

OFFICE OF THE INSPECTOR GENERAL

STEVE WHITE, INSPECTOR GENERAL

REVIEW OF THE INMATE APPEALS BRANCH

CALIFORNIA DEPARTMENT OF CORRECTIONS

OFFICE OF COMPLIANCE



FEBRUARY 2001

Memorandum

Date: February 21, 2001

To: STEVEN CAMBRA, JR., Acting Director
California Department of Corrections

From: STEVE WHITE
Inspector General



Subject: REVIEW OF THE INMATE APPEALS BRANCH AT THE CALIFORNIA DEPARTMENT OF CORRECTIONS OFFICE OF COMPLIANCE

Enclosed is a report of the Office of the Inspector General's review of the California Department of Corrections Inmate Appeals Branch. The review disclosed serious deficiencies in the director's level inmate appeals process, which have resulted in unacceptable delays in the processing of inmate appeals. The magnitude and severity of the problems are beyond the ability of the Inmate Appeals Branch to effectively address. The Office of the Inspector General recommends that the California Department of Corrections management intervene in the process and convene a task force to identify specific means to improve the efficiency and effectiveness of the entire inmate appeals process.

On January 10, 2001, the Office of the Inspector General furnished a draft version of this report to the chief of the Inmate Appeals Branch and held an exit conference to fully explain the draft report findings. You provided a response to the draft report, which is included here as Attachment A. The Office of the Inspector General's comments in reply to some of your responses, are included as Attachment B to the report.

Throughout the course of the review, the Office of the Inspector General staff received excellent cooperation from the chief of the Inmate Appeals Branch and her staff. I wish to acknowledge and express my appreciation for the courtesy extended to my staff.

Please contact my Chief Deputy, John Chen, at (916) 928-5990 if you have any questions concerning this report.

Cc: Robert Presley, Secretary, Youth and Adult Correctional Agency
Linda Melching, Chief, Inmate Appeals Branch
John Chen, Chief Deputy Inspector General

OFFICE OF THE INSPECTOR GENERAL



REVIEW OF THE INMATE APPEALS BRANCH CALIFORNIA DEPARTMENT OF CORRECTIONS OFFICE OF COMPLIANCE

REPORT

FEBRUARY 2001

This report presents the results of a review conducted by the Office of the Inspector General of the California Department of Corrections Inmate Appeals Branch. The review was performed to determine whether inmate complaints, submitted through CDC Form-602 forms, are processed in a timely and appropriate manner at the third level of appeal, which is administered by the Inmate Appeals Branch.

On March 17, 2000, Inspector General Steve White advised former California Department of Corrections Director Cal Terhune by memorandum that the Office of the Inspector General would review the inmate appeals process at various institutions. The third-level review, which constitutes the Department of Corrections director's review, is an essential component of the appeals process. The Office of the Inspector General conducted the present review to assess the overall efficiency and effectiveness of the inmate appeals process. The review was further prompted by the receipt by the Office of the Inspector General in recent months of a large number of letters from inmates alleging that they have experienced significant delays in receiving responses to appeals filed with the department Inmate Appeals Branch.

The Office of the Inspector General found serious deficiencies in the director's level inmate appeals process, which have resulted in unacceptable delays in the processing of inmate appeals. The magnitude and severity of the problems are beyond the ability of the Inmate Appeals Branch to effectively address. The management of the California Department of Corrections is urged to intervene by devoting additional staff resources to processing inmate appeals and by providing guidance in revamping the process.

BACKGROUND

The California Department of Corrections inmate appeal process affords inmates and parolees their due process rights and the opportunity to obtain a meaningful remedy to a problem by allowing them to address their grievances in accordance with the provisions of *California Code of Regulations Title 15*, Sections 3084 and 3085. The process directs inmate complaints through one informal and two formal levels of appeal at the institution

level and a final review at the director's level. The director's level decisions are delegated to the chief of the Inmate Appeals Branch.

According to the *California Department of Corrections Operations Manual*, Section 54100.2, the inmate appeal process is to provide for the resolution of grievances in a timely manner and at the lowest possible level. The process also serves as a resolution method for inmates who file reasonable modification or accommodation requests under the Americans with Disabilities Act (CDC Form 1824).

The inmate appeals process is also intended to serve as a vehicle for improving department policies and procedures. The *California Department of Corrections Operations Manual* specifies that the appeals process is designed to audit the internal practices and operation of the Department of Corrections to "identify, modify, or eliminate practices which may not be necessary or may impede the accomplishment of correctional goals."

The process is documented by the inmate's submission of an inmate/parolee appeal form, CDC Form 602. The director's level review of the appeal is conducted by a designated representative of the director under the supervision of the chief of the Inmate Appeals Branch. Upon completion of the director's level decision, the administrative appeal process is exhausted and the inmates may seek remedies through the courts if they wish to further pursue their grievances.

OBJECTIVES, SCOPE AND METHODOLOGY

The review by the Office of the Inspector General was conducted to determine whether the Inmate Appeals Branch is addressing inmate appeals in a proper and timely manner. To accomplish this objective, the Office of the Inspector General:

- Reviewed and evaluated the policies and procedures used by the Inmate Appeals Branch to process and complete inmate appeals;
- Performed an analytical review of the trends and fluctuations in the number of inmate appeals;
- Reviewed the timeliness of the appeal responses;
- Reviewed the director's level appeal decisions to determine whether the decisions fully addressed the concerns of the inmate;
- Interviewed three appeal examiners and the chief of the Inmate Appeals Branch to discuss the cause and extent of the problems noted and to explore means to improve the process.

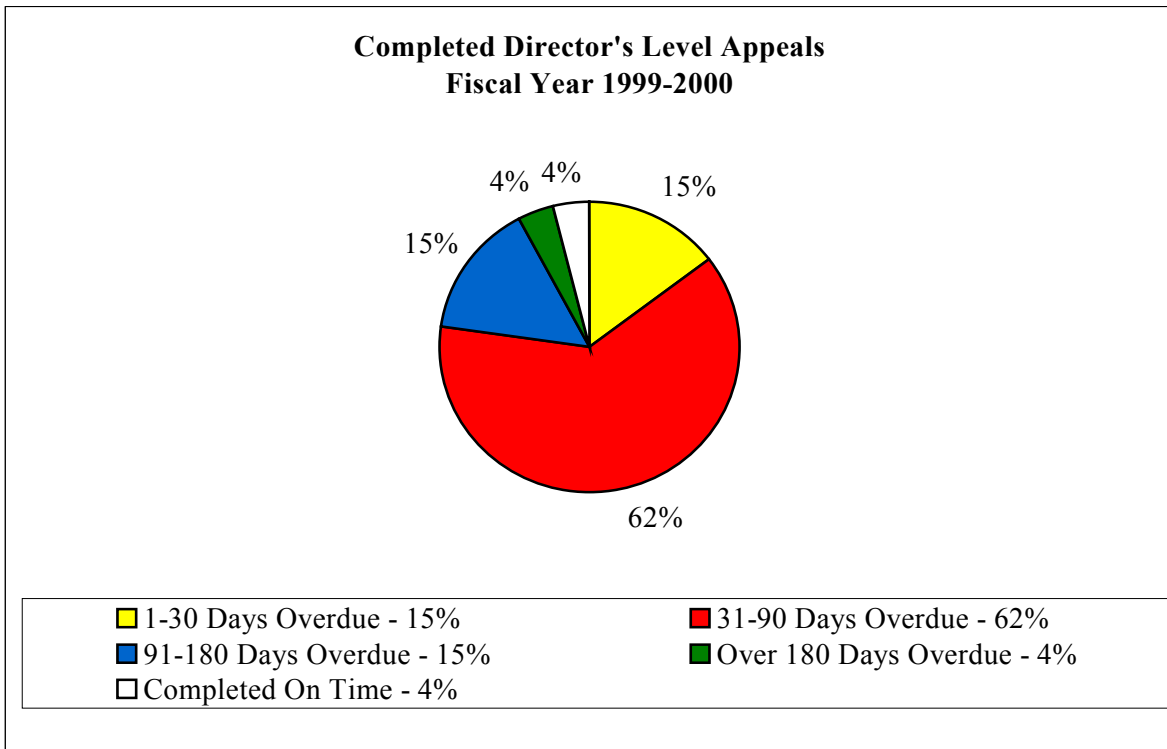
The Office of the Inspector General non-statistically selected a sample of 250 of the 7,109 inmate appeals completed in fiscal year 1999-2000 and reviewed the appeals to determine whether the decision, action, or resolution completely addressed the appellant's concerns and whether or not the appeal was completed in a timely manner.

The review did not include an audit of the tracking system software used by the Inmate Appeals Branch to monitor and track inmate appeal activity and did not verify the accuracy of data entered into the inmate appeals tracking system.

FINDING 1

The Office of the Inspector General found that 96 percent of third-level appeals completed in fiscal year 1999-2000 failed to meet prescribed time limits.

California Code of Regulations, Title 15, Section 3084.6 (b) (4) specifically requires that third-level appeals be completed within 60 working days (approximately three months) of receipt. The Office of the Inspector General found that 96 percent of all third-level inmate appeals completed in fiscal year 1999-2000 were not processed within the prescribed timeframe. Of the overdue appeals completed during the fiscal year, 62 percent were between 31 to 90 days late; 15 percent were 91 to 180 days late; and 4 percent were more than 180 days late. The following chart illustrates the lack of timeliness of third-level appeals completed during fiscal year 1999-2000.



The inability of the Inmate Appeals Branch to address inmate complaints in a timely manner adversely affected inmates who had immediate needs. Although the Inmate Appeals Branch has procedures in place to provide for more timely response to emergency appeals, the Office of the Inspector General found that some appeals that did not meet the strict criteria for emergency appeals were not processed even within the prescribed timeframe for non-emergency appeals. Examples include the following:

- **An inmate with a breathing obstruction waited more than two years for surgery.**

An inmate incarcerated at Centinela State Prison has been diagnosed with an 80 percent obstruction of his right nasal airway. He also has a partial obstruction of his throat due to large tonsils. The nasal mass was first noticed during an x-ray taken in November 1998. Surgery was approved in September 1999 to correct these conditions, but was never scheduled.

The inmate filed an appeal in December 1999 requesting surgery. The appeal was partially granted at the first level when the request for surgery was presented to a review committee. The appeal was denied at the second level when a CAT scan revealed no abnormalities. The appeal reached the director's level in April 2000. In the third-level appeal, the inmate stated, "Meanwhile I can't breathe. I have one bad morning cough and I have daily major headaches. I also do not sleep well and have awoke choking several times once biting my tongue and bleeding all over the place."

In August 2000, the inmate signed a notice provided by an appeals examiner for withdrawal of the appeal because the surgery had been approved. At this point the Inmate Appeals Branch closed the case.

The Office of the Inspector General found in November 2000 that the surgery had been scheduled for September 2000, but that the inmate had overdosed and that resulting complications had caused the surgery to be cancelled. It has not been rescheduled.

- **An inmate who has difficulty walking waited for more than a year and a half for a knee brace.** An inmate incarcerated at California State Prison, Solano claimed that his knee buckles and gives out, making it difficult for him to walk. In January 1999, an institution doctor ordered a hinged knee brace, but because the knee brace contains metal inserts, which raised security concerns, it was not issued. In June 1999, a doctor ordered a "knee sleeve" for the inmate as an alternative. The inmate filed a director's level appeal in January 2000. The director's level decision, which was not issued until July 2000, granted the inmate's request for the hinged knee brace. The inmate received the rigid hinged knee brace on September 25, 2000, approximately 20 months after the original doctor's order.
- **An inmate with a "severe foot and ankle problem" waited almost two years for special shoes.** An inmate incarcerated at the Substance Abuse Treatment Facility and State Prison at Corcoran was diagnosed in October 1998 with a "severe foot and

ankle problem” and received medical authorization for special shoes. In November 1998, the inmate filed an appeal requesting the special shoes.

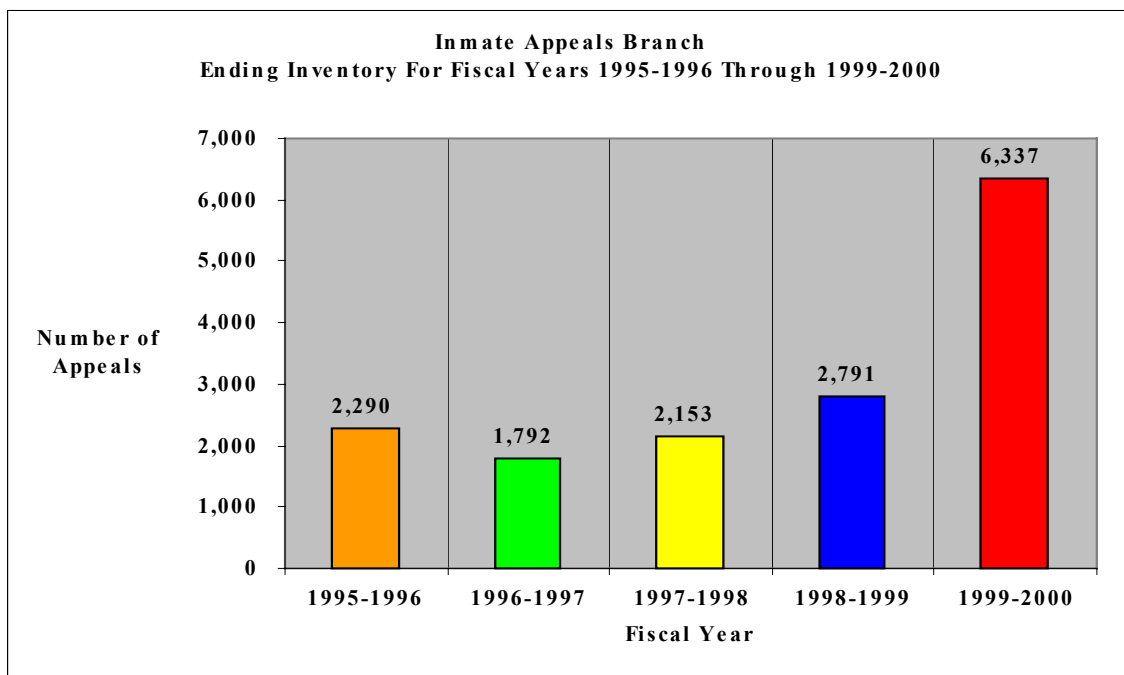
The informal appeal was denied, incorrectly claiming that the inmate had not seen a doctor. The first formal level appeal was granted and the doctor again authorized the special shoes. In June 1999, the inmate filed a second-level appeal requesting the shoes, which was partially granted in that the inmate was referred to a podiatrist to determine what type of shoe was needed.

The inmate filed a director’s level appeal in September 1999 again requesting the shoes. The inmate alleged in his appeal that the podiatrist “x-rayed the wrong ankle.” The director’s level decision granting the inmate’s appeal was issued in January 2000, but, according to institution staff, the inmate was not scheduled for a shoe fitting until August 17, 2000 — eight months after the date of the director’s level decision. The inmate refused the appointment because it had taken two years for his request to be processed. The inmate has now filed a medical request form asking that his appointment be rescheduled.

FINDING 2

The Office of the Inspector General found that without significant intervention by management, the appeals backlog could get much worse.

The Office of the Inspector General found that the inventory of outstanding appeals at the Inmate Appeals Branch increased by 354 percent between fiscal year 1996-1997 and fiscal year 1999-2000. The following chart shows the pattern of outstanding appeals for the last five fiscal years:



Further review shows that the appeals backlog increased from 6,337 on June 30, 2000 to 7,099 on November 13, 2000. Some 4,015 (57 percent) of those appeals have already exceeded the 60 working day time limit. Of the 4,015 appeals overdue, 2,149 (54 percent) have not yet been assigned to an examiner.

To place the above matter in perspective: the Inmate Appeals Branch completed a total of 7,109 appeals during fiscal year 1999-2000. Assuming productivity remains constant, the Inmate Appeals Branch estimates it would take between ten months and a year to complete the 7,099 cases in its current in-house inventory.

The Inmate Appeals Branch projected that it will accept 11,990 appeals for review during fiscal year 2000-2001. If this workload projection is realized and productivity remains constant, the appeal backlog will grow from 6,337 cases at the end of fiscal year 1999-2000 to 11,218 cases by the end of fiscal year 2000-2001. This increase will add approximately another seven months to an already lengthy process, causing further friction with inmates.

At least in the short term, the Inmate Appeals Branch's productivity could be adversely affected by a decision to replace half of the examiners through attrition with staff without custody background and experience. Presently, most examiners are facility captains. The California Department of Corrections plans to convert half the examiner positions to staff services manager I. While the department may realize savings from that action because the salary and fringe benefits of a staff services manager I are considerably lower than those of a facility captain, the branch will lose staff with custody experience. As the new staff services manager I may not be as familiar with institution processes and inmate issues, the time required to complete an appeal may further lengthen.

FINDING 3

The Office of the Inspector General found that the Inmate Appeals Branch does not have formal guidelines or training programs to ensure consistency and completeness in the decisions rendered by the examiners. Some examiners believe they are not fully qualified to render decisions on certain appeals.

The Office of the Inspector General interviewed a number of Inmate Appeals Branch examiners who disclosed that the Inmate Appeals Branch has no written guidelines or procedures on how to process an inmate appeal. In addition, there is no formalized training other than what is obtained "on the job." The on-the-job training consists of a mentoring program, biweekly staff meetings, and a monthly bulletin.

Without guidelines or formalized training the Inmate Appeals Branch cannot ensure that the director's level decisions are consistent, proper, or complete. For example, the Inmate Appeals Branch estimated that approximately two percent of all appeals accepted for review were granted during fiscal year 1999-2000. One examiner, however, told the Office of the Inspector General that he granted approximately 25 percent of the appeal cases assigned to him. Although this examiner may have spent more time reviewing the

cases than other examiners, that factor alone is insufficient to account for the significant variance in the rate of granted appeals among the examiners.

Some of the Inmate Appeals Branch examiners also told the Office of the Inspector General they believe they do not possess the qualifications necessary to adjudicate some of the assigned appeals. Questions about the quality and adequacy of medical care, in particular, appear to be outside the expertise of the examiners. The ability of examiners to effectively assess the results of investigations conducted by investigative services units at the institution level or by the Department of Corrections Office of Investigative Services also raises questions. Examiners cannot render appropriate decisions when they have not been fully and accurately informed about the facts of a case.

In addition, the Office of the Inspector General found that director's level decisions do not always adequately respond to the inmates' complaints. Examples include the following:

- **A director's level appeal was denied on the basis that the inmate refused to be interviewed.** An inmate incarcerated at the California Correctional Institution is a Hodgkin's lymphoma cancer patient in remission who has filed a number of appeals regarding his medical condition. In an appeal filed in August 1999, he requested medical treatment, alleging that he had been vomiting and that the lymph nodes in his neck were swollen to the size of golf balls. He also stated that he has five metal plates in his head from a head injury that were getting infected and were very painful. The inmate inexplicably received three-different second-level responses on March 17, 2000. One response denied the appeal, stating that the inmate's self-diagnosis was not valid. The second and third responses partially granted the appeal, with one stating that a consultation with an ear, nose, and throat specialist had been requested, and the other stating that an appointment with an ear, nose, and throat specialist had been granted.

In March 2000, the inmate filed a director's level appeal, claiming that he had been writing appeals alleging that he had been on antibiotics for six months and that the metal in his face hurt so much that he could not eat solid food. He also said he had a cyst on his kidney and that his urine was brown.

In October 2000, when the inmate refused to appear for this third-level appeal interview, the appeal was denied on the basis that he had failed to support the appeal. The appeal decision included no evidence to suggest that the examiner had considered the legitimacy of the inmate's medical concerns or what medical treatment, if any, the inmate had received.

The Office of the Inspector General found that the inmate saw an ear, nose, and throat specialist in April 2000, but as of December 2000, it was unclear whether the inmate's medical concerns had been fully addressed.

- **A director's level appeal decision failed to address allegations of improper medical treatment.** An inmate incarcerated at the California Correctional Institution filed an appeal in August 1999, complaining of pain in two teeth. According to the inmate's dental records, one tooth had been extracted in June 1999, while the other had not been removed in the hope that it would "respond to treatment." The appeal file did not document what, if any, treatment had been provided for the tooth. In his appeal, the inmate requested \$8,000 for punitive damages or to be transferred to an institution offering a joint venture program.

In a second-level appeal dated August 1999, the inmate questioned why one tooth had not been filled and complained that his gums had not healed properly from the extraction of the other tooth. The second-level appeal was denied, with the ruling that the treatment provided was within the California Department of Corrections guidelines and that the inmate's request for \$8,000 in punitive damages was beyond the scope of the appeal process. The second-level response did not specifically address the inmate's complaint about why his tooth had not been filled and did not grant treatment of the wound left by the extracted tooth.

In a director's level appeal dated October 1999, the inmate again questioned why his tooth had not been filled and continued to complain that his gum was not healing properly, saying that the dentist had failed to stitch the gum after the tooth extraction. The Inmate Appeals Branch denied the inmate's director's level appeal, ruling that the inmate had failed to provide sufficient evidence that the dental staff had been negligent in providing treatment. The decision did not address the fact that the inmate had not received treatment for the tooth that was not removed in the hope that it might "respond to treatment." Also, apart from whether the inmate provided sufficient evidence to demonstrate negligence by the dentist in not stitching the gum, the examiner failed to review the validity of the inmate's assertion that the gum was not healing properly after the surgery and to order additional medical treatment if necessary.

FINDING 4

The Office of the Inspector General found that the Inmate Appeals Branch does not use modern technology to manage and monitor its operations and activities.

Given the high volume of appeal activity, it is imperative that the Inmate Appeals Branch use modern technology for efficient and effective management of its operations. Instead, the branch uses a disk operating system-based tracking system created by an inmate in the late 1980s to manage the inmate appeals process. The Office of the Inspector General found that the following deficiencies in the inmate appeals tracking system inhibit management in identifying and addressing problems:

- **The current appeals tracking system cannot readily produce management reports.** For example, without using ancillary software, management cannot compile data to produce a report showing the delinquency of overdue inmate appeals.

Without such information, management cannot monitor the workflow of the examiners to ensure that the cases are evenly assigned and that the appeals are completed within prescribed time limits.

At the request of the Office of the Inspector General, the Inmate Appeals Branch, for the first time, produced a report listing 202 appeals that were overdue by more than 180 days as of November 22, 2000. The oldest case had been due on February 12, 1999 and another 54 cases had been due in 1999. The report also disclosed that 174 of the 202 appeals that were overdue by more than 180 days were assigned to three examiners.

- **The current system does not have a mechanism for tracking the status of an assigned appeal as it progresses through the review process.** As the examiners turn in their completed appeals, a reviewing officer reviews the draft director's level decision. The appeal may then be processed for signature, edited, or sent back to the examiner for additional work. Throughout this process, the tracking system will continue to indicate that the appeal is with the examiner. Only after the appeal is signed and closed is the system updated. This inability to track appeals during the review process creates difficulties and unnecessary workload when management is attempting to locate specific appeals.
- **The Inmate Appeals Branch tracking system is not integrated with those of the individual institutions because each institution uses its own stand-alone database.** The inmate appeals for the Department of Corrections are tracked on at least 38 separate systems — one at each of the 33 institutions, one at each of the four parole regions, and one at the Inmate Appeals Branch. The isolated systems prevent management from accumulating and monitoring data on a statewide basis. For example, each institution and parole region prepares and submits a quarterly inmate appeals activity report. The data contained in these reports are manually summarized to generate the Inmate Appeal Activity Annual Report, which is submitted to the Governor and to the Youth and Adult Correctional Agency. The Inmate Appeals Branch has no means of determining whether the data provided by the institutions and the parole regions are accurate and reliable.

POTENTIAL CONSEQUENCES

The backlog of inmate complaints can contribute to increased tension between staff and inmates, thus compromising the safety and security of the institution. The backlog also can lead to inmates filing repeated appeals over the same unresolved issue, thereby generating unnecessary workload. The failure to adhere to regulatory appeal timeframes also increases the risk of litigation because of overdue appeals. A number of inmates complained to the Office of the Inspector General about the lack of consequences when the California Department of Corrections and the institutions failed to meet the prescribed time limit. When an inmate fails to meet the prescribed time limit, the appeal is often "screened out." During fiscal year 1999-2000, the Inmate Appeals Branch screened out 13,365 appeals. From an analysis of screened out data, the Office of the Inspector

General estimates that approximately 900 appeals (7 percent) were screened out because the inmates did not file the third-level appeal within 15 days. Meanwhile, in fiscal year 1999-2000, 96 percent of the appeals completed by the Inmate Appeals Branch failed to meet the prescribed 60 work day time limit, with some of the decisions overdue by as much as a year and a half.

PROBABLE CAUSES

The Office of the Inspector General's analyses indicated that the following factors have contributed to the current weaknesses in the inmate appeals process:

- **The department is not correcting system and procedural deficiencies noted during the director's third-level review.** The *California Department of Corrections Operations Manual*, Section 54100.2 provides that in addition to addressing inmate complaints, the purpose of the inmate appeals process is to serve as a vehicle for improving department and institution policies and procedures. Each appeal granted and partially granted at the director's level potentially identifies a problem or deficiency in policy, procedure, or practice that may require corrective action. Yet, the Inmate Appeals Branch currently does not perform management analyses of these decisions to identify and correct any procedural weaknesses.

Some of the Inmate Appeals Branch examiners told the Office of the Inspector General staff that the poor quality of second-level responses significantly contributes to the Inmate Appeals Branch workload. In one of the previously noted examples, in which an inmate waited almost two years to receive special shoes to remedy a severe foot and ankle problem, the examiner noted in the findings that:

A review of the appeal documentation and appellant's medical records indicate that administrative procedures have not been followed in completing the CDC 128-C chronos ordered by treating physicians. There appears to have been delays and altogether failures to complete the chronos and ensuring that the appellant received them.

In another appeal granted at the director's level, in which an inmate had waited more than eight months for an appointment with an eye specialist, the examiner noted: "Multiple physician orders for ophthalmologist consultation have not resulted in examination."

Although these granted appeals reveal procedural breakdowns at the institution, the branch currently does not have adequate resources to improve response quality by contacting institution management or by providing additional training to institution appeal coordinators who repeatedly prepare inadequate responses. As a result, the workload of the Inmate Appeals Branch continues to be affected by improper decisions at the second appeal level.

In addition, the Inmate Appeals Branch conducts only a limited number of field reviews of the appeals process at the institution level. Such reviews are useful for assessing training needs and identifying other operational issues. According to the chief of the

Inmate Appeals Branch, the administrative officer of the day spends almost 100 percent of his or her time responding to questions from appeal staff at the institutions, signifying a considerable need for guidance and training of the staff in the institution appeals offices.

- **The Inmate Appeals Branch does not have sufficient resources to carry out its mission and responsibilities.**

As noted earlier, the Inmate Appeals Branch estimates it will accept approximately 11,990 appeals for review during fiscal year 2000-2001. A workload analysis conducted by the California Department of Corrections Management Analysis and Evaluation Branch found that each third-level appeal requires approximately 170 minutes to complete, meaning that to process the 11,990 appeals for fiscal year 2000-2001, the Inmate Appeals Branch needs 20 to 21 examiners.

In addition, the branch has an apparent need for additional resources to perform the following activities:

1. Performing quality control reviews of appeal responses to ensure accuracy and completeness (one examiner position).
2. Responding to queries from institution staff, conducting field reviews of institution systems and procedures, and performing management review and analysis functions (four to eight examiner positions).
3. Processing the backlog of 6,337 appeals carried over from fiscal year 1999-2000 (between five and ten temporary examiner positions).

In summary, under the current system and procedures, the Inmate Appeals Branch needs a total of between 25 and 30 permanent examiner positions and another five to ten temporary positions to fulfill its mission and responsibilities. At present, the Inmate Appeals Branch only has only 17 authorized examiner positions. With vacancies caused by staff attrition and other factors beyond the control of the Inmate Appeals Branch, it is not possible for all authorized positions to be filled for the entire year. Under this scenario, unless significant changes are made in staffing levels or in the way appeals are processed, the backlog of inmate appeals will continue to grow until it eventually reaches unmanageable proportions.

In addition, the Office of the Inspector General noted that responsibilities of the chief of the Inmate Appeals Branch appear to exceed those of the civil service classification designated for that position. The chief of the Inmate Appeals Branch is presently placed in the civil service classification of a correctional administrator, which is equivalent to an associate warden. As the designee of the director of the California Department of Corrections, the chief of the Inmate Appeals Branch routinely interacts with wardens and chief deputy wardens to review and determine the appropriateness of the decisions made by those individuals. The branch is also

confronted with many highly complex issues having significant legal or policy ramifications. The correctional administrator classification does not appear to be commensurate with these responsibilities.

- **The California Department of Corrections system for processing inmate appeals is antiquated.**

The department's system and processes for addressing inmate appeals was established in 1973 and remains virtually unchanged, while the magnitude of the department's programs and the complexity of the requirements have expanded drastically over the past 27 years. It is unrealistic for the California Department of Corrections to continue using the existing process.

For example, under the current system, inmates can file an appeal on virtually any issue of concern to them. As long as inmates follow the prescribed procedures, they can pursue the appeal through the director's third level review. The Office of the Inspector General noted instances in which inmates filed third-level appeals over relatively minor issues. For example, an inmate filed a third-level appeal over a dispute about the disposition of 64 cents in postage stamps, and another inmate filed an appeal over missing soy source. While these issues may be of critical importance to the inmates who filed the appeals, there undoubtedly are other avenues that could address these matters more efficiently and expeditiously.

The Inmate Appeals Branch does not prioritize and categorize all inmate appeals to allow them be addressed in the most expeditious matter. Examiners are simultaneously assigned appeals involving serious allegations such as those alleging staff misconduct and medical neglect and those involving much less critical issues, such as the loss of personal property of insignificant value.

The Office of the Inspector General also found that the Inmate Appeals Branch could handle some appeals more expeditiously by responding directly instead of assigning them to an examiner to conduct costly and time-consuming field reviews. One example is an appeal filed by an inmate in October 1999, which claimed that inmates housed in an administrative segregation unit were receiving clothing that was stained and not appropriately sized. The case was assigned to an examiner who did not render a decision until November 2000 — more than a year later. In another case, an inmate filed an appeal in June 1999, claiming that staff had confiscated a cigarette lighter and other property items without a receipt. The director's level decision was not issued until November 2000, almost a year and a half after the complaint was initially filed.

RECOMMENDATION

Given the magnitude and severity of the problems identified in this review, the Office of the Inspector General recommends that the California Department of

Corrections convene a task force to identify means for improving the efficiency and effectiveness of the entire inmate appeal process.

Some of the possible measures to be taken include:

- Dedicating the temporary resources necessary to eliminate the significant backlog of inmate appeals;
- Augmenting the existing staffing levels as needed to process and maintain current workload (including clerical functions);
- Addressing the intended purpose of the inmate appeals process as described in the *California Department of Corrections Operations Manual* by providing for a review of institution appeals processes and evaluating granted and partially granted appeals as a vehicle for reviewing department policies and procedures that require revision;
- Conducting a needs assessment for a new statewide inmate appeals tracking system. The new system should be designed to provide management reporting capabilities, to compile data for all institutions and parole regions, and to track appeals through the review process;
- Developing written guidelines and formalized training for all examiners and institution appeals coordinators; and
- Recruiting and retaining staff with a medical background or knowledge to resolve medical appeals.

Memorandum

Date : February 1, 2001

To : John Chen
Chief Deputy Inspector General
Office of the Inspector General

Subject: **RESPONSE TO DRAFT REPORT – REVIEW OF THE INMATE APPEALS BRANCH,
CALIFORNIA DEPARTMENT OF CORRECTIONS, OFFICE OF COMPLIANCE**

This memorandum serves as the California Department of Corrections' (CDC) response to the issues identified in the recent Office of the Inspector General (OIG) audit report concerning the Inmate Appeals Branch (IAB) and the overall efficiency and effectiveness of the inmate appeals process. The following provides our response and action plans to the cited areas of concern.

- **THE OIG FOUND THAT 96 PERCENT OF THIRD LEVEL APPEALS COMPLETED IN FISCAL YEAR 1999-2000 FAILED TO MEET PRESCRIBED TIME LIMITS.**

(1) The CDC agrees as this is recognized as a major problem organizationally. We do not consider this an acceptable situation. There has been a continuous effort to reduce the extent of the backlog. To ameliorate the situation, we are currently using retired annuitants, temporarily assigned staff from an institution, as well as modifying the Second and Third Level appeals responses by using an automated decision format thereby producing more efficiency and reducing editing time. The IAB is developing a "backlog report" to be submitted monthly to the Director with recommendations for reducing this backlog. The Department will do everything possible within existing resources to accomplish this reduction pending submission of the next Budget Change Proposal (BCP).

- **THE INABILITY OF THE IAB TO ADDRESS INMATE COMPLAINTS IN A TIMELY MANNER ADVERSELY AFFECTED INMATES WHO HAD IMMEDIATE NEEDS.**

The CDC agrees that the Third Level appeals responses were overdue and the following health care appeals cited by the OIG were lacking sufficient follow-up at both the First and Second Levels of Review.

The OIG report cited three examples of cases wherein inmates with immediate needs were adversely affected by late appeals. The first inmate requested scheduling for surgery due to a

J. Chen
Page 2

partial obstruction of his right nasal airway and partial obstruction of his throat due to large tonsils. The surgery had been scheduled for September 2000, but the inmate overdosed and the resulting complications caused the surgery to be canceled. It was not rescheduled.

(2) At the interview for Third Level Review, the appellant withdrew his appeal as the surgery was subsequently scheduled. A review of this case by Health Care Services Division (HCSD) staff reveals that the right nasal airway obstruction requires a non-emergent surgical procedure. This inmate has been seen by medical staff regarding his breathing/sinus problems five times from November 9, 2000 through January 9, 2001. He was seen and evaluated by the Health Care Manager (HCM) on January 24, 2001. He has been scheduled for septoplasty surgery on February 9, 2000. As he is pending transfer, a medical hold has been placed enabling him to remain at his current facility to ensure he receives the surgery and continuity of care prior to surgery and during his recovery.

The inmate was examined in May, 2000 by an Ear, Nōse and Throat (ENT) specialist who identified the large tonsils. On July 12, 2000, this inmate was evaluated by the HCM who determined the inmate's tonsils are not markedly enlarged. A tonsillectomy is not considered a medical necessity and is not within the CDC guidelines.

(3) The second appeal had been submitted by an inmate claiming he was not permitted a knee brace which had been ordered by medical staff due to "safety concerns." The inmate filed a Director's Level Appeal in January 2000. The Director's Level Decision, which was not issued until July 2000, granted the inmate's request for the hinged knee brace. The HCSD reviewed this case and has determined that the inmate did not receive the rigid hinged knee brace on September 25, 2000 as stated in the draft report. A knee brace with metal parts was originally ordered on July 31, 1999. On August 26, 2000, a subsequent order was placed but this time for a brace with no metal parts due to custody issues. The Department has recognized this as a cultural issue within the CDC and continues to make significant inroads regarding changing this culture. Due to the potential of some devices providing good weapon material for inmates, custody staff have been reluctant to permit some devices into the institution. However, the Director's office has made it abundantly clear to wardens and administrators at many forums that if a device is recommended by medical staff, custody must find a way to accommodate this while not jeopardizing the security of the institution.

The inmate refused the knee brace with no metal support on December 8, 2000, stating that the specialist ordered a brace with metal parts for support. Dr. Greenough researched the file and ordered a hinged knee brace on December 8, 2000. The knee brace arrived at the institution warehouse on January 3, 2001. X-rays were taken on January 12, 2001. The inmate was seen and fitted for the brace on January 18, 2001. However, the inmate and the CDC physician on-site (non orthopedic specialist) felt that the brace did not fit tight enough and the inmate signed a statement that he was declining the brace for that reason. On Saturday, January 27, 2001, this inmate was seen and his brace and the fit were evaluated by the orthopedic specialist. The specialist determined the fit was appropriate and chronos were issued allowing the inmate to keep the brace and the knee sleeve.

(4) The third appeal was submitted by an inmate who claimed that he had a "severe foot and ankle problem" and allegedly waited almost two years for special shoes. The HCSD staff reviewed this case and determined that this inmate was never considered to have severe foot and ankle problems by medical staff. This inmate has bunions and it is considered a non-emergent medical issue. The Orthopedic specialist comes to the institution once a month and therefore the number of patients seen monthly is limited. The inmate was fitted for special shoes during his orthopedic appointment on December 21, 2000. A follow-up appointment is scheduled for January 29, 2001 and it is anticipated he will be provided his new shoes at that time.

The HCSD was aware of a weakness in the handling of appeals. This is one area for which the CDC successfully received resources. The recent acquisition of the medical appeals analysts (July 2000) should provide for more immediate follow-up on cases such as these. The CDC is also aggressively conducting recruitment for medical staff, particularly in the geographical areas most difficult to recruit. A mechanism to ensure each institution provides the necessary follow-through on their responses regarding treatment has been incorporated into the Inmate Medical Appeals Tracking Program (IMATP). All analysts were trained on this tool at the November 28, 2000 training session and will be again during the January/February 2001 regional meetings.

- **THE OIG FOUND THAT WITHOUT SIGNIFICANT INTERVENTION BY MANAGEMENT, THE APPEALS BACKLOG COULD GET MUCH WORSE.**

The Department agrees with this assessment. It was such intervention that resulted in the successful acquisition of the medical appeals analysts. Additional IAB resources have been sought via the BCP process however, the Department has been unsuccessful. Using the recommendations contained within the report, the CDC staff will submit a BCP requesting additional staff consistent with the volume of appeals anticipated to be received during the next fiscal year.

- **THE IAB'S PRODUCTIVITY COULD BE ADVERSELY AFFECTED BY A DECISION TO REPLACE HALF OF THE EXAMINERS THROUGH ATTRITION WITH STAFF WITHOUT CUSTODY BACKGROUND AND EXPERIENCE.**

It is premature to respond to this assessment as the IAB has hired only two Staff Services Managers-I (SSMs I) and one has been on special assignment since his hire. The decision to reclassify half of the appeals examiner positions to SSMs I was based upon the analytical abilities they would bring to the Branch. Their ability to analyze policies and procedures coupled with their objective examination of inmates' issues will be a valuable asset to the appeals process. The IAB will ensure that the newly assigned SSMs I are afforded a valuable mentoring program and on-going monitoring by management to ensure success during this transition. The Chief, IAB, will track performance numbers of each examiner in determining a standard for quantity and to determine training needs.

J. Chen
Page 4

- **THE IAB DOES NOT HAVE FORMAL GUIDELINES OR TRAINING PROGRAMS TO ENSURE CONSISTENCY AND COMPLETENESS IN THE DECISIONS RENDERED BY THE EXAMINERS.**

The CDC agrees that there is no formalized training program for appeals examiners. Consistency of appeal decisions results from accurate interpretations of regulations and policies. Other than knowing and understanding these policies, there are admittedly no written guidelines. Appeal managers have had experience responding to appeals in the institutions and they are very familiar with regulations and policies. Appeals examiner positions are not entry level positions and these staff have been in training (formal as well as informal) to become managers throughout their career. Most have worked their way through the custody chain as supervisors or counselors and have had to ensure that the California Code of Regulations (CCR) was properly and consistently implemented. In addition to their previous training, the IAB has taken many steps to ensure that all examiners receive the same "orientation" to Third Level Appeals which includes providing: a standardized acronym list, standardized grammar usage guide used for Third Level Decisions, mentoring by seasoned examiners, one-on-one assistance with Chief and Assistant Chief, automated decision letter to eliminate formatting difficulties, and bi-weekly meetings in which Branch expectations are disseminated and unique cases are discussed. As SSMs I are absorbed into the Branch, more formalized training may become necessary. In addition, the Chief, IAB will on an ongoing basis, solicit input from the appeals examiners to determine their training needs and desires.

- **SOME EXAMINERS BELIEVE THEY ARE NOT FULLY QUALIFIED TO RENDER DECISIONS ON CERTAIN APPEALS.**

(5) The Department does not agree with this finding. This conclusion was obtained from interviews of only three examiners, two of whom have received one or more forms of administrative action based upon job performance. All are managers and as a result are expected to have the qualifications necessary to review an investigative report and make a determination as to whether all witnesses were interviewed, all pertinent questions asked, and assess whether the conclusions are reasonable. As a matter of point, one of the examiners interviewed is a CDC trained internal affairs investigator. The Department is in agreement that appeals examiners do not have the qualifications to make determinations relative to complaints regarding complicated medical issues. In these instances, they rely on the assistance of institutional medical staff or Headquarters (HQ) staff, HCSD. They are, however, qualified to make determinations on the majority of routine medical issues as evidenced by the number of medical appeals cited in the draft report wherein Third Level examiners determined that the inmate's appeal had merit, granted the appeal, and ordered the institutions to take appropriate action.

- **THE OIG FOUND THAT THE DIRECTOR'S LEVEL DECISIONS DO NOT ALWAYS ADEQUATELY RESPOND TO THE INMATES' COMPLAINTS. EXAMPLES INCLUDE THE FOLLOWING:**
 - **A DIRECTOR'S LEVEL APPEAL WAS DENIED ON THE BASIS THAT THE INMATE REFUSED TO BE INTERVIEWED.**

The Department does not agree with this assessment, as it is not an accurate statement. There is no requirement to interview an inmate at the Director's Level and the regulations do not provide for denial based upon an inmate's refusal to be interviewed. Absent personal testimony from the inmate, the examiner based his response to the issues on the inmate's written statements, staff responses, review of medical file and interviews with medical staff. The examiner's statement "the appellant has failed to support his appeal issue with sufficient evidence or fact to warrant a modification..." does not mean the denial was based upon the lack of an interview, it was based upon **lack of available evidence** which would show that the appellant was not receiving proper medical treatment.

The OIG draft report cited this example of an inmate incarcerated at the California Correctional Institution who is a Hodgkin's lymphoma cancer patient in remission who has filed a number of appeals regarding his medical condition. In his appeal filed in August 1999, he requested medical treatment, alleging that he had been vomiting and that the lymph nodes in his neck were swollen to the size of golf balls. He also stated that he has five metal plates in his head from a head injury that were getting infected and were very painful. The inmate inexplicably received three different Second-Level responses on March 17, 2000. One response denied the appeal, stating that the inmate's self-diagnosis was not valid. The second and third responses partially granted the appeal, with one stating that a consultation with an ENT specialist had been requested, and the other stating that an appointment with an ENT specialist had been granted. In March 2000, the inmate filed a Director's Level Appeal, claiming that he had been writing appeals alleging that he had been on antibiotics for six months and that the metal in his face hurt so much that he could not eat solid food. He also said he had a cyst on his kidney and that his urine was brown.

- (6) A review by the HCSD staff reveals that this inmate has been seen by CDC medical staff 35 times since January 1, 2000. This number does not include appointments to outside specialists. He has refused appointments or has been a "no show" 17 times. He says he fears needles and will not get his blood work done. He generally just refuses to go to his appointments. There is one indication in the medical chart that an appointment was missed due to custody being unable to provide the escort. He had x-rays on September 13, 1999, September 29, 1999, March 21, 2000, and June 6, 2000 for chronic sinus problems which have been determined to not be severe. On October 5, 2000, this inmate had a bone scan and the results showed nothing remarkable. There is no proof to support his claim of being on antibiotics for six months. During 1999, he was on antibiotics for two weeks in September, for two weeks beginning October 20th and then again for two weeks beginning March 21, 2000. This inmate had an ENT consult on January 7, 2000 and May 18, 2000. The consult notes state that the specialist repeatedly explained to the patient that removal of the remaining facial hardware would not solve his pain and sinus problems.

J. Chen
Page 6

In February 1997, this inmate had a catscan that identified a simple cyst in the lower right kidney. Follow-up evaluations were done in August 1997 and November 1997. His vital signs were taken and everything was normal. There is no further mention of complaints or evaluations regarding this cyst in the Unit Health Record.

There is no indication of a complaint of brown urine in the Unit Health Record. All of his urinalysis results since January 1997 have been normal.

There is no indication in the Unit Health Record that he complained of, or was seen for, swollen lymph nodes the size of golf balls as he complained about in his August 1999 appeal.

A neurological consult was ordered on August 11, 2000. The HCM denied the request based upon the prior evaluations.

- **A DIRECTOR'S LEVEL APPEAL DECISION FAILED TO ADDRESS ALLEGATIONS OF IMPROPER MEDICAL TREATMENT.**

The examiner's decision had benefit of the dentist's reasoning for the treatment provided, the Second Level Response by the acting HCM and medical opinion of the Chief Dentist who concurred with the treatment and who, in his expert opinion, classified the appellant's dental needs as Level-I, indicating minimal needs. The quality of this Third Level investigation is certainly deemed appropriate. The inmate's only action requested was to be given \$8,000 and a job with the joint venture program.

This appeal is regarding an inmate complaining of pain in two teeth. One was pulled, the other was not pulled. He claims that the other tooth had a cavity and required extraction as well. The HCSD staff reviewed this case and concurred that the appellant has received all appropriate treatment.

The dentist extracted the #31 tooth which was rotting and left in tooth #32 as there were no indications of a problem. X-rays were taken February 15, 2000 and indicated areas 31 and 32 were clear of problems. There are no complaints from the inmate noted in the medical chart. Fillings were done on other teeth on December 12, 2000 and December 26, 2000. There were no complaints of tooth #32.

- **THE OIG FOUND THAT THE IAB DOES NOT USE MODERN TECHNOLOGY TO MANAGE AND MONITOR ITS OPERATIONS AND ACTIVITIES.**

The Department is in agreement with this assessment. The CDC is aware of the shortcomings of the automated appeals tracking system currently being used not only by the IAB but by each of the institutions as well. A Statewide survey has been conducted relative to the available hardware and software in the field appeals offices and the IAB has submitted a request to have a new tracking system developed which would be connected to all appeals offices and which would produce effective management reports at all levels. The IAB has researched several automated systems and software which would allow for accountability of individual Third Level appeal files as they progress through the Third Level appeal process with the various

staff within IAB. The CDC will continue to pursue the most effective means to accomplish this.

- **POTENTIAL CONSEQUENCES – FROM AN ANALYSIS OF SCREENED OUT DATA, THE OIG ESTIMATES THAT APPROXIMATELY 900 APPEALS (SEVEN PERCENT) WERE SCREENED OUT BECAUSE THE INMATES DID NOT FILE THE THIRD LEVEL APPEAL WITHIN 15 DAYS.**

While the CDC does not disagree with this statistic, seven percent is considered a low percentage. The IAB is very liberal when it comes to accepting appeals submitted beyond the 15 day limit, as staff take into consideration constraints placed upon inmates with unique housing situations, backlogs in institution mailrooms, etc. All appeals screened-out for “time” are reviewed however, to ensure that no appeals are being returned that may be of an emergent nature.

- **THE DEPARTMENT IS NOT CORRECTING SYSTEM AND PROCEDURAL DEFICIENCIES NOTED DURING THE DIRECTOR’S THIRD LEVEL REVIEW.**

- (7) The CDC continues to make a concerted effort to correct deficiencies noted during all appeal reviews. All granted Third Level appeals are sent to the respective Wardens or Parole Regional Administrators and during on-site visits, appeals examiners personally conduct an exit interview with the wardens or chief deputy wardens to share their findings thus enabling them to correct deficiencies as soon as identified. A process of issuing modification orders is in place to ensure the tracking of all granted appeals and completion of all orders.

The OIG draft report identifies two appeal cases which allege untimely medical care/follow-up. The first case is the “foot and ankle problem” cited previously and the second case references an inmate who allegedly waited eight months for an appointment with an eye specialist. A review by the HCSD staff reveals that while this inmate was at the Correctional Training Facility, referrals were made by medical staff for this inmate to see an eye specialist. The inmate was transferred to Avenal State Prison where the routine practice is for inmates with eye problems to be screened first by the Chief Medical Officer (CMO). This CMO has 18 years experience in private practice evaluating eye patients as well as assisting in eye surgery. This inmate was evaluated on December 14, 2000 by the CMO regarding his eye problems and will be re-evaluated in six months. A chrono for dark glasses was issued on December 5, 2000. He has been diagnosed with bilateral pterygim or pterygii which does not involve the seeing portion of the eye. Surgical correction is not a CDC medically covered service in the absence of bilateral impairment of vision.

As previously mentioned, the HCSD has successfully acquired medical appeals analysts whose primary function is to track and respond to medical appeals and ensure follow-up on all pending medical orders issued as a result of appeal review. They have also received formal training relative to these responsibilities.

The IAB is establishing a process whereby all granted medical appeals involving treatment related issues shall be forwarded to the Deputy Director, HCSD. The IAB will continue its

J. Chen
Page 8

practice of briefing the Chief Deputy Director bi-monthly on problematic issues that have been raised during the Third Level appeal process, sending copies of more serious allegations of staff misconduct to the Office of Internal Affairs for quality control purposes and scheduling monthly inter-divisional meetings with respective chiefs (including Regulation and Policy Branch) to discuss needs for policy clarification, changes of policy, etc.

(8) In addition, the Department is committed to moving the information technology (IT) needs to the forefront of the IT prioritization and ensure adequate appeals resources are obtained through the BCP process.

- **THE IAB DOES NOT HAVE ADEQUATE RESOURCES TO IMPROVE RESPONSE QUALITY BY CONTACTING INSTITUTION MANAGEMENT OR BY PROVIDING ADDITIONAL TRAINING TO INSTITUTION APPEAL COORDINATORS WHO REPEATEDLY PREPARE INADEQUATE REPONSES.**

The Department is in agreement relative to its possessing inadequate resources to train institution staff at the necessary proficiency level. In reference to contacting institution management please refer to the previous comment. The IAB has provided training to field staff in the following forms: annual appeals conferences, monthly newsletters containing training information to appeals coordinators all intended to improve quality of responses, providing a point of contact within the IAB (Administrative Officer of the Day) to field questions, one-day training for coordinators who request to visit the IAB for personal assistance, lesson plans on appeal process for all institution staff, training for HCSD appeals analysts, ongoing training for second level supervisors in the Department's Advanced Supervision class, training video on appeals process intended for inmate population but also to be used by appeals coordinators and to be incorporated into the curriculum for the Basic Correctional Officer Academy and development of an automated Second Level Decision tool for appeals coordinators to assist in improving quality and timeliness of their responses. Additional training is also provided by the immediate supervisors of appeals coordinators at the institutions.

- **THE IAB CONDUCTS ONLY A LIMITED NUMBER OF FIELD REVIEWS OF THE APPEALS PROCESS AT THE INSTITUTION LEVEL.**

The IAB conducted nine on-site field audits of institution appeals offices this past year and three audits conducted at HQ based upon appeals tracking system data which was submitted by the institutions. The Department agrees that this is inadequate and believes that a valuable auditing system would ensure that every institution is audited annually. Resources have been requested with this goal in mind. The Department has been unsuccessful in this attempt. The IAB, when submitting its next BCP, will take into consideration staffing needs associated with ensuring this level of auditing capability.

J. Chen
Page 9

- **THE CDC SYSTEM FOR PROCESSING INMATE APPEALS IS ANTIQUATED – THE IAB DOES NOT PRIORITIZE AND CATEGORIZE ALL INMATE APPEALS TO ALLOW THEM TO BE ADDRESSED IN THE MOST EXPEDITIOUS MATTER.**

The CDC agrees with this conclusion. The CCR provides for the expediting of specific appeals classified as emergency. In addition, American with Disabilities Act appeals also have shorter timeframes. Other than those mentioned, there is currently no method of prioritizing appeal issues without a dramatic drain on resources. The IAB is piloting a streamlined appeal decision which is being used for the less complicated issues, which reduces processing time. The cost/time savings has not yet proven to be significant. The IAB continues to explore methods of identifying the more serious issues upon receipt at the IAB for purposes of expediting. In addition, as cited previously, the Department will continue to seek resources which will allow for more in-depth screening thus providing an ability to prioritize all appeals received.

- **RECOMMENDATIONS**

The CDC is appreciative of the recommendations offered by the OIG audit team. The Department recognizes that having a successful appeals system staffed at appropriate levels with the capability to conduct on-going audits is critical to this organization. Though we have worked diligently to overcome backlogs and secure additional resources, we see your report as providing us the opportunity and assistance in future attempts to achieve these goals. We will strive to improve with what we have and will use your audit to enable us to secure the resources needed.

In closing, the CDC will do everything possible with existing resources to reduce this extensive appeal backlog. In addition to securing resources, the CDC will continue its efforts to develop/upgrade the inmate appeals automated reporting and tracking systems. This will ensure effective data communication throughout all the appeals offices within the Department and provide effective management reporting capabilities for CDC managers and administrators.

I appreciate the opportunity to respond to the issues identified by your audit team. I would also like to commend your staff for the professional manner in which they conducted the audit as reported to me by the IAB staff. Should you have any additional questions or concerns regarding this response, please contact Linda Melching, Chief, IAB, at (916) 358-2417 or Elizabeth A. Mitchell, Assistant Director, Office of Compliance, at (916) 358-2494.



STEVEN CAMBRA, JR.

Director (A)

California Department of Corrections

Comments of the Office of the Inspector General

1. The Office of the Inspector General can find no evidence to support the suggestion that the department has made a “continuous effort” to reduce the extent of the backlog of inmate appeals. The Inmate Appeals Branch budget change proposal submitted for fiscal year 2001-02 states, “Over the years the appeal process has been overlooked as a result of more pressing departmental matters. This ‘back burner’ approach has reached critical levels for a process on the verge of court intervention.” Moreover, despite the significant increase in backlog, the department cut a full time captain position within the Inmate Appeals Branch effective July 2000 as part of the directorate reduction to meet budget shortfalls.
2. The Office of the Inspector General contacted officials at Centinela State Prison again and confirmed that the inmate did in fact receive the scheduled septoplasty surgery on February 9, 2001, approximately 27 months after the medical staff first noticed the obstruction of the inmate’s right nasal airway.
3. The records in the institution inmate appeals office showed that the inmate received a rigid hinged knee brace on September 25, 2000, as noted in the Office of the Inspector General’s draft report. Apparently this is not true. According to the department’s response to the draft report, the inmate did not receive the brace until January 27, 2001. The department should review its procedures to ensure that the records accurately reflect the medical products or services received by the inmates. Otherwise, as in the example cited, inmates may not receive the products or services needed.
4. The director’s level decision prepared by the Inmate Appeals Branch cited the evaluation of an orthotic specialist, who describes the need for a plastic brace for the inmate’s foot and ankle. An ankle x-ray was also ordered as part of the appeal process. Not only is the use of a brace to remedy bunions doubtful, the order for an x-ray suggests that the inmate may have had additional medical problems.
5. In addition to the testimony of the three examiners interviewed, the Office of the Inspector General has documentary evidence suggesting that the examiners’ views are shared by the Inmate Appeals Branch management. For example, the Inmate Appeals Branch budget change proposal for fiscal year 2000-01 states, “there is no medical review provided at the third level.” The proposal said that the examiners processing the appeals do not have medical backgrounds and usually “rubber stamp” the decision made by the institution physician at the second level of review. In addition, the Inmate Appeals Branch prepared a draft proposal requesting a transfer of staff misconduct appeals to the Office of Investigative Services because of concerns over lack of staff expertise in this area. The proposal was not implemented, apparently due to a lack of resources at the Office of Investigative Services.

6. The information contained in this response provides a persuasive argument that the department had sufficient basis to reject the inmate's appeal. However, none of this information was included in the appeal file, raising questions as to whether such information was considered before the inmate's appeal was denied.
7. The Inmate Appeals Branch states in its fiscal year 2000-01 budget change proposal that "Only the most egregious problems are brought to the attention of CDC administration and then only when they have reached crisis proportions."
8. The lack of automation within the Inmate Appeals Branch is not a new issue. The department rejected the fiscal year 2000-01 budget change proposal submitted by the Inmate Appeals Branch requesting funding for the most basic automation requirements. The proposal pointed out that not one of the computers within the Inmate Appeals Branch met the minimum workstation standards set by the Department. Computers were being borrowed and one position did not have a computer at all.