a criminal justice agency.

As presently defined, the Internal Affairs officer reacts to complaints, works with State Police, the Department of Justice and other law enforcement agencies on matters of interest, and leads a four person search team on random searches of institutions. That office does not now probe the activities of the various divisions for sufficiency of, or compliance with, applicable Oregon Administrative Rules and Department of Corrections written Rules and Procedures. The Director has relied on the Assistant Directors and Functional Unit supervisors to be in compliance without oversight. Audits performed by the Secretary of State auditors do not address the sufficiency of such rules or compliance with them

under usual audit conditions.

Fill and fund the position of Corrections Ombudsman provided for in ORS 423.400 to 423.450 to investigate activities of the Corrections Department for the protection of the rights of both inmates and employees.

ORS 423.400 to 423.450 provide the tools to fully review and investigate reported acts or conditions which militate against an effective and responsible department. The position provides independent oversight of Corrections free of taint, as is perceived of self-conducted review. The statutes provide the office with no directive authority on penology and, therefore, acts of the Ombudsman would not undermine the authority of the Director of the Department of Corrections.

Modify the existing decentralized authority within the Department of Corrections to the extent necessary to remove the absolute authority of the superintendents of institutions. Current practices allow the superintendents to create dictatorial fiefdoms requiring employes' unquestioning obedience and

subservience. Employees critical of institution practices are subjected to disciplinary actions and threats to their job security.

Current hiring practices should be changed. Now there is no centralized hiring oversight. Each functional unit supervisor makes hiring decisions subject only to the institution superintendent's approval. Evidence suggests that established department policy is not faithfully followed, and departures therefrom are designed to acquire subservient and unquestioning staff. Lack of competent oversight of policies impair the State's defense to discrimination suits. Each institution hires and fires its own staff. Each employe, therefore, serves at the will of the superintendent of that institution, protected only by the provisions of the appeal rights and union contract. Given the established subservience of senior staff, sufficient documentation to support "for cause" termination is often not difficult to obtain.

Institute more thorough background investigation of applicants for employment: The established background checks are little more than

induced aberrant behavior of inmates and staff is crucial to their effective control.

Expand searches of property accompanying staff members entering and leaving correction facilities, as is presently authorized by Oregon Administrative Rule, and seek to establish the searching of employees' person to further enhance efforts to curb introduction of drugs by DOC personnel.

The inmate's trust account should be restructured as a separate account. That account has its origin in ORS 179.510 to 179.530. Those statutes provide for the fiduciary responsibility of the superintendents in handling money belonging to inmates. They also provide for deposit of monies of several other funds which are generated within Corrections and are not general funds. These are funds related to inmates as a group but are not the property of individual inmates, consequently, the same individual fiduciary responsibility does not attach to them.

The commingling of funds has led to questions of accountability and the likelihood that the very fiduciary safeguard the legislature intended to provide, has been ineffective and possibly even violated.

A legal basis should be established for the "Inmate Welfare Funds". These funds, which have no apparent base of authority in the Oregon Revised

Evidence suggests that the hearings are too often little more than rubber stamps of corrections officer's allegations and may be used to legitimize charges concocted to achieve harsh punishment of inmates who "need to be taught a lesson".

More corrections training should be required and provided for staff. Although training requirements are established at the department level, participation rests solely with the superintendent of each institution. He makes employes available for the training as he sees fit. Aside from basic employe training, firearms qualification, and Tactical Emergency Response Team (TERT) training, there has been no specialized training required, given, or encouraged. Superintendents have relied on "on the job" training. Professionalism can only be achieved by accredited basic, intermediate and advanced training and an on-going in-service training program, mandated by central authority. Standardized levels of training should be a prerequisite for promotional opportunity.

A mandatory random urinalysis of inmates and DOC employes should be adopted when feasible as a positive effort to achieve zero tolerance of drugs in Oregon's prison system. Because not all drug use is detected by testing, training of personnel to recognize drug use and alcohol

perfunctory and do not achieve a high degree of assurance that a candidate is free of alcohol dependency, drug use, dependency, or trafficking, much less that the candidate possesses the desired character traits mandated to insure a safe and humanitarian corrections environment. Failure to have these assurances increases the likelihood of successful claims of negligent hiring for acts committed by an employe against another employe and an employe against an inmate.

Centralize employe disciplinary procedures in the Department. Current procedure provides for disciplinary action administered by the institution or division level authority. Actual practice involves the department personnel office only as a resource for uniformity of sanctions. Centralization of employe discipline would allow review and analysis of detailed charges and the employe's evidence in defense of them by the personnel office for action in the name of the Director.

Establish a hearings officers corps at the Department level. Inmate discipline is also meted out on an institution level. Hearing officers are subordinate to the superintendents and their recommendations are subject only to the superintendents' reviews.

Statutes or Oregon Administrative Rules, and are not covered by Department Rules or Procedure, are administered by the superintendents without established standards. Only the accounting is handled at a central location, and that with no oversight supervision. A thorough audit may corroborate complaints that they have been misused. They are funded, in part, from Canteen operations.

Procedures for operation of the Canteen in DOC facilities are covered by Procedure number 26, but there appears to be no statute or administrative rule on the subject. The integrity of Canteen management, employes and inventory have been brought into serious question. Security is inadequate to control either theft or embezzlement. The pending audit by the Secretary of State and ancillary investigation may well develop suggestions for corrective action. DOC should be ready to promptly evaluate and institute corrective measures.

In restructuring the inmate trust accounts, a legal basis for all other accounts or funds that are deposited with them should be established and the operation, maintenance and fiscal standards of those funds should be clearly defined.

Prison Industries should be required to centralize all its accounting activity, and to have it performed by professional staff employes under supervision of non-

Industries staff.

Prison industries has recently acquired office space outside Oregon State Prison, but it continues to have its purchasing activities and recording performed by inmate personnel inside OSP. Centralized accounting should provide an added degree of accountability, because the purchasing documentation would be submitted for accounting by persons having nothing to do with the purchasers or with one another. At present, the purchasing agent initiates orders, receives the documents and supervises the accounting. The same holds true, to a lesser degree, for sales.

That at least two experienced investigators be added to the staff of the auditor of the Secretary of State conducting the audit of the Inmate Trust Account, the Inmate Welfare Fund, Canteen, and Prison Industries. The combination of auditors and investigators should achieve results which neither could accomplish acting independently.

Require the Department of Corrections to seek the assistance available to it through ORS 293.590 and ORS 184.345 in establishing accounting procedures in all aspects of its operations.

ORS 293.590 provides that the Executive Department shall direct and control the accounting for all fiscal affairs of agencies or state government. ORS 184.346 requires the Executive Department to provide "such administration and other services to the Department of Corrections ... as ... Department of Corrections and the Executive Department may agree ...".

The expertise of the Executive Department should be of significant assistance in restructuring the Inmate Trust Account and the accounting required of the Prison Industries in its production operations as well as its inventories of raw materials, goods produced, and equipment. The procedures that the Executive Department would establish should provide increased accountability and enable the Department of Corrections to evaluate these operations.

Require the Department of Corrections to seek supervision of data processing equipment for all its accounting systems, as provided in ORS 293.595.

The statute provides that "the Executive Department shall control and supervise the acquisition, installation and use of all

electronic and automatic data processing equipment" used in accounting records.

Personal computers (PCs) are used throughout the Department of Corrections in accounting records and systems covered by this statute. The acquisition, installation and use of a many of the PCs were generated outside the statute's requirement, thereby depriving the Executive Department of its supervisory role and the Department of Corrections of effective computer assistance.

Initiate review of position descriptions of all exempt service positions in the Department of Correction, and include education requirements in penology and personnel management, as necessary, to assure, insofar as this procedure can achieve, a higher degree of professionalism at the management level.

At present, none of the exempt positions that directly supervise personnel who deal directly with the inmate population require training in penology or personnel management. Further, few of the current exempt staff hold degrees in those fields, although most of them hold bachelor's degrees and some have master's degrees in other areas of study. Prevent individual inmates from securing positions

of power over other inmates and staff. There is evidence that one inmate has a position of "boss" in Group Living at OSP, that he keeps his own computer system in an area where he is permitted to deny access to anyone else including staff, and that he controls assignments of inmate jobs and cells. He is thereby placed in a position from which he can exact favors, money or property from other inmates. He is reported to be able to defy orders of corrections officers with impunity. No inmate should be allowed to usurp functions and responsibilities of staff that can be used to control other inmates.