

Dear Commissioners:

Thank you for the opportunity to address this commission concerning the role of external government oversight in the effort to eliminate prison rape. As California's Inspector General, my staff and I are dedicated to providing effective oversight to a massive state prison system – a system struggling to provide safe living and working conditions, constitutionally adequate medical and psychiatric care and effective rehabilitative programs, all under the strain of severely overcrowded conditions. Many correctional systems nationwide are presently facing similar challenges, but in my view, these challenges do not abrogate the legal and moral imperative to effectively address the problem of sexual abuse and misconduct behind our prison walls.

I strongly believe that the problem of prison rape and sexual abuse, so often underreported and unaddressed, cannot be solved without some form of public oversight of our nation's prisons and jails. Recognizing that there are many types of correctional oversight, I hope to share in the following pages the basic outline of the California model. In addition to providing a general summary of our oversight structure, I will discuss how the Office of the Inspector General (OIG) deals with complaints of sexual abuse and misconduct, focusing both on what we do well and the ways in which we hope to improve.

The California Department of Corrections and Rehabilitation (CDCR) poses a tremendous oversight challenge—with an annual budget nearing \$10 billion, the department operates 33 adult prisons and eight juvenile facilities. In all, the department employs a staff of over 50,000 and presently has jurisdiction over more than 175,000 adult inmates and juvenile wards.

In attempting to meet this challenge, the most important attribute of the California Office of the Inspector General is independence. The OIG is a fully independent state office solely dedicated to providing oversight of the CDCR. Once appointed by the Governor and confirmed by the state senate, the Inspector General serves a six-year fixed term and cannot be removed from office except for cause. The OIG also enjoys a measure of financial independence, in that state law mandates that the OIG budget be "caseload based." As such, the OIG is protected from the unfunded mandates that plague so many government offices. Finally, while the OIG is required by statute to conduct some specified audits, the Inspector General is also authorized to initiate audits or investigations at his or her own discretion.

The second important attribute of the California model is unfettered access to facilities, people and information. As a matter of state law, the OIG has a "Golden Key" to California's prisons and youth facilities. This allows OIG staff to enter any facility, at any time and review any documentation necessary to conduct an investigation or audit. The OIG not only has full access to staff and documents, but also has administrative subpoena power and may compel attendance at OIG interviews. In addition, the Inspector General and designated OIG staff are peace officers and, as such, have the authority to arrest and to seek search warrants for evidence related to criminal activity.

The third attribute of our model is transparency. Pursuant to OIG policy and California state law, all OIG audits and special reviews must be publicly reported. As such, the OIG posts all audits and special reviews on the OIG's public website. In addition, the OIG publishes a summary of its criminal and

administrative investigations on a quarterly basis. This helps to ensure that the OIG and CDCR are held accountable in the court of public opinion.

While the attributes described above define the extent of the power and authority of the OIG, the actual work of the office is accomplished through the OIG's organizational structure. The Office of the Inspector General is organized into two bureaus—the Bureau of Audits and Investigations and the Bureau of Independent Review. The Bureau of Audits and Investigations performs the traditional work of an inspector general's office, such as conducting audits, investigations, and special reviews to uncover criminal misconduct, administrative wrongdoing, poor management practices, waste, fraud and abuse. This bureau also conducts semi-annual inspections of adult and juvenile institutions to examine living conditions and facility maintenance, and to identify other problem areas that may lead to investigations or audits. By law, the Office of the Inspector General also maintains a toll-free public telephone line. This line provides an avenue for whistleblowers, prison employees, and members of the public to anonymously report misconduct and administrative wrongdoing. The OIG also provides a mailing process to allow inmates and incarcerated youths to report in writing problems that correctional agencies and institutions have failed to remedy. We receive about 4,500 complaints a year on a variety of individual issues, including prison violence, retaliation, unsafe conditions, and lack of adequate medical care.

In contrast to the multi-faceted mission of the Bureau of Audits and Investigations, the Bureau of Independent review focuses solely on overseeing CDCR's internal affairs and employee discipline process. Created in 2005, the Bureau of Independent Review monitors internal affairs investigations on a "real-time" basis to ensure that the correctional agency fairly and effectively investigates and disciplines officers who violate state law or departmental policy. In just a few short years, this bureau has worked in cooperation with the department to vastly improve the state's officer discipline process. Within this organizational framework, the Bureau of Independent Review most rigorously oversees internal affairs investigations that involve serious acts of violence, excessive use of force, and all forms of criminal misconduct. This bureau also provides transparency to the employee discipline process by releasing its oversight findings on a semiannual basis.

Turning now to the focus of this commission, the OIG places a high priority on addressing complaints of rape and sexual misconduct in prison. This work occurs on several fronts. For example, in our intake unit an allegation of rape, sexual misconduct or sexual harassment is given immediate attention. Such allegations are either investigated by the OIG or referred to the department for investigation with OIG oversight. One investigation in particular illustrates the strength of our oversight model: In 2006, the OIG received a complaint alleging that an inmate suffered retaliation at the hands of officers after complaining of being sexually assaulted by another inmate. According to the complainant, after reporting a sexual assault in the prison shower, a correctional sergeant mocked the inmate and ordered him to put on women's underwear under the guise that it was "doctor's orders." The sergeant then placed the inmate in restraints and escorted him down an open corridor dressed in only in "panties" while staff members and other inmates looked on. He was then left for several hours in a holding cell in that same corridor. My staff conducted both administrative and criminal investigations and referred the matter to the United States Attorney for prosecution. Once a criminal filing decision is made, the matter will also be referred to the department for administrative action.

Deputy inspectors general also follow up on systemic issues related to inmate and officer safety as part of each institution's mandated audits. These audits include a top-to-bottom evaluation of the warden's performance and the institution's compliance with laws, regulations, and policies—including PREA policy compliance—as well as a review of programs, systems, and incidents that require corrective action. As part of this effort, the OIG meets with inmates and staff to listen to their opinions regarding living and working conditions in the institution. These audits always result in a public report.

Some of the cases monitored by the Bureau of Independent Review relate to allegations of sexual violence. As soon as a serious violent crime is reported, the Bureau of Independent Review will roll out to the institution to ensure that the CDCR Office of Internal Affairs handles the case properly. In overseeing the department's investigation, the bureau makes certain that investigations are thorough, timely, and follow department policy in every respect, thereby insuring an appropriate result, and over time, enhancing staff, inmate, and public confidence in California's officer discipline process.

As a final safeguard, if an inmate feels that the department improperly handled a sexual abuse investigation, he or she can also turn to the Inspector General's Sexual-Abuse-in-Detention- Elimination Ombudsperson. Under state law, the OIG ombudsperson investigates reports of the mishandling of sexual abuse incidents within correctional facilities. While maintaining the confidentiality of sexual abuse victims if requested, the ombudsman ensures the impartial resolution of sexual abuse complaints. If the ombudsperson finds sufficient cause, the OIG will open an independent investigation and work with the department's Office of Internal Affairs to resolve the complaint.

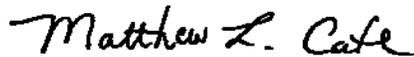
While I am proud of the efforts made the OIG to uncover and investigate allegations of rape and sexual assault in California's prisons, I am convinced that much more can still be done. To that end, my office has started collaborating with Stop Prisoner Rape, a national non-profit organization that works to end sexual violence against incarcerated men, women, and juveniles. I recently met with the organization's director to coordinate our efforts. For example, the organization plans to incorporate the Office of the Inspector General's contact information in its literature for California inmates. In addition, the OIG is now contacting Stop Prisoner Rape on a more frequent basis so we might learn of any current issues related to sexual abuse at particular institutions. Finally, we encouraged the organization to refer any sexual abuse victims who are seeking an investigation of their complaints directly to the OIG.

Despite these collaborative efforts, I still believe we are not fully informed regarding the extent of the prison rape problem in California. One step the OIG is taking to address the issue is the development of a confidential inmate questionnaire. Loosely based on a model created in the United Kingdom, this questionnaire will be designed to provide inmates a way to provide anonymous information on sexual assault and other sensitive issues to the OIG. In that manner, we hope to better determine both the extent of the problem and which institutions are effectively working to make their inmates safe from sexual abuse. We also hope to establish baseline information from which we can track each prison's progress in this area.

In closing, I would like to thank you again for the opportunity to address this commission. I look forward to appearing before you to share more information concerning the efforts of the Inspector

General's Office to eliminate prisoner rape in California and to answer any questions you may have. I also personally consider this a great opportunity to learn from the other speakers, members of the public and the commissioners regarding this vitally important issue.

I declare under Penalty of Perjury that the foregoing is true and correct. Executed on this 26th day of November, 2007

A handwritten signature in black ink that reads "Matthew L. Cate". The signature is written in a cursive, slightly slanted style.

MATTHEW L. CATE  
Inspector General