



March 4, 2011

Ronald Yank, Director  
Department of Personnel Administration  
1515 S Street, North Building, Suite 400  
Sacramento, California 95811-7258

Via email: [Ron.Yank@dpa.ca.gov](mailto:Ron.Yank@dpa.ca.gov) & U.S. Mail

**Re: Office of the Inspector General practice regarding audit or non-investigative interviews**

Dear Mr. Yank:

This is in response to the Department of Personnel Administration's (DPA) inquiry about the Office of the Inspector General's (OIG) interviews of California Department of Corrections and Rehabilitation's (CDCR) employees pursuant to an OIG audit at Mule Creek State Prison (MCSP). It is our understanding that a grievance was filed against CDCR after the field work took place. Although the OIG is not a party to any Memorandums of Understanding with CDCR, we want to clear up any misunderstanding about the OIG practice regarding audit interviews.

Generally speaking, an audit serves to examine the effectiveness and efficiency of various systems, processes, and procedures. Audits are not designed to gather information for employers to discipline their employees. (Pen. Code § 6126.5(d).) When the OIG's inspectors interview employees as part of an audit, the inspectors typically approach the employees at their work location and ask the employees if they are available to answer questions about the audit topic. Penal Code sections 6126.5(c) and (d) require employees to provide access to any requested records and answer the inspectors' questions when the questions relate to processes and procedures. However, if the interview questions involve an employee's personal involvement, including their conduct or behavior with a process or procedure, the employee has the right to decline to be interviewed without any repercussion or consequence. For an audit, the inspectors do not compel employees to interview regarding personal conduct.

As you know, if an employee believes that he or she is disciplined based on information obtained in violation of his or her rights, that employee has an affirmative defense to the action. The OIG follows all laws related to employees rights and has never been found to have violated such laws. We welcome the opportunity to make our practices transparent.

*Edmund G. Brown, Jr., Governor*

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Hopefully, the above clarifies the OIG practice during audit interviews. Please do not hesitate to contact me if you have any questions regarding the above.

Sincerely,

A handwritten signature in cursive script, appearing to read "B L Sheldon".

Barbara Sheldon  
Chief Counsel

BLS:ab