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National Institute of Corrections

Executive Training for Deputy Directors
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NATIONAL INSTITUTE OF CORRECTIONS
MISSION

The mission of the National Institute of Corrections is: *We are a center of correctional learning and experience. We advance and shape effective correctional practice and public policy that respond to the needs of corrections through collaboration and leadership and by providing assistance, information, education, and training.*

NIC is fully committed to equal employment opportunity and to ensuring full representation of minorities, women, and disabled persons in the workforce. NIC recognizes the responsibility of every employer to have a workforce that is representative of this nation's diverse population. To this end, NIC urges agencies to provide the maximum feasible opportunity to employees to enhance their skills through on-the-job training, work-study programs, and other training measures so they may perform at their highest potential and advance in accordance with their abilities.

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INTRODUCTION

ACKNOWLEDGMENTS

The creation of a seminar that will involve correctional administrators from all over the United States requires days of planning and work by many people. The National Institute of Corrections wish to acknowledge those individuals who participated in the planning and development of this seminar.

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PROGRAM OBJECTIVES

The program, **Executive Training for Deputy Directors,** is designed to bring together top correctional administrators from throughout the United States. During the seminar, it is anticipated participants will be able to:

- Identify the key demands and expectations placed on administrators who occupy positions directly responsible to the head of a correctional agency.

- Discuss issues of common concern to individuals directly responsible to the head of a correctional agency.

- Develop relationships that can be used at some future date when assistance is needed to address issues that have transpired.

- Analyze trends that are occurring in corrections today and how correctional agencies are dealing with those changes.

- Generate ideas and alternatives for dealing with problems facing correctional administrators.

NATIONAL INSTITUTE OF CORRECTIONS
Executive Training for Deputy Directors
06-P801

Sheraton South Portland Hotel
South Portland, Maine — October 17-21, 2005

AGENDA

MONDAY, OCTOBER 17, 2005

Travel to Site
(Those who are going on tour)

TUESDAY, OCTOBER 18,2005

8:30 AM	Optional Tour Maine Correctional Center	
6:30 PM	Banquet–Welcome-from NIC	Morris Thigpen George Keiser Ed Wolahan Belinda Watson
	Guest Speaker Welcome to State	Martin A. Magnusson, Commissioner

WEDNESDAY, OCTOBER 19, 2005

8:00 AM	Overview of Training	Ed Wolahan
8:15 AM	Prison Rape Elimination Act	Jake Gadsden Andi Moss Doug Dretke
10:00 AM	Ethics & Integrity	John Vanyur John Dighman
12:00 Noon	Lunch	

1:00 PM	Radicalization & Recruitment Of Religious Groups	John Dovey Frank Mendoza Greg Rodriquez Greg Trout
4:00 PM	Serious Incident Debrief	John Dovey Tom Carroll
5:00 PM	Legal Issues	John Dovey Paul Sanzo
7:00 PM	Adjourn-Dinner	

THURSDAY, OCTOBER 20, 2004

8:00 AM	Review Yesterday	Belinda Watson
8:15 AM	Promoting a Positive Correctional Culture	Bob Ward Carol Flaherty-Zonis
11:00 AM	Commission on Prison Abuse	John Vanyur Alex Busansky Tim Ryan
12:00 NOON	Lunch	
1:00 PM	Three Modules running together: You may choose two:	
	1.Succession Planing	Bob Ward
	2. Funding/Budget	Denise Lord
	3. Supermax	John Dovey
3:00 PM	Adjourn	

FRIDAY, OCTOBER 21, 2005

8:00 AM	Review Yesterday	Ed Wolahan
8:15 AM	NICIC-Internet-Listserv	Connie Clem
9:00 AM	National Incident Management System	Jake Gadsden John Shaffer
10:00 AM	Technology	Jake Gadsden Ike Eichenlaub Barry Nadler
11:30 AM	Round Table	Jake Gadsden
11:45 AM	Evaluation/Next year	Ed Wolahan
12:00 Noon	Adjourn	

SECTION 1

PRISON RAPE ELIMINATION ACT (PREA)

-NOTES-

-SUMMARY-

-INDEX-

-NOTES-

-SUMMARY-

-INDEX-

-NOTES-

-SUMMARY-

-INDEX-

SECTION 2

ETHICS & INTEGRITY

-NOTES-

-SUMMARY-

-INDEX-

-NOTES-

-SUMMARY-

-INDEX-

Executive Training
for Deputy Directors

-NOTES-

-SUMMARY-

-INDEX-

SECTION 3

RADICALIZATION & RECRUITMENT OF RELIGIOUS GROUPS

-NOTES-

-SUMMARY-

-INDEX-

SECTION 4

REVIEW OF MAJOR INCIDENTS

OFFICE OF THE INSPECTOR GENERAL

MATTHEW L. CATE, INSPECTOR GENERAL

SPECIAL REVIEW INTO THE DEATH OF CORRECTIONAL OFFICER MANUEL A. GONZALEZ, JR. ON JANUARY 10, 2005 AT THE CALIFORNIA INSTITUTION FOR MEN

MARCH 16, 2005

STATE OF CALIFORNIA

CONTENTS

EXECUTIVE SUMMARY ---------- 3

INTRODUCTION ---------- 10

OBJECTIVES, SCOPE, AND METHODOLOGY ---------- 10

BACKGROUND ---------- 13

FINDINGS AND RECOMMENDATIONS

FINDING 1 ---------- 19
Alleged Assailant was inappropriately housed at the reception center.

FINDING 2 ---------- 26
Reception center processing was delayed by alleged assailant's case factors.

FINDING 3 ---------- 29
The victim and other correctional officers violated security protocols.

FINDING 4 ---------- 37
Poor maintenance at the institution gave inmates access to weapons.

FINDING 5 ---------- 42
The institution delayed issuing protective vests.

FINDING 6 ---------- 49
The medical clinic was ill-prepared to handle the emergency.

FINDING 7 ---------- 64
Emergency response was disorganized.

FINDING 8 ---------- 71
Crime scene was contaminated and evidence was lost.

FINDING 9 ---------- 79
Institution did not adequately address inmates' mental health needs.

FINDING 10 ---------- 80
Alleged assailant was allowed access to an attorney before the indictment.

EXECUTIVE SUMMARY

This report presents the results of a special review conducted by the Office of the Inspector General into the circumstances surrounding the January 10, 2005 stabbing death of Correctional Officer Manuel A. Gonzalez, Jr. at the California Institution for Men. A criminal investigation into the incident was conducted by the San Bernardino County Sheriff's Department and resulted in criminal charges of murder against Jon Christopher Blaylock, an inmate at the California Institution for Men.

The purpose of the Office of the Inspector General's review was to identify systemic procedural and policy deficiencies, procedural violations, and other factors that may have contributed to Officer Gonzalez' death. In its review, the Office of the Inspector General examined the Department of Corrections incident report and attendant documents; reviewed policies and procedures governing safety and security, reception center housing placement and processing, inmate mental health diagnosis and placement, emergency incident response, medical response, and crime scene management. The Office of the Inspector General also examined the department's recent procurement and distribution of protective vests to correctional officers.

As a result of the review, the Office of the Inspector General identified a number of issues that played a critical role in the incident. The review determined that Blaylock had a long history of in-prison violence before he arrived at the California Institution for Men for reception center processing. He had most recently paroled from an indeterminate term in the security housing unit at California State Prison, Corcoran, where he had been placed in a single cell and on walk-alone yard status as a safety and security risk because of his numerous enemies and history of fighting with other inmates. At the time of his parole in 2002, he was classified as a Level IV maximum security inmate with 376 custody points, and he had been designated as requiring placement in a 180-design Level IV prison with internal and external armed coverage—the most secure configuration of the state's Level IV prisons. Less than four months after he paroled in 2002, Blaylock was arrested for shooting at a police officer. He remained in jail in Los Angeles County until his conviction in 2004 for attempted murder of a peace officer, whereupon he was sentenced to a 75-year state prison term. He arrived at the California Institution for Men for reception center processing on June 23, 2004 and remained there until the fatal stabbing on January 10, 2005.

The Office of the Inspector General found that despite Blaylock's history of in-prison violence, he was kept in a general population cell during nearly all of the seven months he spent at the California Institution for Men. Many of the state's other reception centers reported that — as a returning inmate who had most recently paroled from a security housing unit — he would have been automatically placed in an administrative segregation unit. After he allegedly assaulted another inmate at the reception center, he spent seven weeks in administrative segregation pending disciplinary action, but the assault charge was reduced to "mutual combat" and he was returned to the general population, where he remained until the stabbing of Officer Gonzalez.

The review also determined that correctional officers assigned to the living unit where Blaylock was housed, including Officer Gonzalez, routinely violated standard security protocols, as well as extra security restrictions that had been imposed in response to several other violent incidents at the facility. The Office of the Inspector General found that the fatal stabbing may have been prevented if Officer Gonzalez and other officers had adhered to those security requirements.

The Office of the Inspector General found in addition that the housing unit where the stabbing occurred is in such disrepair and tool controls so lax that inmates are able to easily obtain and hide materials for making weapons.

The Office of the Inspector General also found that the California Institution for Men unduly delayed issuing protective vests to correctional officers and instead stored them in a warehouse while updating its policies on vest distribution and waiting to receive enough vests for all officers designated to receive them in an effort to avoid complaints of unfairness. A vest assigned to Officer Gonzalez was in the warehouse when the stabbing occurred.

The following summarizes the Office of the Inspector General's findings:

FINDING 1

The Office of the Inspector General found that the California Institution for Men inappropriately housed Blaylock in a general population unit despite his recent parole from a security housing unit and his demonstrated violence toward other inmates.

As an inmate with a history of in-prison violence who had most recently paroled from an indeterminate term in a security housing unit, Blaylock should have been placed in administrative segregation when he arrived at the California Institution for Men. That action would have been consistent with California Code of Regulations, Title 15 and with the procedures followed at five other reception centers for males operated by the Department of Corrections. Yet, when Blaylock arrived at the California Institution for Men, he was assigned instead to a general population cell, where he remained throughout nearly all of his seven-month stay at the institution. The Office of the Inspector General found, in fact, that the California Institution for Men regularly places inmates who have paroled from administrative segregation and security housing units into general population housing.

Blaylock was involved in a violent altercation with another inmate six weeks after his arrival at the reception center and he was held in administrative segregation for seven weeks pending disciplinary action. He was then again released to the general population despite repeated notations in his files about his potential for violence and extensive information about his history of security housing and administrative segregation

confinement during earlier prison terms. On the day he allegedly stabbed Officer Gonzalez, he was still assigned to a general population cell.

FINDING 2

The Office of the Inspector General found that Blaylock's reception center processing was delayed due to complex case factors that severely limited his options for transfer to another institution.

Blaylock was housed at the California Institution for Men for seven months. The departmental guidelines state that reception centers will normally process inmates for transfer within 60 days. Blaylock's case, however, was far from normal. The complexities of his case, combined with his conduct, resulted in extending his confinement at the California Institution for Men. The Office of the Inspector General reviewed each aspect of Blaylock's reception center processing and found no delays resulting solely from staff inefficiency or misconduct.

FINDING 3

The Officer of the Inspector General found that the stabbing of Officer Gonzalez might have been prevented if officers on the second watch at Sycamore Hall, including the victim, had followed security protocols and additional security restrictions imposed in response to earlier incidents in the housing unit.

The Office of the Inspector General found that correctional officers on the second watch at Sycamore Hall, including Officer Gonzalez, in an attempt to calm racial tensions on the unit and return the tier to regular programming, consistently failed to follow post orders and standard security protocols. They also repeatedly violated additional security measures imposed after violent incidents between Black, Hispanic, and White inmates at the facility in December 2004. Tragically, the stabbing of Officer Gonzalez on January 10, 2005 was directly linked to the violation of those security requirements.

In interviews conducted by the Office of the Inspector General and the San Bernardino County Sheriff's Department, Sycamore Hall correctional staff and inmates consistently reported that policies and procedures designed to provide safety and security were not followed on second watch when Officer Gonzalez was on duty. The officers said, for instance, that in direct violation of security protocols, they frequently released inmates they believed were influential with other inmates out onto the tier to try to calm racial tensions. In particular, they reported that Gonzalez allowed Blaylock out of his cell on numerous occasions before the fatal stabbing, because he believed Blaylock to be a "shot caller," who could influence other Black inmates. On the day he was stabbed, Gonzalez not only directed that Blaylock be released from his cell, but also entered the tier alone to speak to Blaylock, in direct violation of established security protocols. Earlier that morning, a fellow officer warned Gonzalez that this conduct was dangerous and could result in a stabbing. By ignoring this warning, Gonzalez placed himself and other officers in harm's way.

In addition, the Office of the Inspector General found that second-watch correctional officers at Sycamore Hall did not perform required cell searches —as evidenced both by cell search logs and by approximately 35 weapons found during a comprehensive search of the housing unit conducted immediately after the fatal stabbing. Nor did they follow extra security measures imposed after racial violence in the unit that called for keeping inmate workers off the tier and racial groups separated during inmate movements. The correctional staff on a different watch also failed to report verbal threats made by inmates toward officers. Finally, the supervisory staff and management of the institution failed to adequately supervise the officers or hold them accountable for the lax security practices.

FINDING 4

The Office of the Inspector General found that Sycamore Hall inmates were able to obtain and hide weapons because of lax tool controls, poor building maintenance and the consistent failure of the correctional staff to conduct required cell searches.

The California Institution for Men was built in 1941. A lack of preventive maintenance at the aging facility has left Reception Center Central, and specifically Sycamore Hall and Madrone Hall, in a serious state of disrepair. The disrepair and structural defects provide inmates with a source of weapons stock and provides spaces for inmates to hide inmate-manufactured weapons. Compounding the disrepair and structural defects is the institution's failure to adhere to departmental policy requiring consistent and accurate inventory counts of tools legitimately used by inmates, thus hindering staff from detecting theft of tools and metal stock by inmates for use as weapons or in their manufacture.

FINDING 5

The Office of the Inspector General found that the California Department of Corrections procured and distributed protective vests to the institutions consistent with its budget change proposal and its agreement with the California Correctional Peace Officers Association; however, delays in issuing vests at the California Institution for Men were unwarranted.

In fiscal year 2001-02, the Department of Corrections received both one-time and ongoing funding to procure stab-resistant protective vests for its custody employees. The Office of the Inspector General determined that in the ensuing years, the department actually spent more than budgeted to procure these vests and distributed them to its institutions according to priorities outlined in the agreement with the California Correctional Peace Officers Association. At the time of the stabbing of Officer Gonzalez, however, the California Institution for Men had been holding in its warehouse 362 vests it had received on September 9, 2004. While the failure of the institution to distribute the vests immediately may not have violated the agreement with the union, depending upon the interpretation of the relevant sections of the Memorandum of Understanding, distributing the vests expeditiously would certainly have improved employee safety, including that of Officer Gonzalez, whose personally fitted vest was in the warehouse

when he was stabbed. Further, holding the vests in the warehouse for four months considerably shortens their useful life. The reasons the institution provided for not distributing the vests until the day following Gonzalez' death reflect a lack of urgency, and inadequate planning.

FINDING 6

The Office of the Inspector General found that the medical clinic at the California Institution for Men reception center where the victim was taken after the stabbing was poorly equipped and ill-prepared to handle the emergency.

The reception center clinic where Officer Gonzalez was first taken was not properly equipped, supplied or organized to deal with his medical emergency, nor was the clinic's medical staff prepared to cope with it. The deficiencies may not have contributed to the death of Officer Gonzalez, given the extreme severity of his wounds, but the evidence establishes that the care provided by the clinic staff was very deficient.

FINDING 7

The Office of the Inspector General found that the management of the California Institution for Men did not set up an Emergency Operations Center or institute an Emergency Operations Plan in the wake of Officer Gonzalez' stabbing due to ambiguous protocols. As a result, there was some confusion in the chain of command, emergency operations policies were not implemented, the crime scene was destroyed, and an incident log was never initiated.

The *California Department of Corrections Operations Manual* governs appropriate responses to disturbances at an institution, while individual institutions' own Emergency Operations Procedures address ancillary policies unique to each institution. However, these documents do not specifically address whether an Emergency Operations Center should be set up or an Emergency Operations Plan implemented following an assault on an officer resulting in serious injury or death. In the wake of the attack on Officer Gonzalez, the institution's management neither set up an Emergency Operations Center nor implemented an Emergency Operations Plan. As a result, there was some confusion in the chain of command that led to institutional staff's failure to follow critical emergency operations policies, destruction of the crime scene, and a failure to record events in an incident log. Despite these shortcomings, correctional officers were able to transport the wounded officer to a medical care facility quickly, effectively regain control of the housing unit, and take the suspect into custody without further serious injury to inmates or staff.

FINDING 8

The Office of the Inspector General found that the California Institution for Men did not implement important emergency procedures in response to the incident, leading to contamination of the crime scene and the loss of important evidence.

California Institution for Men staff failed to preserve the crime scene and physical evidence, including the clothing worn by Officer Gonzalez' alleged assailant. As a result, potentially important corroborative evidence, such as forensic evidence potentially linking the assailant and the victim was lost. As such, the State's case against inmate Blaylock must rely more heavily on eyewitness accounts than otherwise necessary. Institution staff did not follow established procedures for preserving crime scenes and physical evidence because some were traumatized by the assault and failed to do their duties, Investigative Services Unit officers lacked adequate training and experience, and there was inadequate command and control over the incident. Specifically, the warden did not implement the prison's Emergency Operations Procedures. Because these procedures provide detailed steps and checklists for myriad tasks including crime scene and evidence preservation, implementing them may have facilitated a more structured, systematic response by the institution.

FINDING 9

The Office of the Inspector General made confidential findings related to the adequacy of mental health care for particular inmates at the California Institution for Men.

The investigation of the Office of the Inspector General found that the California Institution for Men failed to adequately assess and address particular inmates mental health needs. However, due to state and federal medical privacy laws, those findings cannot be presented in a public document. Accordingly, pursuant to Penal Code section 6131 (b) the information in this section has been presented only to the Governor and the Youth and Adult Correctional Agency.

FINDING 10

The Office of the Inspector General found that Blaylock was permitted to conduct a telephone conference with an attorney before he was indicted for the murder of Officer Gonzalez and even though the attorney's request for the conference was not properly submitted in writing.

The Office of the Inspector General found that Corcoran State Prison, where Blaylock was transferred following the incident, allowed Blaylock to speak to an attorney by telephone before he was indicted for the murder of Officer Gonzalez and therefore before he had a right to counsel in the matter under the Sixth Amendment. The prison's litigation coordinator allowed the telephone conference even though the attorney's

request was not properly submitted in writing. The Office of the Inspector General found, however, that the litigation coordinator acted reasonably in granting the request.

INTRODUCTION

This report presents the results of a special review conducted by the Office of the Inspector General into the circumstances surrounding the January 10, 2005 stabbing death of Correctional Officer Manuel A. Gonzalez, Jr. at the California Institution for Men. The review was conducted pursuant to the Office of the Inspector General's responsibility under California Penal Code section 6126 for oversight of the Youth and Adult Correctional Agency and its subordinate entities. A criminal investigation of the incident was conducted by the San Bernardino County Sheriff's Department.

OBJECTIVES, SCOPE, AND METHODOLOGY

The purpose of the review by the Office of the Inspector General was to identify systemic procedural and policy deficiencies, procedural violations, and other factors that may have contributed to the incident. The review examined whether the actions of the Department of Corrections and the California Institution for Men surrounding the incident were consistent with statutory and regulatory requirements and with the provisions of the collective bargaining agreement between the State of California and Bargaining Unit 6 of the California Correctional Peace Officers Association. In some instances, the Office of the Inspector General measured department and institution actions against the best or standard practices of other correctional and law enforcement entities. The review also considered whether the incident revealed the need for changes in statutory or regulatory requirements.

In conducting the review, the Office of the Inspector General examined the following:

- The mental health diagnostic, screening, and placement processes in place at the California Institution for Men at the time of the incident.

- Reception center policies and procedures in place at the California Institution for Men at the time of the incident, particuarly those affecting the suspect's initial and continued placement in the reception center general population.

- Safety and security policies, procedures, and conditions at Sycamore Hall, the reception center general population living unit in which the suspect was incarcerated and to which Correctional Officer Gonzalez was assigned, as they existed at the time of the fatal stabbing.

- The history of the procurement by the Department of Corrections of stab-resistant protective vests; the department's negotiations with the California Correctional Peace Officers Association with regard to the vests; the policies and procedures governing the fitting and distribution of the vests; and the decision to not immediately distribute vests to the correctional staff at the California Institution for Men, including Correctional Officer Gonzalez.

- Incident and crime scene management policies, procedures, and practices before, during, and after the fatal stabbing, with emphasis on preparedness, response, medical care of the victim, crime scene preservation, and interaction with local law enforcement.

In reviewing these issues, the Office of the Inspector General conducted the following procedures:

- Assigned a team of 12 auditors, investigators and attorneys to conduct the inquiry.

- Toured Reception Center Central at the California Institution for Men on multiple occasions.

- Interviewed personnel of the Youth and Adult Correctional Agency, the Department of Corrections, and the California Institution for Men, including management staff, custody staff, medical personnel and other employees, as well as officials of Bargaining Unit 6 of the California Correctional Peace Officers Association and inmates.

- Interviewed investigators and other employees of the San Bernardino County Sheriff's Department, and attorneys and staff from the San Bernardino County District Attorney's Office.

- Reviewed investigative reports, incident reports, and other documents related to the stabbing provided by the entities listed above.

- Reviewed pertinent statutes and regulations; sections of *the California Department of Corrections Operations Manual*; and operational policies and procedures of the California Institution for Men.

- Reviewed post orders, living unit logs, inmate central files, classification committee notes, inmate medical and mental health records and evaluations, and other pertinent documents. Because of the inadequacy of documentation in many instances, the Office of the Inspector General supplemented this review with interviews of employees responsible for particular institution functions.

- Reviewed the collective bargaining agreement between the State of California and Bargaining Unit 6 of the California Correctional Peace Officers Association.

- Using information gathered from these procedures, analyzed and evaluated Department of Corrections and California Institution for Men policies, procedures, and practices with respect to the issues cited above, and formulated recommendations accordingly.

The Office of the Inspector General did not conduct a criminal investigation into the stabbing death of Correctional Officer Gonzalez and did not evaluate the quality of the investigation conducted by the San Bernardino County Sheriff's Department.

BACKGROUND

Department of Corrections Correctional Officer Manuel A. Gonzalez, Jr., 43, was fatally stabbed at 10:57 a.m. on January 10, 2005 on Tier 1 of Sycamore Hall at the California Institution for Men in Chino. The assailant was identified by law enforcement as Jon Christopher Blaylock, 35, an inmate who had been at the institution's reception center for more than six months awaiting permanent institution placement. The San Bernardino County Sheriff's Department investigated the incident and the San Bernardino County District Attorney's Office charged Blaylock with first-degree murder with special circumstances.

Blaylock has a history of violent behavior toward correctional employees and other inmates. Blaylock arrived at the California Institution for Men on June 23, 2004 to undergo reception center processing after receiving a 75-year prison sentence for the August 2002 attempted murder of a police officer, a crime committed shortly after he was released on parole from an earlier prison term. He had served two earlier state prison sentences in 1990 and 1993 for attempted burglary, and a ten-year prison term for robbery from which he paroled in 2002.

At the time of his 2002 parole, Blaylock was serving an indeterminate term in the security housing unit at Corcoran State Prison as a maximum security Level IV inmate with a classification score of 376 points.[1] He had been placed in a single cell and on walk-alone yard status as a safety and security risk because he had a history of fighting with other inmates and was believed to have numerous enemies.[2] He was therefore transferred from the security housing unit at Corcoran State Prison to a single cell in the administrative segregation unit at California State Prison, Los Angeles and paroled four days later, on April 23, 2002.

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[1] Classification scores are used to determine inmate custody level and institution placement. Scores are based on such factors as prison sentence; stability indicators such as age, employment history, and education level; and behavior in prison, including physical assaults, possession of deadly weapons, and serious rule violations. Under *California Code of Regulations,* Title 15, Section 3375.1, inmates are to be assigned to facilities with a classification level corresponding to the classification score, as follows:

0-18	Level I
19-27	Level II
28-51	Level III
52 and >	Level IV

[2] Because of acute overcrowding at Department of Corrections facilities, most inmates in secured housing and administrative segregation are double-celled. Single cells are reserved for inmates with a history of in-cell violence and predatory behavior. Administrative segregation is intended as a temporary placement pending a ruling or other action for inmates whose presence in the inmate general population poses a danger to themselves, others, or the security of the institution or could jeopardize the integrity of serious misconduct or criminal investigations. Secured housing may be assigned for either a determinate or indeterminate period and is designated for inmates whose conduct endangers the safety of others or the security of the institution. Inmates assigned to secured housing are designated either Maximum A or Maximum B security level. Inmates in both administrative segregation and secured housing are placed in full restraints when they come into contact with correctional staff and are allowed out of their cells only one hour a day.

On August 11, 2002, less than four months after he was released, Blaylock fired three shots at a police officer who had stopped him for riding a bicycle without a front headlight. The officer returned one shot. No injuries were reported. Blaylock was arrested and remained in county jail until his conviction in June 2004 for attempted murder of a police officer. He was sentenced to a 75-year term.

Blaylock was sent to the reception center at the California Institution for Men for processing on June 23, 2004 and was placed in a general population cell at Sycamore Hall. He remained in general population housing for nearly all of the seven months he spent at the reception center.

The California Institution for Men. The California Institution for Men, built in 1941, serves as a prison for Level I, II, and III inmates and as a reception center for male felons newly committed to the Department of Corrections from Los Angeles, San Bernardino, Riverside, San Diego, and Orange counties. With a design capacity of 2,778, the institution presently houses 6,298 inmates. Custody and support staff number 1,771.

The reception center at the California Institution for Men is one of seven reception centers for males operated by the Department of Corrections, along with High Desert State Prison, Wasco State Prison, Richard J. Donovan Correctional Facility, North Kern State Prison, Deuel Vocational Institution, and San Quentin State Prison. Known as Reception Center Central, the reception center is one of four facilities at the California Institution for Men. Arriving inmates consist of new commitments to state prison, parole violators being returned to custody, parolees-at-large extradited from other states, inmates enroute to other institutions, inmates returning to prison from court, and inmates scheduled for parole into the community from prisons throughout the state. The facility receives an average of 700 inmates a week and operates 24 hours a day, seven days a week.

Reception Center Central has a design capacity of 618 and a current inmate population of 1,465, seventy-eight of whom are designated as permanent work crew inmates. The rest of the inmate population consists of inmates undergoing reception center processing. The reception center is configured into two wings: Reception Center Central East, which consists of Birch Hall, Cypress Hall, and Palm Hall; and Reception Center Central West, which consists of Madrone Hall and Sycamore Hall. Reception Center Central Control is situated between Reception Center Central East and Reception Center Central West, adjacent on one side to the main entrance to the building and on the other side to the facility lieutenant's office.

Birch Hall, with 154 cells, including 49 single cells, houses inmates with sensitive needs who are not compatible with other general population inmates. Cypress Hall, with 102 cells, is used for administrative segregation overflow. Palm Hall, which is comprised of 102 cells (68 double cells and 34 single cells) is designated as the administrative segregation unit.

Sycamore Hall. Sycamore Hall and Madrone Hall, each with 102 cells, house general population inmates. Sycamore Hall is comprised of a west side and an east side, isolated from each other except through the guard spaces. Each side is made up of three tiers accessible by open staircases inside the tiers and by locked staircases inside the guard spaces.

On January 10, 2004, the day of the stabbing, 213 inmates were housed in Sycamore Hall, with four correctional officers responsible for inmate supervision and escort. The building was on modified lockdown because of earlier incidents in which an Hispanic inmate stabbed a Black inmate and a Black inmate stabbed an Hispanic inmate.

Following is a chronology of events leading up to the incident:

1990 to 1992	Blaylock serves a three-year term for robbery.
1993 to 2002	Blaylock serves a 10-year term for robbery with a firearm. At the California Men's Colony, he is found in possession of a weapon and is sent to California State Prison, Corcoran to serve a 10-month determinate sentence in the security housing unit. At the end of the 10-month term, he is given an indeterminate term in the security housing unit as a threat to the institution's safety and security. He is placed in a single cell on walk-alone yard status and is classified as a Level IV inmate with a custody point score of 376, indicating he requires confinement in a Level IV, 180-design prison. In April 2002 he is paroled.
April 23, 2002	Blaylock is transferred from the security housing unit at California State Prison, Corcoran to the administrative segregation unit at California State Prison, Los Angeles and released on parole.
August 11, 2002	Blaylock is stopped on a bicycle for riding without a front headlight and fires three shots at a police officer. There are no injuries. He is arrested.
August 2002 - June 2004	Blaylock remains in Los Angeles County jail until he is convicted of attempted murder of a peace officer, and sentenced to a 75-year prison term.
June 23, 2004	Blaylock arrives at the reception center at the California Institution for Men. The same day, Department of Corrections records printed at the California Institution for Men indicate that he paroled from the administrative segregation unit at California State Prison, Los Angeles County after transferring from the security housing unit at California State Prison, Corcoran. The California

	Institution for Men places him in a general population cell at Sycamore Hall.
June 24, 2004	More Department of Corrections records arrive, showing Blaylock had been classified as a Level IV inmate with 376 custody points and was designated as requiring "maximum custody" at the time of his parole. He remains in a general population cell at the reception center.
July 9, 2004	Blaylock's central file arrives at the reception center. The file contains information that he had been in and out of segregated housing and administrative segregation since 1990 because of more than 20 incidents of serious misconduct, including several incidents involving violence toward staff and other inmates and the possession and use of weapons. He remains in a general population cell at the reception center.
July 13, 2004	Blaylock's central file is audited and his earliest possible release date is calculated to be January 23, 2071.
July 27, 2004	The reception center medical department classifies Blaylock.
July 31, 2004	Blaylock was involved in a violent altercation with another inmate and is placed in administrative segregation. He is charged with assault.
August 2, 2004	A correctional captain reviews Blaylock's placement in administrative segregation and determines he is a threat to the safety and security of the institution and should remain in administrative segregation pending completion of the disciplinary process.
August 4, 2004	The Institutional Classification Committee meets with Blaylock and elects to retain him in administrative segregation pending completion of the disciplinary process. The committee changes his custody level to "MAX-S," meaning maximum security, single-cell, due to past violence.
September 9, 2004	A senior hearing officer adjudicates the rules violation resulting from the July 31, 2004 assault and reduces the charge to mutual combat.
September 22, 2004	The Institutional Classification Committee meets to consider whether Blaylock should continue in administrative segregation. The committee notes that Blaylock is serving a life term for attempted murder of a

	peace officer; notes that the rules violation was reduced to "mutual combat;" and releases him to the general population. The psychologist who assessed Blaylock is a member of the committee.
September 25, 2004	A reception center medical clearance chrono is completed for Blaylock's central file, clearing the way for classification personnel to complete the casework for transfer.
October 12, 2004	A correctional counselor I completes the reception center readmission summary, but the summary contains numerous errors and omissions. It reports that Blaylock paroled with "close B" custody, rather than the higher "MAX-S" custody. The section listing disciplinary history notes the 2000 weapons possession that result in a security housing unit term at California State Prison, Corcoran and omits the July 31, 2004 assault at the reception center.
October 14, 2004	The Institutional Staff Recommendation Summary, which must be completed before an inmate is transferred from the reception center, is completed. It omits the July 31, 2004 assault of the other inmate. The summary recommends that Blaylock be sent to California State Prison, Corcoran. The counselor notes that the interview with Blaylock had to be cut short because his behavior was "bizarre and confusing," and "he became very agitated, stating that staff were out to kill him."
November 17, 2004	The Institutional Classification Committee refers Blaylock's case to the chief deputy warden, recommending that the case be referred to the Departmental Review Board for placement guidance because of the difficulty of finding placement for Blaylock.
December 1, 2004	Blaylock appears before the Unit Classification Committee for a special review because of difficulty in placing him due to his medical and custody needs. The committee refers the case to the Departmental Review Board with a recommendation that he be endorsed for either the California Medical Facility-III or the California Men's Colony-E, both Level III facilities that allow only inmates with 51 custody points or fewer.
December 2, 2004	A staff psychologist submits a form to the senior supervising social worker requesting a referral to the Department of Mental Health for Blaylock.

December 6, 2004	The Departmental Review Board report dated November 19, 2004 is sent to the Department of Corrections headquarters. Sycamore Hall is placed on a modified program after a piece of metal is discovered missing from a light fixture, raising fears that it might be used as weapons material. The modified program calls for increased cell searches and caution during inmate movements.
December 19, 2004	A riot between Black and Hispanic inmates occurs in the Sycamore Hall culinary area in which several Hispanics sustain puncture wounds.
December 20, 2004	The modified program at Sycamore Hall is expanded to a modified lockdown with cell feeding, no recreational yard, escorted inmate movement, and a requirement that Black inmates be escorted separately from White and Hispanic inmates.
December 28, 2004	A Sycamore Hall correctional officer violates the modified program by opening the first-tier grill gate and allowing a Black inmate to enter while a White inmate porter is sweeping. The White inmate stabs the Black inmate from behind. The modified program is further expanded to prohibit inmate workers from entering Sycamore Hall. Blaylock tells a correctional officer and a correctional lieutenant that Black inmates blame the officer for the stabbing and want to "get him." The threat is not reported.
January 9, 2005	Blaylock becomes angry in a dispute with a correctional officer over his legal mail and reportedly shouts, "Then you wonder why motherfuckers get stabbed!" Again, the threat is not reported.
January 10, 2005	The fatal stabbing of Correctional Office Gonzalez occurs on the first tier of Sycamore Hall.

FINDINGS AND RECOMMENDATIONS

FINDING 1

The Office of the Inspector General found that the California Institution for Men inappropriately housed Blaylock in a general population unit despite his recent parole from a security housing unit and his demonstrated violence toward other inmates.

As an inmate with a history of in-prison violence who had most recently paroled from an indeterminate term in a security housing unit, Blaylock should have been placed in administrative segregation when he arrived at the California Institution for Men. That action would have been consistent with California Code of Regulations, Title 15 and with the procedures followed at five other reception centers for males operated by the Department of Corrections. Yet, when Blaylock arrived at the California Institution for Men, he was assigned instead to a general population cell, where he remained throughout nearly all of his seven-month stay at the institution. The Office of the Inspector General found, in fact, that the California Institution for Men regularly places inmates who have paroled from administrative segregation and security housing units into general population housing.

Blaylock was involved in a violent altercation with another inmate six weeks after his arrival at the reception center and he was held in administrative segregation for seven weeks pending disciplinary action. He was then again released to the general population despite repeated notations in his files about his potential for violence and extensive information about his history of security housing and administrative segregation confinement during earlier prison terms. On the day he allegedly stabbed Officer Gonzalez, he was still assigned to a general population cell.

Procedure for inmates who paroled from determinate terms in security housing. California Code of Regulations, Title 15, section 3341.5 requires that inmates returning to the Department of Corrections who paroled from a determinate sentence in security housing be evaluated by an Institutional Classification Committee to determine whether the determinate sentence should be reimposed. The section reads as follows:

> *When an inmate is paroled while serving a determinate term, the remaining time on the term is automatically suspended. When an inmate returns to prison, either as a parole violator or with a new prison commitment, ICC shall evaluate the case for reimposition of the suspended determinate term.*

That practice recognizes that inmates with a history of confinement in administrative segregation or security housing have exhibited conduct in the past that posed a threat to the safety of themselves or others or to the security of the institution. While Title 15 does not specify a similar procedure for inmates returning to custody who parole from indeterminate sentences in a segregated housing unit, it does provide that prison inmates

assigned to a security housing unit at an institution for either a determinate or indeterminate term may be released to the general population only upon review by a classification committee.

Department of Corrections inmate records provide security housing history. Information about whether an inmate was previously confined in specialized housing — including administrative segregation or a security housing unit — appears in various department records to which the reception center staff has access. The Offender-Based Information System, which reports the inmate's most recent prison housing before he paroled or discharged from custody is typically available to the reception center staff as soon as the inmate arrives at the institution. The Distributed Data Processing System, which gives the inmate's placement score and custody level before parole, is available the day after the inmate arrives at the institution. The inmate's central file, which contains detailed information about past in-custody conduct, identified enemies, and other classification information, including security housing history, typically arrives at the reception center between one and three weeks after the inmate's arrival.

Housing placement procedures at other reception centers. The Office of the Inspector General found that, consistent with Title 15, all of the other Department of Corrections reception centers for males automatically place into administrative segregation inmates who, according to the Offender-Based Information System, paroled from administrative segregation or security housing. The inmates are retained in administrative segregation pending review by an Institutional Classification Committee. Although the Offender-Based Information System does not specify whether a segregated housing term was for a determinate or an indeterminate sentence, the procedures assume a determinate term and therefore mandatory compliance with Title 15, section 3341.5. The procedures at those reception centers do not allow the staff discretion to place inmates who paroled from security housing into general population cells.

Reception center housing placement at the California Institution for Men. According to the receiving and release staff, at the time Blaylock arrived at the California Institution for Men, a check of the Offender-Based Information System to determine an inmate's most recent prison housing was typically performed within 48 hours of the inmate's arrival.[3] In a procedure still in effect, once the previous housing information is obtained from the Offender-Based Information System, the receiving and release supervisors at the California Institution for Men are allowed discretion about whether to place an inmate

[3] Until this review by the Office of the Inspector General, to obtain information from the Offender-Based Information System, the receiving and release staff was obliged to submit a list of incoming inmates to the institution's records office, where the Offender-Based Information System terminal was located. Because the records office is staffed only during business hours and because the reception center must accept parole violators 24 hours a day, seven days a week, the check of the Offender-Based Information System was often delayed for inmates arriving during non-business hours. Until the staff could obtain the previous housing information, inmates could be placed in general population housing. As a result of the review by the Office of the Inspector General, the California Institution for Men has remedied this problem by placing an Offender-Based Information System terminal in the receiving and records office, allowing the staff 24-hour access to the information.

who paroled from segregated housing or an administrative segregation unit into the general population. And in making that decision, the staff simply relies upon what the inmate says about why he was confined in segregated housing or administrative segregation. The process calls for a correctional sergeant to review the information from the Offender-Based Information System and to interview inmates who paroled from a segregated housing or administrative segregation unit to determine the reason for the specialized placement. If the inmate says the placement was for an offense that would usually carry a short term, such as participating in a riot or battery on an inmate, he is typically assigned to the general population, under the assumption that the time remaining on the term would likely be short. If the inmate reports that the specialized housing placement was for an offense carrying a longer term, the correctional lieutenant on duty interviews him to decide whether administrative segregation placement is necessary. The lieutenant has discretion to place the inmate in administrative segregation pending further review by the Institutional Classification Committee or to assign him to the general population.

Blaylock's general population placement at the California Institution for Men. The records show that the receiving and release staff at the California Institution for Men obtained the Offender-Based Information System information for Blaylock on the day he arrived at the institution, June 23, 2004, and that a correctional sergeant reviewed it. The Offender-Based Information System revealed that at the time Blaylock paroled in 2002, he had been in the security housing unit at California State Prison, Corcoran and had been transferred to the administrative segregation unit at California State Prison, Los Angeles County in Lancaster just before he was released. Yet, after the Offender-Based Information System review at the California Institution for Men, Blaylock was placed in the general population, which allowed him to leave his cell for meals and to come into closer contact with the staff and other inmates. Except for a one-page sheet documenting that the Offender-Based Information System process was carried out, the files include no information to explain why Blaylock was not placed into administrative segregation.

Blaylock remained in general population even after more information arrived. Because the reception center process does not provide for a routine re-evaluation of the initial housing decision after the Offender-Based Information System review, Blaylock remained in the general population even after more information about his background became available. On the day after his arrival, information from the Distributed Data Processing System arrived. That information showed that Blaylock had been a Level IV inmate with 376 custody points and was designated as requiring "maximum custody" at the time of his parole. On July 9, 2004, his central file, which contained more complete information about his background, also arrived. The central file revealed he had been in and out of security housing units and administrative segregation since 1990 because of an extensive pattern of serious misconduct. The file showed his disciplinary history included more than 20 incidents of serious misconduct, including several incidents involving violence. According to the file, during his then-most recent prison term, he had been sent from the California Men's Colony to California State Prison, Corcoran to serve a 10-month determinate sentence in the segregated housing unit for possession of a weapon. Classified as a maximum security inmate, he was on single-cell, walk-alone yard status as

a safety and security risk because of his history of violence toward other inmates and his numerous enemies — a designation that restricted him from physical contact with other inmates and required that he be placed in restraints whenever he left his cell or came into contact with correctional employees.

The central file reported that when he completed the 10-month determinate sentence in the security housing unit at California State Prison, Corcoran, the Institutional Classification Committee determined his high classification score and history required he be confined to one of the most secure of the state's Level IV institutions —a 180-design facility, rather than one of the less-secure 270-design Level IV facilities. The committee concluded he was therefore not eligible for placement in Corcoran's 270-design Level IV facility. The committee referred his case to a classification services representative with a recommendation that he be given an indeterminate sentence in the security housing unit. The classification services representative endorsed the security housing unit indeterminate sentence, noting:

> *Placement is necessary due to the high number of enemies and their placement which makes alternate housing not feasible. Indeterminate placement will address the inmate's safety needs as well as his health needs.*

The records show that the California Institution for Men audited Blaylock's central file on July 13, 2004 for the purpose of determining his earliest possible release date. The release date was calculated at January 23, 2071, but no action was taken to alter Blaylock's placement in a general population cell and no note appears to have been taken of his history of violence and security housing confinement.

The California Institution for Men lacks adequate administrative segregation space. Blaylock's placement in the general population may have been influenced by the shortage of administrative segregation beds at the California Institution for Men. With just 102 beds designated for administrative segregation, the institution lacks the capacity to provide security housing for all of the high-security inmates processing through the reception center. The classification staff reported that at the time of the Inspector General's review, Palm Hall, the administrative segregation unit at the institution, was completely full and all but four cells in Cypress Hall were being used as administrative segregation overflow. The staff told the Office of the Inspector General that the constantly revolving inmate population and the high number of inmates with safety requirements results in the constant need to move inmates into the general population beds to free up space in administrative segregation. Yet the general population housing units at the institution are poorly equipped to accommodate high-security inmates and control violence.

Sycamore Hall is inadequate for high-security inmates. The California Institution for Men uses Sycamore Hall as general population housing for its worst offenders, other than those in administrative segregation, but Sycamore Hall cannot provide the security required for inmates with high-security needs. The facility is a three-tiered housing unit of antiquated design with traditional bars on cells doors controlled by a recently installed

electronic bar box. It lacks gun coverage and has numerous blind spots that allow incidents to occur without detection. The facility is also in deteriorated physical condition, providing inmates with access to weapon-making materials and numerous locations for concealing weapons.

Blaylock was temporarily sent to administrative segregation after a serious altercation with another inmate. On July 31, 2004, six weeks after he arrived at the California Institution for Men, Blaylock was involved in a serious altercation with another inmate and was placed in administrative segregation pending disciplinary action. Following an investigation and a disciplinary hearing, the violation was reduced from assault on an inmate to mutual combat.

Blaylock was released from administrative segregation following the hearing. On September 22, 2004, about two weeks after disposition of the rules violation, the Institutional Classification Committee met to consider whether Blaylock should continue to be confined in administrative segregation. At that hearing, the committee took note of the fact that Blaylock was serving a life term for attempted murder of a peace officer; noted that he had been placed in administrative segregation because of the rules violation; and made the following ruling:

> *Committee notes the above RVR [rules violation] was heard and reduced to mutual combat, therefore Committee acts to release subject to general population.*

Blaylock remained in the general population for the rest of his stay at the California Institution for Men until the stabbing of Officer Gonzalez on January 10, 2005.

The institution failed repeatedly to put Blaylock in administrative segregation. In making the September 22, 2004 decision about whether to return Blaylock to the general population, the Institutional Classification Committee had the opportunity, as well as the obligation, to thoroughly review his central file, note his violent tendencies and previous segregated housing placement, and retain him in administrative segregation, regardless of the outcome of the rules violation. Blaylock's central file clearly documents his long history of in-prison violence, his maximum security classification, and the fact that he paroled from security housing unit.

Yet, the Institutional Classification elected to release Blaylock from administrative segregation on September 22, 2004 without mentioning his potential for violence. There is no documentation that in making the decision to return him to the general population the committee noted his previous security housing placement; examined the evidence and circumstances surrounding the altercation with the other inmate; or otherwise took into account the danger Blaylock represented to the staff and other inmates.

The California Institution for Men had numerous other opportunities to recognize and act upon Blaylock's violent history by putting him in administrative segregation, but each time failed to do so. The records show that the Institutional Classification Committee, chaired by the warden, has ultimate responsibility for ruling on administrative

segregation placement at the institution, reviewed Blaylock's case on at least four occasions between August 4, 2004 and November 17, 2004 without ever directing that he be placed in administrative segregation for the duration of his stay. Similarly, the Unit Classification Committee reviewed Blaylock's case on December 1, 2004 in connection with efforts to resolve difficulties in finding him a suitable institution placement, and also failed to question his placement in a general population cell.

It is also noteworthy that even though an August 21, 1998 memorandum from the deputy director of the Department of Corrections Institutions Division advised all wardens that it is mandatory for them to chair Institutional Classification Committee meetings on a "routine, rather than an exceptional basis," neither the warden nor the chief deputy warden at the California Institution for Men attended any of the classification committee meetings concerning Blaylock.

RECOMMENDATIONS

The Office of the Inspector General recommends that the California Institution for Men take the following actions:

- **Use the Offender-Based Information System to carefully screen all incoming inmates and assign them to administrative segregation if the offender paroled from an indeterminate security housing unit term or if the offender's history otherwise merits such placement.** [4]

- **Continue the newly adopted practice of using an Offender-Based Information System terminal 24 hours per day in lieu of placing unscreened inmates into the general population.**

- **Stress to line and supervisory staff the importance of carefully following prescribed classification regulations and procedures, including supervisory review of subordinates' work; use periodic audits by executive staff and progressive discipline to enforce compliance. Provide remedial training as necessary.**

- **Emphasize to all staff the need to charge inmates with the crimes the evidence demonstrates they committed while in custody, and use periodic audits by executive staff and progressive discipline to enforce compliance. Provide remedial training as necessary.**

In addition, the Office of the Inspector General recommends that the Department of Corrections take the following actions:

[4] During its investigation, the Office of the Inspector General recommended that the California Institute for Men install an Offender-Based Information System terminal within the Reception Center Central Receiving and Release area. The following week, the California Institute for Men installed the terminal and during the first week in operation staff discovered five maximum security inmates that would not have been discovered using the old screening method.

- **Consider establishing a pre-parole designation that would allow parole regions and county jails to route parole violators with specific custody designations to the reception centers most suitably designed to handle them.**

- **Work with the California Institution for Men to develop more administrative segregation beds. If this is impractical to do, evaluate modifying the prison's mission to preclude the need for more beds or prepare and submit a budget change proposal for the necessary funding.**

- **Work with the California Institution for Men to either phase out Sycamore Hall as a living unit for high-security inmates or to upgrade it to meet safety and security standards. If the latter, prepare and submit a budget change proposal for the necessary funding.**

- **Update the August 21, 1998 memorandum advising wardens that it is mandatory for them to chair Institutional Classification Committee meetings on a routine, rather than an exceptional, basis. Hold wardens accountable for doing so.**

- **Amend California Code of Regulation, Title 15, section 3341.5(8) to mandate that when an inmate returns to prison either as a parole violator or as a new commitment, having paroled from a security housing unit, the inmate be placed in administrative segregation pending an evaluation by the Institution Classification Committee.**

FINDING 2

The Office of the Inspector General found that Blaylock's reception center processing was delayed due to complex case factors that severely limited his options for transfer to another institution.

Blaylock was housed at the California Institution for Men for seven months. The departmental guidelines state that reception centers will normally process inmates for transfer within 60 days. Blaylock's case, however, was far from normal. The complexities of his case, combined with his conduct, resulted in extending his confinement at the California Institution for Men. The Office of the Inspector General reviewed each aspect of Blaylock's reception center processing and found no delays resulting solely from staff inefficiency or misconduct.

The Office of the Inspector General's review of Blaylock's central file disclosed several case factors that severely restricted the number of institutions capable of adequately addressing his housing needs. Blaylock was restricted based upon his custody, mental health, and medical needs. No single institution in the California Department of Corrections has the resources to accommodate Blaylock's cumulative case factors. Blaylock's extensive list of enemies precluded staff from housing him even at an institution that could accommodate most of those factors.

Blaylock's history of misconduct and the nature of his new commitment offense resulted in a placement score of 376 points. Blaylock would have been designated for placement in a 180-design housing unit because of his life sentence, prior security housing unit status, and gang affiliation. Based upon this combination of case factors, staff from both the Department of Corrections Classification Services Unit and the California Institution for Men were attempting to facilitate endorsement to an institution best suited to handle him.

Blaylock's central file arrived at the reception center within three weeks of his arrival. Blaylock arrived at the California Institution for Men on June 23, 2004 as a parole violator with a new term. His central file was received at the California Institution for Men within three weeks, and on July 13, 2004, the case records office conducted an audit of his file.

Blaylock's own actions resulted in a seven-week delay in processing. On July 31, 2004, Blaylock was placed in administrative segregation as a result of a serious rules violation report originally charging him for battery with a weapon on an inmate. Since this serious rules violation report could result in confinement in a security housing unit, the institution's classification staff was unable to refer Blaylock for transfer until the issue was resolved. Blaylock's disciplinary hearing was held on September 9, 2004, and on September 22, 2004, after the charges against him were reduced to "mutual combat," the Institutional Classification Committee released him from the administrative segregation unit.

The appropriateness of the decisions to reduce the charges against Blaylock and release him from administrative segregation unit are addressed elsewhere in this report. Setting these issues aside, the Office of the Inspector General found that the California Institution For Men staff processed these actions within reasonable time limits.

The institutional staff recommendation summary was completed three weeks later. An "institutional staff recommendation summary" is prepared by the inmate's correctional counselor to assist in determining the inmate's placement. This document contains a brief description of the case factors and an evaluation of the inmate's potential adjustment in prison. Based on these factors, the counselor recommended two institutions to the classification staff representative. This document was completed on October 14, 2004 in Blaylock's case. Although there is no specific documentation available from the classification staff representative, Blaylock's counselor documented that she received direction on or before October 20, 2004 from the department's Classification Services Unit concerning an enemy of Blaylock at the California Medical Facility. This aspect of Blaylock's processing took approximately six days, which is not an unreasonable amount of time.

Blaylock's transfer was further delayed by his extensive list of enemies. A review of Blaylock's form CDC-812, "Notice of Critical Case Information – Safety of Persons," reveals that inmate Blaylock had enemies documented at all of the institutions capable of accommodating most of his case factors. Beginning on October 14, 2004, institution staff documented several attempts to resolve enemy concerns at the identified institutions. These attempts included staff conducting interviews with the enemies to determine whether their issues could be set aside to allow Blaylock to transfer. In addition, staff considered whether they could transfer some of his enemies elsewhere to accommodate Blaylock.

On November 17, 2004 Blaylock's case was presented again to the classification staff representative, who instructed the California Institution for Men to forward the case to the Departmental Review Board[5] because of its complexity.

The Departmental Review Board referral process requires an institution to prepare additional classification reports citing the inmate's case factors and history and a description of the issues to be addressed by the Departmental Review Board. The department's Classification Services Unit is responsible for conducting research and facilitating Departmental Review Board committees. The Office of the Inspector General learned that the Classification Services Unit had been working with staff at the California Institution for Men to locate suitable housing for Blaylock, but were severely hampered by his numerous restrictive case factors and enemies.

In this case, the Departmental Review Board report dated November 19, 2004 was sent to the California Department of Corrections headquarters on December 6, 2004. Records

[5] The Departmental Review Board is the highest level of classification committee within the department, and is the final arbiter regarding classification issues.

there indicated that the Classification Services Unit received the institution's referral on December 7, 2004. The Classification Services Unit staff told the Office of the Inspector General that Departmental Review Board cases are normally reviewed within three to four months of receipt. Reception center cases are usually given priority due to the urgent need to transfer inmates to appropriate institutions. At the time of the incident on January 10, 2005, the Classification Services Unit had still not been able to find an institution suitable for Blaylock.

RECOMMENDATION

The Office of the Inspector General recommends that the California Department of Corrections initiate a peer review audit with subject matter experts to identify any discrepancies in the processing of reception center inmates at the California Institution For Men.

FINDING 3

The Office of the Inspector General found that the stabbing of Officer Gonzalez might have been prevented if officers on the second watch at Sycamore Hall, including the victim, had followed security protocols and additional security restrictions imposed in response to earlier incidents in the housing unit.

The Office of the Inspector General found that correctional officers on the second watch at Sycamore Hall, including Officer Gonzalez, in an attempt to calm racial tensions on the unit and return the tier to regular programming, consistently failed to follow post orders and standard security protocols. They also repeatedly violated additional security measures imposed after violent incidents between Black, Hispanic, and White inmates at the facility in December 2004. Tragically, the stabbing of Officer Gonzalez on January 10, 2005 was directly linked to the violation of those security requirements.

In interviews conducted by the Office of the Inspector General and the San Bernardino County Sheriff's Department, Sycamore Hall correctional staff and inmates consistently reported that policies and procedures designed to provide safety and security were not followed on second watch when Officer Gonzalez was on duty. The officers said, for instance, that in direct violation of security protocols, they frequently released inmates they believed were influential with other inmates out onto the tier to try to calm racial tensions. In particular, they reported that Gonzalez allowed Blaylock out of his cell on numerous occasions before the fatal stabbing, because he believed Blaylock to be a "shot caller," who could influence other Black inmates. On the day he was stabbed, Gonzalez not only directed that Blaylock be released from his cell, but also entered the tier alone to speak to Blaylock, in direct violation of established security protocols. Earlier that morning, a fellow officer warned Gonzalez that this conduct was dangerous and could result in a stabbing. By ignoring this warning, Gonzalez placed himself and other officers in harm's way.

In addition, the Office of the Inspector General found that second-watch correctional officers at Sycamore Hall did not perform required cell searches —as evidenced both by cell search logs and by approximately 35 weapons found during a comprehensive search of the housing unit conducted immediately after the fatal stabbing. Nor did they follow extra security measures imposed after racial violence in the unit that called for keeping inmate workers off the tier and racial groups separated during inmate movements. The correctional staff on a different watch also failed to report verbal threats made by inmates toward officers. Finally, the supervisory staff and management of the institution failed to adequately supervise the officers or hold them accountable for the lax security practices.

The Office of the Inspector General found that the serious security violations on the second watch were not corrected because the correctional sergeant and lieutenant responsible for supervising Sycamore Hall during second watch failed to consistently provide that supervision.

The Office of the Inspector General found in addition that the California Institution for Men's warden, the chief deputy warden, the associate warden responsible for the reception center, the facility captain and the unit's correctional lieutenants and sergeants all failed to monitor compliance with the directives specified in the modified program — the extra security measures imposed in response to violent incidents in the housing unit — between December 6, 2004 and January 9, 2005.

Modified program requirements. Sycamore Hall was placed on a modified program on December 6, 2004 after a piece of metal was discovered missing from a light fixture, raising fears that it might be used as weapons material. The modified program instructions directed the staff to increase cell searches and to "exercise caution" during inmate movements. On December 20, 2004, after a riot between Black and Hispanic inmates, the security restrictions were expanded to a modified lockdown, with cell feeding, no recreational yard, escorted inmate movement, and a requirement that Black inmates be escorted separately from White and Hispanic inmates. In a weekly program status report to the regional administrator dated December 20, 2004, the warden explained the reasons for the restrictions and said the incident would be investigated:

> *During the last modification period the White inmates were restricted to their cells during feeding and no recreational yard. On 12-19-04 a riot occurred in the Sycamore Culinary between Blacks and Hispanic inmates. Chemical agents were deployed. Several Hispanic inmates sustained puncture wounds. An investigation to determine the cause of the incident will be on going. Several weapons were discovered during the search of the culinary.*

The weekly modified program status report of December 27, 2004 reiterated the requirements, repeated that an investigation into the December 19, 2004 "will be ongoing," and emphasized the need for separated escort:

> *Escort all movement. White & Hispanics Together, Blacks Separately.*

Additional modified program requirements imposed. During the second watch at Sycamore Hall on December 28, 2004, a correctional officer violated the modified program by opening the first-tier grill gate and allowing a Black inmate returning from a medical visit to enter while a White inmate porter was sweeping. When the Black inmate entered his cell, the White inmate stabbed him from behind, inflicting two puncture wounds. In response to that incident, the modified program status report of January 3, 2005, which was in effect on January 10, 2005, and which was signed by the correctional captain and by the chief deputy warden for the warden, provided the additional directive that no inmate workers were to be allowed in Sycamore Hall. The report read in part:

> *On 12-28-04, a White porter stabbed a Black inmate returning from a ducat on the first tier. The Black inmate sustained two puncture wounds. This incident worsened the already increased racial tensions in Sycamore Hall.*

...Staff are to conduct increased searches of inmates living in common areas. Exercise caution during inmate movement. This procedure will not be changed without permission of the RCC Captain. Staff will separate White and Hispanic inmates from Black inmates.

...There will be no inmate workers in Sycamore Hall, the officers will cell feed and clean all areas within their housing unit. ... The workers will be confined to the culinary.

The modified program requirements came in addition to existing post orders governing cell searches, release of inmates from cells, and other security protocols. Post orders for Sycamore Hall correctional officers include the following requirements:

- ***Releasing inmates from cells.*** Post orders for all correctional officers and supervisory staff assigned to Sycamore Hall strictly limit the release of inmates from cells. The post orders read:

  Except for regular program activities which require the release of inmates from cells, such as meals, showers, clothing exchange and cell searches, cell doors will remain locked unless permission has been obtained from a Sergeant or Lieutenant. ***Inmates will only be released from their cells for authorized activities.*** *[Emphasis added]*

- ***Required cell searches.*** Post orders for Sycamore Hall housing unit correctional officers require officers on second and third watches to conduct a minimum of three cell or bed area searches for weapons and contraband on every shift. Officers are also required to search a cell after an inmate vacates the cell and to note any "discrepancies." The results of the searches to be entered in two places: on the unit cell search log and on the housing unit daily audit sheet, which is submitted to supervisors each day.

- ***Reporting threats and other information.*** Post orders require housing unit correctional officers to inform the next watch of any important occurrences. The post orders state:

  Record all unusual occurrences or noteworthy information in the unit log book and sign the log. Pass on any pertinent information to the relieving officer.

- ***Officers may not enter a tier alone or open a grill gate if front door is unlocked.*** Post orders for Sycamore Hall housing unit officers require the following:

  In the event there is a need to enter the tier, there will be no less than two (2) officers on the tier at a time. With the exception of inmate movement during yard release/recall, and an emergency evacuation of the unit, the front door to the housing unit will be locked before any unit grill gate is unlocked. A serious breach in security will exist if both the housing unit front door and any unit grill gate are unsecured at the same time. It is the responsibility of all housing unit staff to maintain the security of the unit at all times and to prevent any situation

which would allow uncontrolled inmate movement. All inmate movement will be strictly controlled by staff.

- ***General supervisory responsibilities.*** Post orders for the Sycamore Hall correctional sergeant and correctional lieutenant, under "general duties and responsibilities" specify the following:

  On a frequent and regular basis, you are to inspect all designated housing units. Inspect post orders.

- ***Supervisory responsibility for making post orders available.*** Post orders for the Sycamore Hall second and third watch housing unit sergeant specify as follows:

  Post orders must be available at the assigned positions and the current post order acknowledgement sheet will be signed by the assigned staff.

- ***Supervisory responsibility for incident investigations.*** Post orders for supervisors require them to review all incident reports and conduct investigations if necessary. The post orders provide:

  Review all incident reports, form CDC 837, for completeness and accuracy. Interview and conduct informal investigations when necessary. Conduct and prepare Investigative Reports.

- ***Supervisory responsibility for cell searches.*** Sergeants assigned to second and third watch at Sycamore Hall are required by post orders to sign the housing unit daily audit sheets after verifying that the information is accurate.

The Office of the Inspector General found that Officer Gonzalez, other correctional officers on second watch at Sycamore Hall, and Sycamore Hall supervisors consistently violated both post orders and modified program requirements. Specifically:

- ***Required cell searches were not performed.*** The Office of the Inspector General found that cell searches required by post orders were not properly conducted. Although Sycamore Hall officers on the second watch did regularly document the three required daily searches on the housing unit daily audit sheet, they did not document the searches in the unit cell search log. As a result, officers had no way of knowing each day which cells had already been searched, effectively nullifying any genuine search effort. In fact, the Office of the Inspector General found that unit cell search records at Sycamore Hall had not been maintained since February 2000.

  In addition, there is almost no evidence that the increased search efforts directed by the modified program requirements in effect between December 6, 2004 and January 10, 2005 were performed. A review by the Office of the Inspector General of unit search logs, housing unit logbooks, sergeant and lieutenant logbooks, housing unit

daily audit sheets and program status reports found only a single piece of documentation to suggest that searches of Sycamore Hall were increased. That notation, which appeared in the program status report signed on December 17, 2004 stated:

> *During the last modification period the housing unit has been searched at least once. Ongoing searches have produced only minor contraband.*

Yet after the stabbing of Officer Gonzalez on January 10, 2005, mass searches of Sycamore Hall yielded approximately 35 weapons.

- ***Investigations were not conducted.*** Even though modified program status reports in December 2004 and January 2005 indicated that recent incidents of violence would be investigated, the Office of the Inspector General found no evidence that investigations or inquiries were conducted. The program status report dated January 3, 2005 also failed to direct staff to investigate the cause of the December 28, 2004 incident, which clearly resulted from officers violating written directives to keep Black and White inmates separated. In violation of his post orders, the Sycamore Hall correctional captain failed to request an inquiry into the violation of written directives that directly contributed to the stabbing of the inmate on December 28, 2004, even though he signed off on the crime incident report. Asked about the policy violations surrounding the incident, the chief deputy warden said neither the warden nor the chief deputy warden reviewed the incident because if did not involve use of force by staff. The chief deputy warden said the reception center associate warden is normally the final reviewer on incidents that do not involve use of force. But when the Office of the Inspector General asked for the post orders or duty statement of the associate warden position, investigators were told that none exist. The chief deputy warden acknowledged that no investigation or inquiry into the incident was requested or conducted by anyone at the institution, although both the warden and the chief deputy warden acknowledged that an investigation or preliminary fact-finding inquiry should have been initiated.

- ***Inmate workers were allowed on the tiers during movement of other races.*** In violation of modified program restrictions, officers on second watch frequently allowed inmate porters to remain on the tiers during movement of inmates of other races. Instead of securing the porters during the movement, officers typically sent the porters to a different tier until the movement was completed.

- ***Permanent work crew inmates allowed on tier without supervision.*** Second-watch correctional officers allowed permanent work crew inmates to be on the tiers to carry out repairs without direct supervision so long as they had signed work orders. Officers also allowed them to be on the tiers during movement of inmates of other races, in direct violation of both modified program restrictions and post orders.

- ***Managers did not adequately communicate permanent work crew restrictions.*** The warden and chief deputy warden agreed that the modified program was intended to restrict all inmate workers from Sycamore Hall. Yet the directives in the modified program status report were ambiguous, leaving room for the interpretation that permanent work crew inmates were not included in the restrictions. The Sycamore Hall correctional captain, the second-watch correctional lieutenant, and the second-watch correctional sergeant told the Office of the Inspector General that permanent work crew inmates were routinely allowed into units to make necessary repairs during modified programs and lockdowns. Supervisors, staff, and inmates all noted that they believed permanent work crew inmates were not involved in the racial politics within the reception center.

- ***Inmates were released from cells without supervisory approval.*** Officer Gonzalez and other correctional officers on the second watch released inmates they believed to be influential with other inmates from their cells without authorization from supervisory or managerial staff, in violation of post orders and modified program restrictions. Blaylock was one of these inmates.

- ***Threats were not reported.*** The Office of the Inspector General found that on two occasions in the days preceding the fatal stabbing of Officer Gonzalez, Sycamore Hall officers on third watch did not report threats made by inmates against the staff. The first instance occurred during third watch on December 28, 2004. On that date, according to staff, Blaylock told a Sycamore Hall correctional lieutenant and a third-watch correctional officer that Black inmates blamed the officer for the stabbing that had occurred that day and wanted to "get him." On January 19, 2005, after the fatal stabbing of Officer Gonzalez, another third-watch officer told the San Bernardino County Sheriff's Department that on January 9, 2005, Blaylock became angry over a dispute with an officer about his legal mail, and had yelled, "Then you wonder why motherfuckers get stabbed!" Because in both instances the staff failed to notify institution management of the threats, Blaylock was not rehoused in Administrative Segregation Unit and no investigation was initiated to evaluate whether the threats were credible and to take appropriate action.

- ***Blaylock was repeatedly allowed out of his cell.*** Officer Gonzalez routinely allowed Blaylock, in particular, to move about unsupervised on the Sycamore Hall west-side tiers to calm other Black inmates and relieve racial tensions because he believed him to be a "shot caller." Witnesses made the following statements with respect to this practice:

  The guard would let him out when everyone else is in lock-down and treated him as a "shot caller."

  Gonzalez would let Blaylock out on the tier to talk to people. I did not know why the officers would let Blaylock out on the tier to talk to people....

I would see Blaylock out on the tier running the tier for his people doing favors and that it was a common practice. I was curious about why Officer Gonzalez was inside the tier area with Blaylock out because usually when the inmates were out on the tier the officers were always on the other side of the bars.

- ***Sycamore Hall supervisors failed to provide adequate supervision.*** Despite post orders requiring them to inspect all designated housing units "on a frequent and regular basis," it appears that the Sycamore Hall correctional sergeant and correctional lieutenant failed to provide required supervision. Although the unit logbook indicates that supervisory staff regularly toured the unit during first and third watches, it does not document similar inspections by the supervisory staff regularly assigned to second watch. Numerous statements by Sycamore Hall correctional officers also indicate that the second-watch correctional sergeant and correctional lieutenant remained in the dark about the serious violations of security protocols that regularly occurred during the second watch.

- ***Management did not monitor compliance with modified program requirements.*** Management at the California Institution for Men allowed non-compliance with search requirements and did not monitor compliance with other modified program requirements. Management acknowledged they were aware that Sycamore Hall correctional officers were not conducting the cell searches required by post orders and modified program requirements. They told the Office of the Inspector General that the staff lacked the time to search cells being vacated and to keep up the unit logbook because of the high turnover of inmates at the institution and increased court mandates. The Office of the Inspector General also found no documented evidence that staff complied with modified program directives issued by management. The warden and chief deputy warden also said they had not documented staff compliance with the modified program requirements, but made a commitment to developing a chronological summary of actions taken during modified programs.

On January 10, 2005, a number of these security violations culminated in the fatal stabbing of Officer Gonzalez. On that day, Gonzalez directed another officer to unlock Blaylock's cell so he could have access to the tier and try to calm racial tensions. The officer refused, asking Gonzalez how they would explain it "if he stabs somebody." Gonzalez said no one would get stabbed and opened the cell himself. He subsequently returned Blaylock to his cell while other officers released White and Hispanic inmates for medical appointments. After the White and Hispanic inmates left, other officers working in the unit released eight Black inmates from their cells for medical appointments and had those eight inmates wait in the guard space. At that point, Gonzalez directed that Blaylock again be released from his cell and onto the tier. Shortly thereafter, two Hispanic permanent work crew inmates arrived unsupervised to make plumbing repairs at Sycamore Hall in a cell occupied by two Black inmates. Even though modified program restrictions were still in effect, and even though the front door of the housing unit was open, Gonzalez opened the grill gate to allow one of the two Hispanic permanent work crew inmates to enter the tier.

The two Black inmates who were occupying the cell needing the plumbing repair should have been moved to a secure area while the repairs were made, instead officers told them to come out of the cell and stand on the tier against the wall. An officer then opened the front door of the housing unit to release the eight Black inmates to medical appointments. At that moment, and while the door was open, a White inmate returned from a medical appointment unannounced and walked up the corridor toward the entrance to Sycamore Hall. One officer then left the guard space to control the White inmate, leaving three officers in the guard space, including Gonzalez, to watch the eight Black inmates, the Hispanic plumber, the two Black inmates who had been released from their cell because of the plumbing repair, and Blaylock. Meanwhile, Blaylock and the two Black inmates who had been released for the plumbing repair began roaming up and down the stairs to all three tiers of the living unit. At that point, one of the three officers was distracted by a telephone call and, simultaneously, Blaylock called to Gonzalez, asking him to enter the tier. In response, Gonzalez again opened the grill gate, with the front door to the housing unit still open, and went onto the tier alone to speak to Blaylock, all in direct violation of security protocols —risking not only his own safety, but also the safety of the other officers standing in the guard space and posted throughout the reception center. Immediately after Gonzalez entered the tier, the stabbing took place.

RECOMMENDATIONS

The Office of the Inspector General recommends that the California Institution for Men take the following actions:

- **Remind all custody staff of the importance of carefully reading and following post orders, including those requiring supervisory staff to monitor subordinates' work and to frequently inspect living units. Exercise progressive discipline to enforce compliance and provide remedial training as necessary.**

- **Management staff should monitor custody supervisors' adherence to important security-related directives and post orders, ensuring to hold supervisory staff accountable for compliance.**

- **Ensure that all security-related directives are as clear and specific as possible in order to avoid misinterpretation by staff.**

The Office of the Inspector General also recommends that the director of the Department of Corrections hold the warden and her executive staff accountable for ensuring that they comply with the above recommendations.

FINDING 4

The Office of the Inspector General found that Sycamore Hall inmates were able to obtain and hide weapons because of lax tool controls, poor building maintenance and the consistent failure of the correctional staff to conduct required cell searches.

The California Institution for Men was built in 1941. A lack of preventive maintenance at the aging facility has left Reception Center Central, and specifically Sycamore Hall and Madrone Hall, in a serious state of disrepair. The disrepair and structural defects provide inmates with a source of weapons stock and provides spaces for inmates to hide inmate-manufactured weapons. Compounding the disrepair and structural defects is the institution's failure to adhere to departmental policy requiring consistent and accurate inventory counts of tools legitimately used by inmates, thus hindering staff from detecting theft of tools and metal stock by inmates for use as weapons or in their manufacture.

Madrone Hall

A lack of preventive maintenance has left Reception Center Central in a serious state of disrepair. During visits to the California Institution for Men between January 10, 2005 and February 9, 2005, the Office of the Inspector General noted numerous maintenance problems throughout Reception Center Central. During interviews with staff and inmates, the Office of the Inspector General repeatedly heard complaints about the lack of preventive maintenance, timely repairs, and insufficient maintenance staff necessary to maintain the aging physical plant.

The Office of the Inspector General found the lack of preventive maintenance at the California Institution for Men has left Sycamore Hall and Madrone Hall in a serious state of disrepair. This condition contributes to an increased availability of weapons stock, while structural defects allow weapons to be hidden within the cellblock or passed outside the building through broken cell windows. For example, at the time of the homicide Sycamore Hall had been on a modified program in which inmates were substantially restricted to their cells for five weeks due to missing metal from a light fixture. The metal can be cut and fashioned into a stabbing or slashing weapon. Illustrating the serious structural defects, a subsequent search for weapons found multiple weapons stored in the space between the toilets and the cell wall. Maintenance staff from

other institutions were eventually called in to assist in removing the toilets to check for other weapons and to reseal the toilets to prevent inmates from hiding contraband there again.

The state of disrepair at Madrone Hall also provides inmates with the ability to transport weapons or contraband from cell to cell. Many of the cell windows on the back side of Madrone Hall are broken, permitting inmates to "fish" an item from one cell to another by lowering or swinging the item on a string or other type of line. The Office of the Inspector General observed "wear marks" in an arcing pattern on the back side of Madrone Hall indicative of items having been repeatedly swung back and forth from cell to cell.

Madrone Hall

Maintenance storage areas were in disarray. In an effort to determine why such a large number of inmate manufactured weapons were present in Sycamore Hall on the date of the incident, the Office of the Inspector General toured the maintenance areas located in Reception Center Central at the California Institution for Men. The tour, conducted on February 9, 2005, included the boiler room, conex boxes (room-sized metal containers) and a storage area inside the secured perimeter directly behind the reception center. These areas were toured, in part, because of concern that inmate permanent work crews, such as the plumbing crew working in Sycamore Hall on the day Officer Gonzalez was murdered, were possibly providing inmates with weapons stock and tools to manufacture weapons.

The Office of the Inspector General found each area to be in total disarray. Within the boiler room area there were

unsecured tools in a five-gallon bucket, unsecured lockers containing welding rods and propane cylinders, and numerous unsecured bins containing non-inventoried replacement parts kept on hand for electrical and plumbing repairs. Many of these non-inventoried replacement parts could easily be used to manufacture weapons. The Office of the Inspector General asked maintenance staff if inmates had access to this area. Staff replied that one inmate was allowed into the boiler room area.

Tool inventories were non-existent or could not be located. The *California Department of Corrections Operations Manual* contains several provisions requiring staff to regularly inventory tools stored and used within the institutions. Because tools are used legitimately by some inmates, such as those assigned to permanent work crews, the most obvious purpose for tool inventory records is to allow for quick and accurate detection of missing or stolen tools. Section 52040.6 of the *Department of Corrections Operations Manual* provides that each institution shop, work area, or building where tools are used and stored shall have methods to account for issuance, storage, and key control of tools. Section 52040.6 also requires that each storage area include an inventory count permitting custody staff to conduct an immediate and accurate count of tools stored in that area.

In addition, section 52040.8 of the *Department of Corrections Operations Manual* provides that inventory listings of all tools shall be kept and checked prior to the beginning and ending of each work or class period. These checks must also be conducted before all breaks, including lunch. More specifically, section 52040.13.9 provides, in part, that all tools used by inmate work crews inside the security area shall be controlled and inventoried daily by the inmates' supervisor.

The Office of the Inspector General viewed the plumbing cart used by the permanent work crew inmates inside Reception Center Central and found that the cart contained numerous tools and replacement parts. Maintenance staff said the tools were inventoried daily, but were unable to locate the inventories on the day of the tour. None of the replacement parts had been inventoried. The cart did not contain a tool inventory card to allow for an immediate and accurate count of the tools as required by *Department of Corrections Operations Manual* section 52040.6. Staff explained that the institution's Investigative Services Unit confiscated the toolbox normally kept on top of the cart on January 10, 2005, following the homicide. The Office of the Inspector General contacted Investigative Services Unit staff to view the contents of the toolbox. Staff confirmed the toolbox had been secured in the Investigative Services Unit office since January 10, 2005. The Office of the Inspector General viewed the contents of the toolbox and found it contained the required listing of all its tools.

The Office of the Inspector General also viewed a yellow hazardous materials storage locker adjacent to the conex storage unit inside the secured perimeter directly behind the

reception center. The locker was unsecured and full of containers that had leaked their contents, causing corrosion on the shelves. There was also no inventory of the chemicals being stored as required by state mandate. The Office of the Inspector General advised management at the California Institution for Men of this safety hazard.

The Office of the Inspector General was informed that the maintenance shop within the corridor of the reception center was relocated to an area behind the minimum support facility on January 20, 2005 because the space was needed for the medical department to comply with court mandates.

Before leaving the California Institution for Men, the Office of the Inspector General requested copies of all Reception Center Central tool inventories for December 2004 and January 2005. On February 14, 2005, the Office of the Inspector General received from the utility shop supervisor a facsimile of some of the requested tool inventories. The facsimile contained a copy of a document entitled "Daily Inventory Tool Records" for January 2005 for "Toolbox #1," "Toolbox #2," and the "Staff Toolbox." The facsimile also contained the two-page inventory of the toolbox and cart used by the inmate plumbers inside the security area of the reception center. The sender noted that the December 2004 tool inventory had not been located.

On February 17, 2005, the utility shop supervisor sent the Office of the Inspector General the December 2004 Daily Tool Inventory Record; however, there is no indication on the form which tools corresponded with the inventory. On the facsimile cover sheet the sender wrote, "[W]e tore the place up and found the only inventory for 04 period. How lucky this was the one in question."

The Office of the Inspector General conducted a thorough review of the tool inventory records submitted as evidence that maintenance staff were conducting daily inventories as required by the *Department of Corrections Operations Manual*. In reviewing the documents received on February 14, 2005, the Office of the Inspector General found the following:

- The Daily Tool Inventory Record utilized by maintenance staff at the California Institution for Men reads, in part, that the staff member "counted and witnessed the listed items in this (tool locker/tool crib/tool boxes) on the date and time I have indicated."
- The three forms for January 2005 each contain 20 work days with three separate inventory counts per day for a total of 60 inventories per sheet and a cumulative total of 180 separate signature boxes. All 180 boxes contained the same individual's initials and handwriting apparently written with the same type of pen. The appearance of the forms suggests that one person signed off on all 180 separate spaces at the same time.
- The inventory documents record that three inventories were conducted per day between January 11, 2005 and January 31, 2005. However, the inmate plumber tool box used in Sycamore Hall on January 10, 2005 was seized as potential evidence that

day by Investigative Services Unit staff and held until it was released to a maintenance worker in the presence of the Office of the Inspector General on February 9, 2005. The maintenance worker who initialed the Daily Tool Inventory Record indicating that he inventoried the items in the tool box could not have had access to that tool box between January 11 and January 31, 2005, although his initials indicate that he did.

RECOMMENDATIONS

The Office of the Inspector General recommends that the California Institution for Men require staff to timely and accurately complete tool maintenance inventories.

In addition, the Office of the Inspector General recommends that the California Department of Corrections assemble an experienced team and conduct a thorough inspection of the California Institution for Men. This inspection should identify all maintenance problems and result in a corrective action plan. In addition, the team should identify staffing requirements and resources necessary to complete repairs and maintain the physical plant.

FINDING 5

The Office of the Inspector General found that the California Department of Corrections procured and distributed protective vests to the institutions consistent with its budget change proposal and its agreement with the California Correctional Peace Officers Association; however, delays in issuing vests at the California Institution for Men were unwarranted.

In fiscal year 2001-02, the Department of Corrections received both one-time and ongoing funding to procure stab-resistant protective vests for its custody employees. The Office of the Inspector General determined that in the ensuing years, the department actually spent more than budgeted to procure these vests and distributed them to its institutions according to priorities outlined in the agreement with the California Correctional Peace Officers Association. At the time of the stabbing of Officer Gonzalez, however, the California Institution for Men had been holding in its warehouse 362 vests it had received on September 9, 2004. While the failure of the institution to distribute the vests immediately may not have violated the agreement with the union, depending upon the interpretation of the relevant sections of the Memorandum of Understanding, distributing the vests expeditiously would certainly have improved employee safety, including that of Officer Gonzalez, whose personally fitted vest was in the warehouse when he was stabbed. Further, holding the vests in the warehouse for four months considerably shortens their useful life. The reasons the institution provided for not distributing the vests until the day following Gonzalez' death reflect a lack of urgency, and inadequate planning.

The California Department of Corrections introduced protective vests in the mid-1980s for custody staff working in its administrative segregation and security housing units, also referred to as lock-up units. The original vests were worn outside of the uniform and consisted of a cover with titanium plate inserts. Custody personnel working in lock-up units would retrieve a vest along with their other assigned security equipment prior to each shift and return the vest at the end of the shift. The vests came in limited sizes and over the years the technology for stab resistant vests greatly improved. According to the Department of Corrections, as vest technology progressed, the Department of General Services began testing protective vests and eventually developed standards for vendors to follow. Later, the National Institute of Justice began performing scientific tests on protective vests nationwide for law enforcement and certified vests that met certain standards of resistance to stabbing instruments. The Department of General Services eventually adopted the National Institute of Justice certification and now all protective vests purchased by the Department of Corrections must meet the National Institute of Justice certification.

In fiscal year 2001-02, the California Department of Corrections received $4.6 million in one-time funding to purchase protective vests for its high security-level facilities. The budget change proposal included $1.3 million in ongoing funding for vest maintenance and replacement.

The department spent more than budgeted to procure protective vests. In its review, the Office of the Inspector General compared the budgeted amounts with the expenditures for protective vests to ensure funds were expended as intended. The following table represents the amount budgeted and expended on protective vests from fiscal year 2001-02 to present:

Fiscal Year	Budgeted	Expended	Surplus/Deficit
2001-02	$4,625,000	$5,141,352	-$516,352
2002-03	1,308,000	481,536	826,464
2003-04	1,308,000	3,308,856	-2,000,856
2004-05*	1,308,000	33,579	1,274,421
Totals	$8,549,000	$8,965,323	-$416,323

*In the process of ordering for FY 2004-05.

The department adhered to its labor union agreement in issuing the vests to the institutions. The department followed the protective vest requirements outlined in its agreement with the California Correctional Peace Officers Association. Section 7.05 I of the labor agreement stipulates that as additional protective vests become available, they shall first be offered to employees working in Level IV facilities, then to employees in Level III facilities, then to employees in Level II facilities, and finally to employees in Level I facilities. Although the language is silent on reception centers, the California Department of Corrections determined in its fiscal year 2001-02 budget change proposal that reception centers fall between the Level III and Level II institutions for priority purposes. Inmates are technically unclassified during the reception center process but can have classification scores ranging from Level I through Level IV. The Office of the Inspector General determined that the department procured protective vests according to the following priorities:

1. Level IV-180 Design Facilities
2. Level IV-270 Design Facilities
3. Level III Facilities
4. Reception Centers
5. Administrative Segregation Units (replace expired vests)
6. Level II Facilities (future purchases)
7. Level I Facilities (future purchases)

The initial budget change proposal approved for fiscal year 2001-02 estimated funding for providing protective vests to Level IV facilities, Level III facilities, and reception centers, but erroneously excluded the California Institution for Men from its schedule. The error was caught later, but it was too late to add funding to the budget. The department, however, ran into additional problems that prevented the procurement of protective vests as originally planned. First, the price of protective vests had increased by more than 25 percent since the preparation of the budget change proposal. Second, the original estimate assumed custody staff would share vests in a fashion similar to the existing practice in its lock-up units. Last, the type of vest used to formulate the original

estimate was no longer available for purchase and the department was required to purchase specific vests meeting standards set by the Department of General Services, which required vests that are individually fitted for staff. As a result, the department was limited to purchasing protective vests for its Level IV and Level III facilities during fiscal year 2001-02 and fiscal year 2002-03. The department continued ordering vests for the remaining Level III facilities and its reception centers, including the California Institution for Men, during fiscal year 2003-04.

Due to the changes cited above, the original omission of the California Institution for Men does not appear to have delayed the prison from receiving the vests beyond the time other reception centers received them.

Protective vests could have been provided to employees earlier. The California Institution for Men could have provided protective vests to correctional employees in September 2004. Notwithstanding that the Department of Corrections was in compliance with the budget change proposal, correctional employees could have benefited if the protective vests had been distributed upon their arrival at the institution. Although the Office of the Inspector General found no specific requirement for protective vests to be issued immediately upon their arrival, distributing the vests in a reasonable time period would have enhanced employee safety, including that of Officer Gonzalez, whose personally fitted vest remained in the warehouse at the time of his death.[6] There is no guarantee that Officer Gonzalez would have survived the stabbing had he been wearing a protective vest, since the inmate could have chosen to attack other vital areas of the body. However, providing protective vests to staff shortly after arrival would at least provide additional safety for those employees. Further, the fact that the institution began issuing vests to officers within a few days of the incident demonstrates that the prison was capable of distributing the vests.

In addition to the safety aspects, there are economic benefits to distributing the vests upon their arrival. According to the California Department of Corrections, the protective vests have a useful life of approximately five years regardless of whether they are worn or stored in a warehouse. As a result, the 362 protective vests delivered to the California Institution for Men on September 9, 2004 had expended nearly 7 percent, or $8,188, of their useful life sitting in the warehouse awaiting distribution.

The institution cited several reasons for not distributing the vests. The reasons the institution provided for not distributing the vests until a few days following Gonzalez' death reflect a lack of urgency, inadequate planning, and a concern for not jeopardizing employee relations. According to the California Institution for Men, management had meetings to discuss whether to issue protective vests to its employees but failed to take action for the following reasons:

[6] The associate warden for business services said he removed Officer Gonzalez' protective vest from the warehouse on January 11, 2005 in order to not further traumatize the staff. At the request of the Office of the Inspector General, the institution placed the vest in the custody of its Investigative Services Unit. The Office of the Inspector General subsequently examined the vest and verified that the manufacturer's label identified it as being assigned to Officer Gonzalez.

- California Institution for Men Operational Supplement 33020.16 for protective vests needed to be updated. The current policy was based on the lock-up units only and did not address some of the issues unique to the new, individually fitted vests. The existing policy was based on the staff exchanging pooled vests rather than having individually assigned vests. The California Institution for Men reported it is still in the process of updating this operational supplement.

- The California Institution for Men had only 362 vests on hand, but needed more than 900 to cover all staff. Prison management was concerned that there could be issues of fairness with officers who had vests working alongside officers who did not. In addition, the institution had a second purchase order for 578 additional vests, only 100 of which had arrived by December 29, 2004, and was in the process of scheduling additional fittings.

- Management was concerned about the impact of "post and bid." Like all institutions, the California Institution for Men has continuous post and bid that allows staff with seniority to bid for vacant post assignments as they occur. Therefore, an officer who may require a vest one day could end up working a post the next day that no longer requires a vest.

Distribution of vests at the institution lagged behind other reception centers. The timeliness of vest delivery to the California Institution for Men was average compared to that of other reception centers, but distribution to officers lagged behind. For comparison purposes, the Office of the Inspector General reviewed the protective vest orders of five reception centers, including the California Institution for Men. The following table compares the number of vests required, number of vests received, percentage of vests received, and number of days elapsed to initiate distribution of vests as of January 11, 2005:

Reception Center	Vests Required	Vests Received	% Received	Days to Distribute
California Institution for Men	940	462	49.2%	124
Deuel Vocational Institution	657	480	73.1%	6
North Kern State Prison	813	733	90.2%	14
R.J. Donovan Correctional Facility[7]	727	0	0	NA
Wasco State Prison[8]	833	0	0	NA

As shown above, the California Institution for Men had received only about half its vests — far behind North Kern State Prison and the Deuel Vocational Institution. However,

[7] R.J. Donovan ordered 515 vests on November 24, 2004. The vests were delivered to the institution on February 18, 2005. According to the Department, these vests have been distributed.
[8] Wasco State Prison ordered 496 vests on November 10, 2004. The vests were delivered to the institution on January 21, 2005. According to the Department, these vests have been distributed.

neither the R. J. Donovan Correctional Facility nor the Wasco State Prison had received any vests. In distributing to its employees, the California Institution for Men lagged behind the reception centers that had received their vests. Both the Deuel Vocational Institution and North Kern State Prison distributed the majority of its vests to employees within 14 days of receipt, whereas the California Institution for Men took four months. These facilities informed the Office of the Inspector General that neither of them had updated their local policies concerning protective vests. Further, since issuing the vests to employees, the institutions have not received a grievance concerning the vests.

According to records provided by the protective vest supplier, 588 employees from the California Institution for Men had been fitted prior to January 10, 2005. After employees are fitted, the contractor provides a list to the institution's contact person for final approval of the order. The contractor's records showed the ordering process varied from institution to institution, with some taking only a few days and others, such as the California Institution for Men, taking more than two months for final approval. Once the contractor receives final approval, the vests are shipped within about 60 days according to the contract. In reviewing the records, it appears the California Institution for Men has not approached issuing protective vests with a sense of urgency. If the California Institution for Men had waited until all vests arrived, the vests would still be in the warehouse because additional fittings were still in process at the time of this review.

The department's protective vest policy has not been updated. The Department of Corrections has not updated its protective vest policy since adopting the new fitted vests in September 2002. According to the Department of Corrections, neither its central office nor the institutions had finalized the policies and procedures for distribution of new protective vests at the time of this review. Lack of a new policy was cited as one of the main reasons for delaying vest distribution to staff at the California Institution for Men. The Office of the Inspector General was informed that the Emergency Operation Unit in Sacramento was in the process of revising *California Department of Corrections Operations Manual* section 33020.16 to address the new protective vest policies and procedures. The California Institution for Men was also in the process of updating its local policies and procedures. Generally, the local policies are required to only address institution-specific issues that are not addressed in the broader departmental policy. Because institution-specific policies follow departmental policies, the California Institution for Men and other institutions might have been more efficient in updating their policies had the Department of Corrections been more proactive in updating the *California Department of Corrections Operations Manual.*

Potential employee relations problems should not have delayed issuing the vests. The California Institution for Men's concerns about post and bid and potential employee issues should not have prevented the issuance of protective vests. As cited previously, the California Institution for Men expressed concerns that providing protective vests to some officers and not to others would create inequities among its staff. In addition, post and bid was an ongoing concern because staff who may require a vest today may not require one tomorrow. However, the institution could have addressed some of these concerns by prioritizing vest distribution to employees working in certain housing units. For example,

staff working in a housing unit with the highest number of incidents the past twelve months could have received priority over those in another housing unit. The California Institution for Men and the contractor told the Office of the Inspector General that initial vest fittings completed from May 11 through May 14, 2004 were not based on the employee's job assignment but rather on who happened to be working that day and decided to stop by for a fitting. The California Institution for Men could easily have justified its distribution to officers if it had developed priority-based distribution criteria. The California Institution for Men told the Office of the Inspector General that it was not in the process of negotiating with the union concerning these issues, but was trying to address these concerns through a new policy.

The Office of the Inspector General met with the local CCPOA chapter president to get his perspective on the issuance of protective vests. According to the chapter president, he has had no formal discussions with the California Institution for Men concerning the issuance of protective vests. He said he "heard through the grapevine" over the summer of 2004 that more than 300 vests had arrived at the institution, but he was never officially informed by the prison administration. The chapter president said he had a few informal conversations with the employee relations officer and a facility captain about how many vests had arrived, what type they were, and who was going to receive them, but he was not provided with specifics about the institution's plan for distribution. He said he was told that the prison administrators were working on a new protective vest policy that would address the new procedures. The chapter president informed the Office of the Inspector General that he was concerned about inequities in distribution, training on proper use, vest maintenance, and lack of vest policies. The chapter president said he planned to address these issues through the grievance process once the vests were issued. To date, the chapter president said he has not received a copy of the new policy or even discussed the protective vest issue with the management of the California Institution for Men. The chapter president said that, "at no time did the union suggest the California Institution for Men delay issuing vests to its officers."

The department must improve accountability for protective vests. *California Department of Corrections Operations Manual,* section 33020.16.4 requires each institution to prepare quarterly protective vest inventory reports utilizing CDC Form 1405 (Protective Vest Quarterly Inventory Summary). As part of its review, the Office of the Inspector General requested copies of these reports for the California Institution for Men, but found the prison does not prepare such reports. In fact, the unit responsible for coordinating the reports was unaware of the requirement and had never seen a CDC Form 1405.

As noted earlier, the protective vests have a useful life of only about five years. Therefore, the California Department of Corrections needs an inventory system to track protective vests to ensure they are replaced once their useful life has expired. The CDC Form 1405, if utilized, is a start toward such a system. The Department of Corrections said it is working on an automated system that will track all safety equipment, including protective vests.

RECOMMENDATIONS

The Office of the Inspector General recommends that the California Department of Corrections do the following:

- **Issue protective vests to correctional employees expeditiously upon arrival of the vests at the institution.**
- **Update *California Department of Corrections Operations Manual* section 33020.16 to address new policies and procedures for protective vests.**
- **Require facilities to report quarterly vest inventory using CDC Form 1405, and develop and implement an inventory tracking system to ensure all protective vests are adequately accounted for and replaced according to manufacturer's standards.**

FINDING 6

The Office of the Inspector General found that the medical clinic at the California Institution for Men reception center where the victim was taken after the stabbing was poorly equipped and ill-prepared to handle the emergency.

The reception center clinic where Officer Gonzalez was first taken was not properly equipped, supplied or organized to deal with his medical emergency, nor was the clinic's medical staff prepared to cope with it. The deficiencies may not have contributed to the death of Officer Gonzalez, given the extreme severity of his wounds, but the evidence establishes that the care provided by the clinic staff was very deficient.

Relationship of reception center clinic to the institution hospital. Reception Center Central is a large building located several hundred yards south of the institution's hospital. The institution's hospital is a general acute care hospital licensed by the State of California, and its primary purpose is to meet the health and emergency medical needs of inmates. Despite its physical distance from the hospital, the clinic located at the reception center is considered an out-patient facility of the hospital, and has a pharmacy from which medications are dispensed to inmates housed at the reception center. The clinic's primary purpose is to provide medical, psychiatric, and psychological screenings of reception center inmates. Although it typically provides certain health care services not requiring hospital attention, the clinic's staff is sometimes called upon to respond to medical emergencies at the clinic and in other areas of the institution's reception center.

Medical summary of the stabbing incident. Officer Gonzalez was stabbed just before 10:57 a.m. in Sycamore Hall. Four correctional officers carried him to the reception center medical clinic and laid him on the floor of the clinic's interview room where medical personnel, including licensed vocational nurses, registered nurses and physicians were present. All of their reports were consistent in describing multiple stab wounds to Officer Gonzalez, accompanied by profuse bleeding.

Clinic staff initially applied direct pressure to the wounds, attached an automated external defibrillator to Officer Gonzalez, began cardiopulmonary resuscitation (CPR), and attempted to establish an airway to begin ventilation. The clinic staff did not defibrillate because the automated external defibrillator initially indicated that CPR should be initiated. Staff did not establish an intravenous line, nor did they administer cardiac medications. A member of the clinic staff called 911 at 11:02 a.m.

At 11:03 a.m., a medic engine from the fire district began its response from approximately 2.5 miles away. At the same time, an ambulance from American Medical Response also initiated its response. The medic engine was first on scene and initiated treatment at 11:10 a.m. by providing ventilation with a bag valve mask. The fire paramedics established an intravenous line at 11:12 a.m. and re-intubated Officer Gonzalez at 11:15 a.m. Paramedics performed defibrillation and at 11:15 a.m., administered medications, including epinephrine, atropine, and lidocaine. At 11:20 a.m.,

a needle thoracostomy[9] was performed, Officer Gonzalez was defibrillated again and additional epinephrine administered. Additional atropine was administered at 11:26 a.m.

The ambulance transporting Officer Gonzalez departed the prison at 11:20 a.m., arriving at Chino Valley Medical Center at 11:30 a.m. Doctors pronounced Officer Gonzalez dead at 11:52 a.m. The San Bernardino County Sheriff's Department homicide investigator's report says that the medical examiner who performed the autopsy determined that the first stab wound penetrated the chest cavity and the heart, causing major bleeding inside the chest cavity.

The clinic's emergency equipment and supplies are not kept together. The clinic's equipment and supplies for use in respiratory, cardiac and other medical emergencies includes airway equipment, oxygen, some intravenous access supplies, an automatic external defibrillator, medications, dressings and related material. These items are not kept together for immediate access in an emergency. For example, the advanced airway equipment and drugs are kept in a case in a locked closet down the hall in a different room from the oxygen, an automated external defibrillator, and other emergency first-aid supplies.

While the oxygen, an automated external defibrillator, and first-aid box are available in the same room of the clinic where Officer Gonzalez was initially taken, these items are not kept together. The oxygen tanks are routinely stored behind the main door of the clinic's interview room, while the other equipment is located a short distance away in that room. During its review, the Office of the Inspector General visited the clinic at various times on five different days. On two of those days, the automated external defibrillator, the box of first-aid supplies and an additional container of items were kept together, while on the other days they were sometimes separated and moved to other locations to accommodate other work in cramped quarters. The Office of the Inspector General noted that at times some of this emergency equipment was partially hidden from view by sweaters, snack food, and other items.

The manner in which the equipment and supplies were located and stored in the clinic at the time of the incident involving Officer Gonzalez required clinic personnel to go to different locations to obtain or search for necessary equipment and supplies, wasting valuable time.

Clinic staff suggested to the Office of the Inspector General that the clinic needs a crash cart for providing emergency medical care. The cart would keep all necessary equipment together and could be easily taken to the location of any emergency in the large facility

[9] Thoracostomy is done to drain fluid, blood, or air from the space around the lungs. Severe injuries to the chest wall can cause bleeding around the lungs. A punctured lung allows air to gather outside the lung, causing its collapse (called a pneumothorax). Chest tube thoracostomy (commonly referred to as "putting in a chest tube") involves placing a hollow plastic tube between the ribs and into the chest to drain fluid or air from around the lungs.

served by the clinic. It would also assure that all necessary equipment would be immediately available should a patient be brought to the clinic.

The institution's *Hospital Policy & Procedure No. C-14,* which provides guidance for assuring crash cart availability in the hospital's emergency room, requires that crash carts be fully equipped with emergency medical equipment, and that they be operational at all times. The policy sets forth an inventory list of equipment and supplies and provides for their security. The clinic does not comply with the policy and there is no alternative policy applicable to the clinic.

Some equipment and supplies were not in ready-to-use condition. Two oxygen tanks are kept in the clinic room where Officer Gonzalez was taken. Both tanks have the required regulators, but only one has attached to it the handle or key necessary to activate the flow of oxygen. There was a delay in providing Officer Gonzalez with oxygen at the time of the incident because the only tank with the required key did not have the necessary "tree" attached to the regulator to allow oxygen tubing to be attached. A member of the clinic staff had to remove the tree from the tank that did not have a key, and attach it to the tank that did have a key before oxygen could be provided to Officer Gonzalez, costing valuable time in a critical situation. Clinic staff told the Office of the Inspector General that an additional delay occurred when staff could not immediately locate a face mask.

Missing equipment and supplies hampered treatment. Clinic medical staff had to abandon efforts to establish intravenous access on Officer Gonzalez when they discovered they did not have the required tubing with which to connect fluid to a catheter. Establishing intravenous access in a trauma victim permits medical staff to infuse a bleeding patient with replacement fluid and to establish a means of delivering medications to that patient. Typical equipment needed to establish intravenous access includes a catheter, an IV start kit, tubing, and fluid solution.

When the Office of the Inspector General inspected equipment and supplies almost a month after the incident, endotracheal tubes were found in a case containing medications. There was no stylet to assist in the intubation of a patient, or a syringe that could be used to inflate the balloon cuff of the endotracheal tube following intubation. Clinic staff told the Office of the Inspector General that a stylet and syringe were not available at the time of Officer Gonzalez' emergency.

At the time of the Office of the Inspector General's inspection there was no device present in the clinic that could be used to prevent an endotracheal tube from being dislodged accidentally following intubation. The Office of the Inspector General's post-incident interviews with clinic staff have determined that the tube used on Officer Gonzalez became dislodged at some point. The Office of the Inspector General did not observe an esophageal detector device, suction device, or suction catheter with the airway equipment during its inspections. Clinic staff told the Office of the Inspector General that such equipment was not available at the time of the incident. The continued absence of these supplies leaves the clinic unprepared should a similar medical emergency occur.

Other equipment and supplies, though available, are inadequate. The emergency supplies set aside in the clinic include a single 20-gauge catheter. A larger supply of catheters is required to enable the clinic staff to establish IV access in patients during medical emergencies. Catheters with a larger bore are also needed for trauma victims. Medical professionals expecting to encounter emergency situations typically equip themselves with a plentiful supply of fluids in large-volume bags, yet only a single 500-ml bag (approximately 16 fluid ounces) of normal saline was in the clinic's emergency supplies at the time of the Office of the Inspector General's tour.

The institution's ambulance stationed at the institution hospital has large-volume bags of normal saline, tubing and start kits, but is not stocked with catheters. Under these circumstances, establishing IV access in a patient at the clinic will be delayed by the necessity of waiting for an ambulance to deliver the additional supplies.

Some available equipment and supplies were not used. The Office of the Inspector General's interviews of clinic staff revealed that an end-tidal CO_2 detector or measuring device was available to provide capnometry or capnography[10] during endotracheal intubation, but was not used on Officer Gonzalez. Such a device assists in confirming that the endotracheal tube has been properly placed and is being maintained while the patient is being ventilated.

Though a pulse oximetry device to measure the level of oxygen in a patient's blood was available, it does not appear to have been utilized to determine that Officer Gonzalez was being properly ventilated. A pulse oximeter can be used whether or not an artificial airway is used and can be used regardless of the type of airway utilized.

Oropharyngeal airways[11] were available to assist in maintaining a patient airway, in the absence of an endotracheal intubation. The Office of the Inspector General's interviews of clinic staff found a substantial probability that staff did not successfully intubate Officer Gonzalez with an endotracheal tube, and did not resort to use of an oropharangeal airway after encountering problems with achieving proper intubation. Although available, clinic staff did not administer cardiac medications to Officer Gonzalez because of their inability to establish IV access and because they did not know such medications could be administered through a properly placed endotracheal tube.

The very presence of such supplies at the clinic reflects the institution's recognition that their use can be reasonably anticipated. However, the fact that these supplies were not

[10] Capnography is the continuous analysis and recording of carbon dioxide concentrations in air expelled from the lungs. Although the terms capnography and capnometry are sometimes used synonymously, capnometry suggests measurement or analysis alone without a continuous written record or graph.

[11] Oropharangeal airways are used to maintain the airway in the unconscious patient during assisted breathing, and do not extend deeply into the trachea ("windpipe") as do endotracheal tubes.

used suggests that staff is not properly trained in their use, which was confirmed through the Office of the Inspector General's interviews with clinic staff.

The clinic lacks standardized inventory control for emergency supplies and equipment. Although such procedures exist for medications, there are no established inventory control procedures for other emergency equipment and supplies at the clinic. The clinic staff is not provided with a written list of supplies that must be included in the first-aid, airway, and IV supplies cases. The Office of the Inspector General learned that even a month after the incident, some of the supplies used on Officer Gonzalez still had not been replaced, and during inspections conducted at that time, no bag valve mask or AMBU bag were included with the emergency medical supplies. Clinic staff were confused as to what supplies were used in treating Officer Gonzalez and just as confused about what should typically be included among the clinic's emergency medical equipment and supplies.

The Office of the Inspector General's inspections noted that the case containing airways, intubation equipment, medications, and many other items was quite disorganized, with most equipment and supplies placed haphazardly in the case, making it difficult for staff to find a particular item rapidly during an emergency.

During the Office of the Inspector General's first inspection of the airway equipment case, there was no security seal on the outside of the case. On the following day, there was a seal on the case, requiring someone from the pharmacy staff to break the seal for a second inspection and reseal it afterwards. During a third inspection, this process was repeated. None of these precautions were exhibited the first time the equipment case was inspected.

Unless improved, the clinic's current practices with respect to inventories will leave it unprepared to address future emergencies. One of the clinic's staff informed the Office of the Inspector General that the clinic treats as many as 20 to 30 stab wounds per month.

The institution's *Hospital Policy & Procedure No. C-14* provides that crash carts be available and operational in the hospital's emergency room, fully equipped with emergency medical equipment and supplies. The policy prescribes an inventory list of equipment and supplies and provides for their security. While this policy does not explicitly apply to the clinic, it can still serve as a valuable guideline until clinic-specific policies are developed.

Regular inspections of supplies and equipment are not performed. The clinic's medical staff has no procedure requiring regular inspections of emergency equipment to ensure that all necessary equipment is available and ready to use when needed. There is no policy requiring re-stocking and replacement of missing and consumed materials when an emergency is over.

While the institution's *Hospital Policy & Procedure No. C-14* requires that emergency equipment and supplies in the hospital's crash cart be audited at the beginning of each

shift, no such requirement exists for the clinic. As a result, missing or inoperable equipment and supplies may not be discovered until needed during an actual emergency.

The absence of policies, training, and supervision in this area is demonstrated by the fact that, at the time of the Office of the Inspector General's review, items consumed in the effort to save Officer Gonzalez had not been replaced, and items unavailable when critically needed had not been added to the emergency supplies. Unless corrected, the absence of a policy requiring regular inspections will contribute to the clinic being unprepared for future emergencies.

Orientation of new clinic staff is inadequate. The Office of the Inspector General's interviews with clinic staff revealed that staff members are not adequately briefed on the location of emergency equipment when first assigned to the clinic. Some staff members believed the only key available to turn on the flow of oxygen is attached to one of the tanks, while others thought the key is kept in a desk drawer. During interviews, a number of staff members were unable to locate basic equipment, such as a bag valve mask, AMBU bag, and airway adjuncts.

In addition to a lack of initial orientation, the institution does not conduct drills or offer periodic in-service training in responding to emergency medical situations to clinic staff. There is evidence that such training existed at one time — a written examination administered to medical staff at the institution in May 2000 tested staff on their knowledge of emergency drills at the institution. The Office of the Inspector General's interviews of clinic staff disclosed confusion and a lack of uniform understanding as to the extent and type of emergency medical services that clinic staff should provide. For example, some of the clinic staff believe it appropriate for them to administer medications to a patient experiencing cardiac arrest, while others believe such medications should be administered at the institution's hospital or by paramedics responding from outside the facility. The clinic staff members are unaware of any guidelines providing clarity or guidance on this issue. Without proper training, the clinic's staff cannot be expected to perform adequately during an emergency.

Lack of specialized training in emergency medicine. The institution does not conduct or otherwise provide sufficient specialized training in emergency medicine for its medical staff. All medical staff who assisted in the attempt to save Officer Gonzalez' life held the appropriate professional licenses. Those requiring certification in cardiopulmonary resuscitation (CPR) were currently certified.[12]

The institution does not currently require that any of its clinic personnel maintain certification in advanced cardiovascular life support. Medical staff interviewed by the Office of the Inspector General stated that advanced cardiovascular life support certification was required for emergency room employees in the past, but that the institution no longer imposes such a requirement. One member of the clinic staff told the

[12] Physicians are not required to be certified in CPR.

Office of the Inspector General that he had not received any "code blue" training in eight years.

Both physicians present when Officer Gonzalez was brought to the clinic knew that epinephrine, atropine, and lidocaine could benefit a patient experiencing cardiac arrest. But the lack of advanced cardiovascular life support training and certification may explain why one physician did not know, while the other would not state, that epinephrine, atropine, and lidocaine could all be administered through a properly placed endotracheal tube after intubation. These medications and others are included in the case containing the endotracheal tubes and IV fluid. One of these physicians also works shifts in the institution hospital's emergency room where the protocols refer to the use of such medications. The Office of the Inspector General determined during interviews with these physicians that neither has received any specialized training or certification in emergency medicine, although one has continuing education credits in heart failure and coronary syndromes as recently as December 2002. One of the physicians advised the Office of the Inspector General that he had not worked in an emergency room in approximately 25 years, and the other said that the only emergency medical experience he has comes from working shifts in the institution's emergency room.

As an example of the confusion among clinic staff members as to procedures, a nurse with significant administrative responsibilities initially told the Office of the Inspector General that there were no cardiac medications in the clinic's supplies. This nurse later said the medications were intended for use in responding to emergencies involving inmates, but 911 is to be called for medical emergencies involving employees. Still later, this nurse said that use of these medications is to be directed by the physicians.

Clinic staff do not routinely perform some of the skills associated with providing emergency medical services. Intubation is one example. One of the physicians told the Office of the Inspector General that staff members are required to train or demonstrate ability to perform oral intubations on a mannequin every six months, but the institution could not produce evidence of such a practice, nor could other clinic staff members recall such a practice. The nurse who claims to have intubated Officer Gonzalez told the Office of the Inspector General that such periodic training is not required.

The lack of specific training in emergency procedures, supplemented by periodic refresher courses, can result in the delivery of inadequate care during future emergency situations.

Insufficient direction and leadership during the emergency. Several of the Office of the Inspector General's interviews with clinic staff revealed that at least two physicians were present when Officer Gonzalez arrived in the clinic. Some clinic staff stated that physicians failed to provide substantial assistance, direction, and leadership during the attempts to save the officer's life. Interviews of the two physicians reveal they have little, if any, significant training and no substantial experience in dealing with significant medical emergencies.

Without at least one medical staff member providing directions acknowledged by the rest of the staff, there can be a lack of focus and coordination in delivering emergency medical services.

The institution's *Hospital Policy & Procedure C-11* states that the Medical Officer of the Day or other physicians working in the hospital are to direct the medical care team when a "code blue" is called in response to a patient who is not breathing or has no pulse. The fact that this policy statement is directed to hospital operations does not diminish its value in providing guidance to clinic procedures in the absence of policies specific to that area.

Inadequate documentation of events during the emergency. Clinic staff members involved in treating Officer Gonzalez prepared incident reports on California Department of Corrections Form 837 as required. These reports are the only written documentation of emergency medical care that clinic staff prepared, and are inadequate in describing the assessment, care and treatment of Officer Gonzalez.

Based on interviews with the Office of the Inspector General, some clinic staff indicated the belief that standard medical charting is not required for emergency medical treatment provided at the clinic, while others believe that such charting is required only if emergency treatment is provided to inmates.

The institution's *Hospital Policy & Procedure No. C-11* includes by reference a "Cardiopulmonary Resuscitation Form" that must be completed during treatment of a patient experiencing cessation of breathing or pulse. The form requires that hospital staff record pertinent information concerning medical assessment and care, as well as the patient's response to treatment. The clinic staff created no such record concerning Officer Gonzalez.

Additional policies and procedures directly requiring, or indirectly referring to, charting or other documentation of medical care provided in the hospital include *Hospital Policy and Procedures A-10, C-5, C-6, C-15*, and *E-10*. These policies and procedures require charting as a means of avoiding errors and to aid in diagnosis, treatment, and care of both inmates and employees. Clinic staff complied with none of these policies and procedures in connection with Officer Gonzalez.

Proper documentation minimizes or eliminates ambiguity about what occurred, and who performed particular procedures. Proper charting has the added advantage of providing evidence that appropriate medical care was provided and further assists by improving future medical care and in managing risk.

In contrast with the documentation produced by the institution's clinic staff, the fire and ambulance paramedics did a much more thorough job of providing medical documentation on their standardized patient care reports.

As a result of the clinic staff's failure to document the incident adequately, there remain discrepancies in critical details of Officer Gonzalez' treatment:

- The fire paramedics defibrillated Officer Gonzalez shortly after their arrival because he was experiencing ventricular fibrillation. If clinic staff had pressed the "analyze" control on the automated external defibrillator that they attached earlier to Officer Gonzalez, the device would have recognized such a heart rhythm and recommended defibrillation. However, because clinic staff did not maintain charts of the incident there is no way to tell precisely how long Officer Gonzalez was attached to the clinic's automated external defibrillator or how frequently someone activated the "analyze" control. Further, there is no way to tell how long Officer Gonzalez had a heart rhythm in need of defibrillation prior to the fire paramedics' arrival.

- Though the 837 reports record clinic staff's attempt to establish an intravenous line, there is no mention as to whether the attempt was successful. The Office of the Inspector General learned only during subsequent interviews with clinic staff that the attempt to establish an intravenous line was unsuccessful because supplies to accomplish the task were inadequate. The critical missing item was the tubing for connecting the catheter to fluids. None of the clinic staff's 837 reports mention the reason an intravenous line could not be established. The necessary intravenous line tubing had still not been added to the intravenous line supplies and other emergency equipment at the clinic a month after the problem was first encountered.

- The Office of the Inspector General's examination of the 837 reports revealed significant discrepancies in identifying the type of airway used in attempting to ventilate Officer Gonzalez. One registered nurse wrote in his 837 report that he "was able to insert the trach tube." His oral statement indicated the tube had a balloon cuff. Another nurse wrote in her 837 report that she advised fire paramedics that Officer Gonzalez needed to be re-intubated, suggesting that the clinic staff's attempts at this procedure were unsuccessful or that the tube had been dislodged while the patient was being moved. The same nurse was clear in stating that she handed a packaged endotracheal tube, equipped with a balloon cuff, to the physicians.

  One of these physicians told the Office of the Inspector General he intubated the patient with an endotracheal tube about six inches long having no balloon cuff, and that he does not know what an oropharyngeal airway is.[13]

  Two of the medical technical assistants (MTA's) directly involved in providing care to Officer Gonzalez stated during their interviews that an endotracheal tube was not used, but that an oropharyngeal airway was. When shown an oropharyngeal airway the same MTA told the Office of the Inspector General that it did not look like the airway used on Officer Gonzalez. Another of the MTA's described an airway to

[13] The difference between an oropharyngeal airway and an endotracheal tube is significant. The oropharyngeal airway, when properly sized, does not extend past the pharynx when inserted and is rather easily inserted in an unresponsive patient with an absent gag reflex. In contrast, the endotracheal tube is actually inserted in the trachea with great care given to avoid placing it in the esophagus.

which the AMBU bag was attached after insertion. However, there is nothing on an oropharyngeal airway to which an AMBU bag can be attached.

- Only one of the 837 reports suggests any sort of problem with the airway, recording that paramedics were advised of a need to re-intubate Officer Gonzalez. Interviews of clinic staff by the Office of the Inspector General a month later disclosed the airway used on Officer Gonzalez became dislodged at some point. There is no written record as to when or how the airway became dislodged, how long staff took to recognize the airway was dislodged, or how long, if at all, effective ventilation was provided.[14] In fact, there is insufficient evidence to conclude the airway was properly placed.

- There is no documentation discussing the adequacy of the ventilation provided at any time. Interviews of some clinic staff indicate that Officer Gonzalez' chest was observed to rise and fall after intubation and ventilation, which if true suggests tracheal and not esophageal placement of the endotracheal tube. However, the nurse who claims to have performed the intubation said there was no rise and fall of the chest following intubation. There is no written documentation describing Officer Gonzalez' response to ventilation. In addition, clinic staff have offered no testimony, oral or written, regarding any definitive primary or secondary assessments verifying that the endotracheal tube was properly placed in the trachea as opposed to the esophagus. The "Cardiopulmonary Resuscitation Form" used in the California Institution for Men Hospital, but apparently not used at the clinic, calls for such information.

The clinic staff's collective omission of these critical details from official written reports deprives management and staff alike of the ability to conduct an objective critique of the handling of Officer Gonzalez' emergency.

No staff debriefing or incident critique conducted. The medical staff was appropriately offered stress debriefing for psychological benefit following the incident. However, there was no attempt to evaluate or debrief the handling of the medical emergency or the adequacy of available equipment and supplies. Some clinic staff indicated in interviews with the Office of the Inspector General that they desired to speak with someone about what had actually happened, because they felt there had been problems and they wanted to contribute to better preparation in the future. Specific incident debriefing is an essential part of quality improvement.

The institution's *Hospital Policy & Procedure No. C-11* requires that a hospital nursing supervisor or lead nurse prepare a written critique after medical services have been provided to a patient experiencing a cessation of breathing or pulse. Several items on that

[14] If an endotracheal tube was actually used, there are no incident reports mentioning whether someone attempted to secure it, even with nothing more than tape, to guard against dislodging. Subsequent interviews, however, revealed there was no attempt to secure the endotracheal tube before lifting the officer to a gurney and wheeling him out of the building.

critique form would apply in this case. For example, one of the questions addresses whether the crash cart was adequately stocked. It appears, however, that clinic staff believe this policy was never intended to apply outside of the hospital.

Hospital Policy & Procedure No. Q-1 describes a quality assurance program.[15] Its purpose is to systematically monitor and evaluate the quality and appropriateness of nursing care, pursue opportunities to improve nursing care and clinical performance and resolve problems. No such policy and procedure is in place for the clinic, however. One of the questions on a test administered by the institution in May 2000 indicates that all emergency medical responses involving an ambulance shall be reviewed monthly to identify procedural or training issues requiring correction. The institution made no apparent attempt to review the quality of the care provided to Officer Gonzalez until the Office of the Inspector General's inquiry was initiated.

Key members of the clinic staff provided conflicting information about critical details. One of the nurses reported in his 837 report that he personally intubated Officer Gonzalez, and further confirmed this during an interview with the Office of the Inspector General. The nurse's written 837 report that he inserted a "trach tube" into the patient is corroborated by testimony of the other medical staff present during the event, except for one of the physicians who claims that he, and not the nurse, intubated Officer Gonzalez.

This physician who claims to have intubated Officer Gonzalez told the Office of the Inspector General he personally listened to Officer Gonzalez' heart and lung sounds when the officer was first brought to the clinic and that both were absent. However, one of the MTA's in the clinic during the incident reports that Officer Gonzalez' carotid pulse was initially palpable and the chest was seen rising and falling before clinic staff initiated ventilation. At least one member of the clinic staff told the Office of the Inspector General that the physician who claims to have attempted to listen to heart and lung sounds simply opened the officer's uniform and walked away.

The physician claiming to have intubated Officer Gonzalez told the Office of the Inspector General the following:

- He was unable to identify by name the instrument normally used to assist in the intubation of patients.

- He performed a blind intubation without the assistance of a light source. The Office of the Inspector General observed two fully functional disposable laryngoscopes[16] inside the case containing a small supply of endotracheal tubes.

- He could not and did not confirm that the endotracheal tube was in the trachea.

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[15] Many health care providers have moved to a quality improvement program instead of a quality assurance program.

[16] This instrument permits visual confirmation that the endotracheal tube been inserted through the vocal cords and into the trachea and not into the esophagus.

- A pulse oximeter was not used and that he does not know what an end-tidal CO_2 monitor is. This physician was not familiar with the terms capnometry or capnography.

- The only way to secure an endotracheal tube after intubation is to either hold the tube in place with the fingers or to inflate the balloon cuff at the distal end of the tube to hold the tube against the interior wall of the trachea. Neither is an adequately reliable method of securing a tracheal tube. The physician confirmed that the endotracheal tube he used did not have a balloon cuff. All of the other endotracheal tubes seen by the Office of the Inspector General on subsequent inspections at the clinic have inflatable balloon cuffs. Typically, only endotracheal tubes for infants and small children have no inflatable balloon cuffs.

- He held the tracheal tube in place with his fingers but could not explain how or when the endotracheal tube became dislodged.

- There was no stylet present among the supplies, or if there was, that he did not see it. He also said there is no suction device available at the clinic and further stated that he did not know how suction might be needed during an intubation procedure.[17]

- He did not know what an oropharyngeal airway was, insisted that the carina[18] was the portion of the anatomy separating the esophagus from the trachea, and was unfamiliar with the Glasgow Coma Scale; terms commonly known to those familiar with performing intubations.

- He personally saw on the small screen of the automated external defibrillator/cardiac monitor four or five ECG waves that changed to a straight line, indicating Officer Gonzalez' heart rhythm was asystole (cardiac standstill). The physician said he administered no cardiac medications, and that the four or five ECG waves he observed were insufficient for him to determine the exact type of heart rhythm before he recognized Officer Gonzalez was asystole.

Nonetheless, this same physician wrote an 837 report failing to mention his having intubated the patient, the method used to provide an airway, how placement of the endotracheal tube was confirmed, and that he read and assessed ECG waves on a cardiac monitor while Officer Gonzalez was in the clinic. This physician's 837 report further describes that he issued various orders to other medical personnel.

The policies and protocols governing emergency medical procedures lack coordination. The policies and protocols governing emergency medical procedures create confusion among staff because they lack coordination. The California Institution for Men has three

[17] Suction is necessary to remove blood and other liquids that can block visual inspection of endotracheal tube placement, or that may be aspirated into the patient's lungs.

[18] The carina trachaea is a projection of the lowest tracheal cartilage, forming a prominent semi lunar ridge running antero posteriously between the openings of the two bronchi. The carina trachaea is below the portion of the anatomy separating the esophagus from the trachaea.

separate sets of health care protocols. The first are policies and procedures for the medical/surgical unit of its hospital. The second are the hospital's emergency medical policies and procedures. The third are policies and procedures intended only for the clinic and are outpatient protocols concerning the care to be provided inmates.

While the institution's emergency operations plan contains a resource supplement[19] concerning emergency medical treatment, it applies only in the event of a major disturbance and provides guidance for transporting those injured in such disturbances without providing specific treatment protocols. The institution has no written policies and procedures for providing emergency medical care to its employees outside of its hospital.

There are no emergency medical care protocols available to the staff in the clinic. While there are medical protocols located in the institution's hospital, these do not specifically and comprehensively address emergency care to be provided by clinic staff. Some clinic staff believe the hospital protocols do not apply to the clinic, while others do not know whether they apply.

The institution's general practice is to call a private ambulance company to transport seriously ill or injured employees to an outside medical facility. This is the written policy to be applied during a major disturbance. In contrast, inmates experiencing a medical emergency are usually transported by the facility ambulance to the institution's hospital. These policies do not preclude employees from being taken to the institution's hospital or inmates from being transported to outside hospitals.

The same equipment and staff assigned to provide first-response emergency medical services to inmates at the clinic are the same that would be used for employees experiencing an emergency. Neither inmates nor employees will be well served by the state of emergency-preparedness that the Office of the Inspector General observed at the institution's clinic.

Information in the institution's emergency operations procedures is incorrect. The institution's emergency operations procedures list a phone number to an ambulance substation in Chino to contact for emergency medical transportation off institution grounds, but that phone number is no longer in service. The 800 central dispatch number for the ambulance company, however, is valid. Fortunately the clinic staff simply called 911 when seeking assistance for Officer Gonzalez, activating a response by not only American Medical Response, but Chino Valley Fire whose number is not listed in the procedures.

The emergency procedures identify a list of hospitals as providers of emergency medical services, but Loma Linda University Medical Center, the only Level I trauma center in the region, is not listed.

[19] Resource Supplement Number 17, *Providing Emergency Medical Treatment for All Staff and Inmates*.

Employees and inmates at the institution's central unit are isolated from the traditional 911 community for obvious safety and security reasons. They are also isolated, to some extent, from the services of the facility's ambulance and hospital emergency room, further underscoring the need to plan and prepare clinic staff for medical emergencies in the clinic or at other locations. That planning and preparation is inadequate at this time.

RECOMMENDATIONS

While the primary function of the reception center's clinic is to perform inmate medical evaluations, it is also common for clinic staff to provide emergency medical care, and specialized equipment and supplies have been provided to it for that purpose. Indeed, the very environment of the institution provides strong reason for it to be properly prepared to respond to medical emergencies since other alternatives may be delayed or inaccessible due to security concerns.

Accordingly, the Office of the Inspector General recommends that the California Institution for Men take the following actions with respect to its central reception center clinic:

- **Develop comprehensive procedures specific to the clinic that focus on delivery of emergency medical services.**

- **Assess the clinic's needs with respect to emergency medical supplies and equipment and assure that the clinic is adequately stocked with them. The chief medical officer should institute a practice of conducting regular inventories and inspections of these supplies and restock those that have been consumed or lost to spoilage or obsolescence.**

- **Ensure that the emergency supplies are ready to use and are immediately accessible. A crash cart would address this purpose within the clinic, and could also be easily taken to any emergency in the facility served by the clinic.**

- **Provide specialized training in emergency medical procedures for clinic staff and other employees as appropriate. This may include courses leading to advanced cardiovascular life support certification. Further, management should conduct regular emergency drills for clinic staff. Management should provide additional training in medical charting and proper documentation of emergency medical incidents.**

- **The insitution's medical staff should engage in thorough debriefing following incidents of medical emergencies. California Evidence Code, section 1157 encourages a frank evaluation of quality of care issues by prohibiting discovery of such information. The California Institution for Men should take full advantage of this statute by engaging in candid and**

complete self-assessments after significant medical events, whether involving inmates or employees.

- **The institution should consider retaining the services of a consultant in emergency medicine to provide a comprehensive review of its policies, protocols, procedures, staffing, training, quality assurance/improvement program, supply and equipment requirements and to provide guidance on implementing improvements. The consultant should be knowledgeable and experienced in establishing and maintaining emergency medical clinics outside of a traditional hospital setting.**

In addition, the Department of Corrections should review the emergency preparedness of its other institutions to ensure that the deficiencies found at the California Institution for Men do not exist elsewhere.

FINDING 7

The Office of the Inspector General found that the management of the California Institution for Men did not set up an Emergency Operations Center or institute an Emergency Operations Plan in the wake of Officer Gonzalez' stabbing due to ambiguous protocols. As a result, there was some confusion in the chain of command, emergency operations policies were not implemented, the crime scene was destroyed, and an incident log was not initiated.

The *California Department of Corrections Operations Manual* governs appropriate responses to disturbances at an institution, while individual institutions' own Emergency Operations Procedures address ancillary policies unique to each institution. However, these documents do not specifically address whether an Emergency Operations Center should be set up or an Emergency Operations Plan implemented following an assault on an officer resulting in serious injury or death. In the wake of the attack on Officer Gonzalez, the institution's management neither set up an Emergency Operations Center nor implemented an Emergency Operations Plan. As a result, there was some confusion in the chain of command that led to institutional staff's failure to follow critical emergency operations policies, destruction of the crime scene, and a failure to record events in an incident log. Despite these shortcomings, correctional officers were able to transport the wounded officer to a medical care facility quickly, effectively regain control of the housing unit, and take the suspect into custody without further serious injury to inmates or staff.

Emergency response procedures in Sycamore Hall. Sycamore Hall is located in Reception Center Central, one of four facilities at the institution. While all correctional officers with radios use the same frequency there, Reception Center Central Control personnel scan all institutional radio frequencies for emergency situations. Reception Center Central Control also maintains and dispenses personal alarms for officers on duty, as well as protective equipment and less-than-lethal weapons for Code 2 emergency responders. Alarm response drills are conducted monthly. There are an estimated 20 to 25 Code 1 alarms weekly on Sycamore Hall, 15 of which are potentially dangerous situations to staff or inmates. There are approximately five Code 2 alarms weekly (requiring the need for additional officers or ballistic impact weapons) and one Code 3 alarm every two months (requiring officers to respond from all parts of the institution).

When a correctional officer activates a personal alarm, an audible and visible emergency signal activates in the main corridor outside that officer's unit. The activation of either a personal alarm or a telephonic alarm triggers an automatic entry on the computer log at Reception Center Central Control. No log entries of other communications are made and radio traffic is not recorded.

Response to attack on Officer Gonzalez. Four correctional officers were responsible for supervision and escort of the 213 inmates housed in Sycamore Hall on January 10, 2005, the date of the incident. Two officers were in the first tier guard space of Sycamore Hall at the time, while a third was just outside the tier. The assault occurred on the west side

of Sycamore Hall's first tier, approximately 15 feet from the grill gate separating the guard space from the tier.

Immediately after the assault, Officer Gonzalez made his way into the guard space with the aid of a fellow officer and collapsed. The gate to the tier was then closed and one officer activated his personal alarm while another gained control of several inmates who were in the guard space awaiting medical appointments.

Code 1 responders from Madrone Hall were the first to arrive. One of those officers broadcast an "officer down" call, and with the assistance of three other officers, carried Officer Gonzalez to the medical clinic. Additional Code 1 responders from Reception Center Central East moved down the central corridor and were directed to Sycamore Hall by Reception Center Central Control, where they formed a skirmish line in the guard space at the gate.

The facility lieutenant at Reception Center Central assumed responsibility as incident commander and immediately radioed for a Code 2 response. The designated Code 2 responders proceeded to Sycamore Hall equipped with 37 mm and 40 mm launchers. Reports estimate that as many as 25 correctional officers assembled in the tier 1 guard space and that five or six officers assembled in the tier 2 guard space in front of the gate.

Before senior command staff arrived, the situation in the tier 1 guard space was described by witnesses as "pandemonium." Eventually, two facility captains arrived and took control. A lieutenant (not the incident commander) then returned to Reception Center Central Control and called for a Code 3 response, which was transmitted to all other facilities in the institution. In another building adjacent to the front gate, the security administration building lieutenant heard the initial radio traffic. Under the Emergency Operations Plan, that lieutenant would have been the interim emergency commander. Acting independently and without contact from the incident commander on scene, that lieutenant had already initiated a Code 3 response by telephone. By the time Code 3 responders arrived at Sycamore Hall, the three inmates who had been at large were in custody, so the Code 3 responders were assigned various search and coverage tasks until ordered to stand down.

At the time of the stabbing, the warden and her executive staff were meeting in another building in the institution. After being notified, the warden and her staff moved quickly to Reception Center Central, arriving as Officer Gonzalez was being carried into the medical clinic. The warden never declared herself the emergency commander, nor did she receive a debriefing from the acting emergency commander. The warden did assign facility captains to supervise the apprehension of inmates still at large on the tier. The warden then remained on site at Reception Center Central to deal with issues arising from the assault on Officer Gonzalez, sent her chief deputy warden to follow the ambulance to the hospital, and assigned an associate warden to run the routine affairs of the institution.

Once the inmates were restrained and escorted out of Sycamore Hall, the incident commander conducted a briefing for all responders and ordered a search of the inmates

and formation of teams to search all the cells on the west side of Sycamore Hall. After the search was complete, the incident commander declared the incident over.

Emergency Operations Center and Emergency Operations Plan are not specifically required. Following an inmate attack on an officer, establishing an Emergency Operations Center and implementing the Emergency Operations Procedures is not specifically required by the California Department of Corrections Operations Manual. The language of the *California Department of Corrections Operations Manual* establishes the conditions under which the Emergency Operations Plan is to be applied. The *Department of Corrections Operations Manual* states that the Emergency Operations Plan is to be implemented "in the event of an **inmate initiated disturbance which significantly disrupts routine institutional operations or programs** [section 55010.3, emphasis added]."

Department training materials distinguish between an "incident," defined as an isolated event, and a "disturbance," defined as an event that disrupts normal institutional operations. While an "incident" will not trigger the application of the Emergency Operations Plan, a "disturbance" will.

Unquestionably, institutional operations were disrupted when Officer Gonzalez was stabbed. As a result of events on Sycamore Hall's west side, responders throughout the institution were called to the scene, and the whole institution was placed on lock down. The command staff, however, told the Office of the Inspector General that they regarded the events of January 10, 2005 as an "incident," rather than a "disturbance." In various interviews, they pointed out that the disruption of institutional operations following the stabbing arose strictly as a result of the administration's response to the incident, rather than from the incident itself.

Institutional staff interviewed by the Office of the Inspector General further suggested the Emergency Operations Procedures were never intended to apply to a one-on-one assault because the disturbances mentioned in the introductory language of the *California Department of Corrections Operations Manual* "include, but are not limited to, general riots, sit-down or hunger strikes, large scale demonstrations, taking of hostages, multiple attacks on persons, or attempts by inmates to incite others to participate in any of the aforementioned actions" *(California Department of Corrections Operations Manual*, section 55010.3). Staff further noted that the resource supplements likewise address concerns of a more global or large-scale nature, such as widespread rioting, a major escape, or a natural disaster. A third reason staff gave for not applying the Emergency Operations Procedures is that the stabbing was a unique, critical situation demanding a rapid response that would have been impeded by establishment of centralized authority in the form of a command center.

In sum, the *California Department of Corrections Operations Manual* does not provide clear-cut guidance defining an attack on an officer resulting in serious injury or death as an occasion triggering implementation of the Emergency Operations Procedures.

Emergency Operations Procedures could have improved the response. If the institution had implemented Emergency Operations Procedures, its response to the assault on Officer Gonzalez would have been improved. The principal advantages of following the procedures are: (1) it establishes a clear chain of command in situations where the usual chain of command may become confused; (2) it facilitates communication with outside agencies by requiring activation of an Emergency Operations Center; (3) it clearly establishes procedures to be followed, including evidence and crime scene preservation, and provides checklists; and (4) it requires the creation of an incident log, which is valuable in recreating events and as a training tool.

If the Emergency Operations Procedures are triggered, they provide the chain-of-command for handling the emergency. The EOP provide that the lieutenant who is the on-duty watch commander at the security administration building is the interim emergency commander and that the warden is the emergency commander.

Following the stabbing of Officer Gonzalez, the facility lieutenant at Sycamore Hall assumed control of the scene as the incident commander. Perhaps as many as 25 correctional officers crowded into the guard space on the first tier of Sycamore Hall, where eight inmates were on the floor and the air was contaminated with pepper spray.[20] The area was also a crime scene. Numerous impact munitions were fired down the tier without result. The incident commander attempted to transmit cease-fire orders to the upper tiers by messenger, rather than by radio. As noted above, before senior command staff arrived, the situation in the tier 1 guard space was described as "pandemonium.[21]" The situation calmed down after senior officers arrived, effective cease-fire orders were given, and inmates who were at large soon submitted to custody.

In the course of the Office of the Inspector General's inquiry, executive staff frequently responded that the nature of the command response was justified by the uniqueness of the incident and its unforeseen nature. An EOP's purpose is to prepare in advance for, and to provide structure and guidance during, unpredictable incidents. Sections of the Emergency Operations Procedures addressing a number of concerns arising following the stabbing of Officer Gonzalez should have been consulted. For example, the Emergency Operations Procedures sets forth a notification grid (Resource Supplement Number 1); the emergency chain of command (Resource Supplement Number 2); procedures for securing an emergency area (Resource Supplement Number 8); procedures for

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[20] Pepper spray is authorized for use inside CIM housing units. (*Resource Supplement 9*, at 9-16.)

[21] The breakdown of the chain of command was exacerbated because on-site responders and control elements were all monitoring the same open radio frequency and undertook to operate independently. As many as 25 responders gathered in the first tier guard space. This disorder likely contributed to the IC's decision to relay cease-fire orders to Code 2 responders on the upper tiers by sending a messenger through the locked staircase. Not only does the institution not have facility-targeted communications, it does not have the means of recording radio traffic in emergencies, or at any time. Today, even relatively small organizations have found it economical to acquire "trunking" radio systems. Such systems provide for a master radio channel, but still allow users to be assigned to one or more "talk groups," providing targeted communications. All radio traffic can be recorded on such a system. Some system vendors offer methods of indexing, time-stamping, and archiving communications.

establishing an Emergency Operation Center (Resource Supplement Number 15 of the Emergency Operation Procedures, which states that "effective control of a major disturbance/emergency situation requires the activation of an Emergency Operation Center (EOC)"); procedures for conducting mass searches (Resource Supplement Number 24); procedures for crime scene preservation and preservation of evidence (Resource Supplement Number 28); and procedures for incident reporting (Resource Supplement Number 30).

When command staff arrived on scene, according to one senior officer, a cease-fire was ordered, control was established, and the developing situation was "slowed down." Instructions to surrender were communicated to the three inmates at large on the tier and they complied. Had procedures provided in the EOP been followed, fewer Code 1 responders would have gathered in the Sycamore Hall tier 1 guard space, communication with Code 2 responders in the upper tiers would likely have been more effective, senior staff could have promptly exerted control, and the situation may have been brought under control sooner and more effectively.

The Emergency Operation Procedures further provide specific instructions regarding summoning and coordinating mutual aid (Resource Supplement Numbers 5, 6 and 19). The plan provides that the Emergency Operations Center shall have a mutual aid liaison and an institution operations administrator, whose duties include summoning local law enforcement and summoning emergency medical services and coordinating transportation of injured staff to outside medical facilities. The Emergency Operations Center and the mutual aid liaison would have provided clear points of contact for outside agencies. The procedures require that outside agencies be contacted, even if they are not summoned. Had senior staff, operating through an EOC, elected to become involved in evidence collection and crime scene preservation, or if the required notifications had been made, the San Bernardino County Sheriff's Department could have been notified immediately, the crime scene preserved to the extent possible and evidence collected in a systematic manner.

In this instance, the warden assigned senior officers to assemble an extraction team. After the situation on Sycamore Hall was contained, those officers focused on the security and transportation of the three inmates involved. On Sycamore Hall, the incident commander ordered comprehensive inmate body and cell searches. As described fully in Finding 8 of this report, those searches destroyed the immediate crime scene and disrupted the chain of evidence.

Implementation of the Emergency Operations Procedures concerning crime scene and evidence preservation would have made a dramatic difference. The scene could have been subjected to less contamination and destruction; the evidence recovered could have been collected in an efficient and systematic manner; and evidence of any forensic value could have been clearly identified. Following those procedures could have made it more likely that the murder weapon, Blaylock's clothing, and the clothing of the other inmates on the tier would have been identified and recovered.

These problems would have been minimized had staff consulted Resource Supplement Number 28, which makes it a priority for first responders "to preserve evidence and to protect the crime scene from destruction or contamination" (subsection A). Among other things, Resource Supplement 28 also requires the first custody supervisor on scene to remove all but essential and authorized persons from the scene and to designate a staff member to note and record all persons entering the scene (subsection A.2.c.); record the crime scene by photographing the entire area, including any and all evidence, using distance and close up photos of each item to show spatial relationships within the crime scene (subsection A.2.e.); measure the placement of all evidence from fixed standard points (subsection A.2.f.); and to designate no more than two officers to collect all evidence systematically (subsection A.3.b.1.). Resource Supplement 28 is so specific as to instruct evidence collectors to enter the scene from the left side and collect all evidence by moving clockwise around the area (subsection A.3.a.).

A type of log was created at the incident commander's direction. However, that log recorded only minimal information. The Security Administration Building watch commander also regularly keeps a log. Literally dozens of reports were written by officers and non-sworn staff within a day of the incident. Yet even after analyzing those logs and the reports of various investigators who followed, the Office of the Inspector General discovered it difficult to determine definitively what information was gathered or broadcast, who responded, when they arrived on scene, what orders were given and when, and who was notified of the incident. All such information should have been recorded in an incident log, a form for which is provided in the resource supplements. Neither that form, nor any of the accompanying checklists, was used.

Incidents such as the one involving Officer Gonzalez are rare and unpredictable. The information that should have been collected in an incident log would have been valuable in developing policies and training curricula to address future situations.

To their credit, emergency responders efficiently accomplished their primary mission. The situation on Sycamore Hall was contained and controlled safely for both officers and inmates. Notwithstanding the highly emotional circumstances, officers did not enter the tiers, use of force was within policy and legal limits, and Officer Gonzalez was promptly evacuated. However, because centralized control was never effectively established, actions were taken that had the potential to adversely affect the criminal prosecution or the liability of the institution.

RECOMMENDATIONS

The Office of the Inspector General recommends that the Department of Corrections take the following actions:

- **Reinforce with institutional executive staff the intent, objective, and purpose of implementing the Emergency Operations Plan when an inmate initiated disturbance significantly disrupts routine institutional operations or programs.**

- **Update section 55010 of the *California Department of Corrections Operations Manual* so that it (1) clarifies ambiguities such as the circumstances under which the Emergency Operations Plan should be implemented, and (2) incorporates changes in technology that have occurred since the manual's last revision in 1989.**

In addition, the Office of the Inspector General recommends that the California Institution for Men reinforce, through training, the responsibility of supervisors and management to direct employees to provide leadership and direction in the face of emotionally devastating situations such as a staff murder to ensure that all objectives specified under the Emergency Operations Procedures are met. These objectives include, but are not limited to, consideration of crime scene preservation and evidence collection to enhance potential criminal prosecutions.

FINDING 8

The Office of the Inspector General found that the California Institution for Men did not implement important emergency procedures in response to the incident, leading to contamination of the crime scene and the loss of important evidence.

As referenced in Finding 7, California Institution for Men staff failed to preserve the crime scene and physical evidence, including the clothing worn by Officer Gonzalez' alleged assailant. As a result, potentially important corroborative evidence, such as forensic evidence potentially linking the assailant and the victim was lost. As such, the State's case against inmate Blaylock must rely more heavily on eyewitness accounts than otherwise necessary. Institution staff did not follow established procedures for preserving crime scenes and physical evidence because some were traumatized by the assault and failed to do their duties, Investigative Services Unit officers lacked adequate training and experience, and there was inadequate command and control over the incident. Specifically, the warden did not implement the prison's Emergency Operations Procedures. Because these procedures provide detailed steps and checklists for myriad tasks including crime scene and evidence preservation, implementing them may have facilitated a more structured, systematic response by the institution.

Responsibility for crime scene preservation begins with the first responding officer who arrives at a scene where a crime may have been committed. Once the first responder identifies that the severity of the crime and/or the need for a crime scene investigation exists, that officer must preserve the scene so that physical evidence at the scene is not moved, destroyed, or otherwise contaminated by the subsequent intrusion of other parties. This can be accomplished by numerous means, including using crime scene tape, barriers, or other means to isolate the area. Physical evidence is any and all physical objects or recorded observations and measurements of events, which may aid investigators or a court in reaching a conclusion about the crime. In a stabbing, the crime scene may contain physical evidence such as blood on the floor or elsewhere that can be used in forensic testing to link the DNA of the victim to the assailant. This is especially significant when both the victim and suspect are bleeding. Other physical evidence may include the stabbing instrument or the clothing of a suspect or the victim, which may yield fingerprints, the blood of the victim and/or the assailant, transferred clothing fibers, and other items capable of being analyzed forensically.

The Department of Corrections recognizes the importance of crime scene preservation by making it a four-hour component of its basic correctional officer academy training program. In addition, the Office of the Inspector General found that the California Institution for Men provided three hours of correctional officer training in crime scene preservation and evidence preservation between February 19, 2001 and November 23, 2003. This training was part of the in-service training curriculum required by the now-defunct section 7K of the State's collective bargaining agreement with the California Correctional Peace Officers Association. (Following the death of Officer Gonzalez, the prison conducted two one-hour sessions on crime scene preservation.) Crime scene preservation and evidence preservation are also part of the post orders for the prison's

five-member Investigative Services Unit, and are an integral part of the institution's Emergency Operations Procedures.

Last revised in 1989, section 55010 of the *California Department of Corrections Operations Manual* requires that each warden have in effect at all times an Emergency Operations Plan for meeting emergencies and disturbances which may significantly disrupt routine institutional operations or programs. The purpose of the plan, a confidential document located in specific secure areas of the prison, is to specify institutional procedures in the event of an emergency or inmate-initiated disturbance. The California Institution for Men's plan is entitled Emergency Operations Procedures, and it contains 50 resource supplements that identify policies and procedures for a variety of possible events ranging from riots and escapes through natural disasters. Included in these resource supplements are checklists for command and control, duties of the incident commander, the interim emergency commander, the emergency commander, and other key staff, and specific procedures to be followed for mass searches and crime scene preservation and evidence preservation. Resource Supplement Numbers 4, 5, and 6 task the incident commander, the interim emergency commander, and the emergency commander with crime scene preservation and evidence preservation, among other duties. Resource Supplement Number 24 provides procedures for mass searches and evidence preservation, while Resource Supplement Number 28 specifies detailed procedures for crime scene preservation and evidence preservation. As shown in Finding 7, section 55010 of the *California Department of Corrections Operations Manual* and the California Institution for Men's Emergency Operations Procedures can facilitate an orderly response to a surprising, stressful event. However, neither document specifies all circumstances under which the emergency procedures should be implemented.

The California Institution for Men failed to preserve the crime scene and physical evidence. Notwithstanding the requirements for and the importance of crime scene preservation and evidence preservation, the Office of the Inspector General found significant failures on the part of institution staff to carry out their duties in the aftermath of the stabbing. Specifically, the Office of the Inspector General found:

- ***Failure by Investigative Services Unit staff to seal off the crime scene at the south stairwell.*** Within minutes of the 10:57 a.m. assault on Officer Gonzalez at the south staircase of the first tier in Sycamore Hall-West, numerous correctional staff responded to the Code I and Code II alarms. Among the early responders to Sycamore Hall-West and Reception Center Central were four of the five members of the Investigative Services Unit. The responders remained outside the tier area until inmate Blaylock and the two other inmates were restrained about 43 minutes after the assault. Although this represented the first opportunity to seal off the reported scene of the stabbing at the south staircase and begin the criminal investigation, no one, including Investigative Services Unit staff did so. In fact, at that time, most of the Investigative Services Unit's staff was monitoring inmate Blaylock, who had been moved to Palm Hall. During the cell extractions and the mass search for weapons that followed, foot traffic contaminated the crime scene making subsequent forensic analysis difficult, if not impossible. The Office of the Inspector General's review of

the physical configuration of Sycamore Hall-West determined that the crime scene at the south staircase could have been sealed off without hindering the mass search and cell extractions. This is because there are alternative access and egress points the search team and escort officers could have used. The only effort to preserve any portion of Sycamore Hall-West occurred at 12:25 p.m. when an Investigative Services Unit sergeant ordered the cordoning off of three cells with crime scene tape, including Blaylock's, at 12:25 p.m.

- ***Failure to treat Sycamore Hall-West as a crime scene.*** Once staff had searched and removed the inmates from Sycamore Hall, they had established control over the area of the crime scene. However, instead of preserving the scene to the extent possible, staff began their cell-by-cell search of Sycamore Hall. As they searched, staff heaped linen, inmate jumpsuits, and other laundry items in huge piles in the main corridor. Despite the fact that Sycamore Hall-West was now in the institution's control, the staff failed to consider cordoning off the housing unit as a crime scene. Had this occurred the homicide investigators could have ordered a forensic examination of key areas such as the guard space where Officer Gonzalez collapsed, the main corridor, and the medical unit where he was taken for critical corroborative evidence.

- ***Clean up of blood evidence.*** Rather than wait for the arrival of a forensics team, staff cleaned up blood evidence around Sycamore Hall-West and Reception Center Central, thus eliminating the possibility of locating and identifying blood from a reported cut on the assailant's hand. This cleanup effort was evidently an emotional response to Officer Gonzalez' death. One correctional sergeant reported that he initiated a decontamination of Officer Gonzalez' blood by spraying the affected floor area with cleaner and wiping the floor area with towels. The sergeant reportedly acted out of concern that inmates would defile, disrespect, and dishonor the blood of Officer Gonzalez if it remained on the floor. Although the Office of the Inspector General sympathizes with the feelings of institution staff, disturbing or destroying potential evidence that could aid in the criminal prosecution of the assailant cannot be allowed.

- ***Failure to preserve the alleged assailant's clothing as physical evidence.*** Based on the probable close quarters in which inmate Blaylock allegedly attacked and stabbed Officer Gonzalez, Blaylock's clothing may have had trace blood, fiber or DNA evidence to support a criminal prosecution. When inmate Blaylock surrendered to institution staff, they ordered him to strip down to his underwear before being taken into custody. However, correctional officers did not recover his clothing. As staff searched and secured the remaining inmates and searched Sycamore Hall for the murder weapon, they tossed trash, debris and the contents of the cells onto the tier floor. Linen and jumpsuits removed from the cells were piled in the main corridor of Reception Center Central. When staff realized several hours later that Blaylock's clothing had not been recovered, what should have been a simple recovery of potential evidence became impossible, and Blaylock's clothing was never located. Even if staff could have identified his clothing in the piles of linen and clothing in the main corridor, the integrity of that evidence would have been compromised because

of the commingling of the clothing with other items and the resulting contamination of possible trace evidence.

- ***Failure to examine and preserve blood on the alleged assailant's hands.*** On January 10, 2005 at 12:45 p.m. after inmate Blaylock was taken into custody, a medical technical assistant examined inmate Blaylock because force had been used in his apprehension. The medical technical assistant documented the examination on a Form C7219 (Medical Report of Injury or Unusual Occurrence). On the form, the medical technical assistant reported that Blaylock had an abrasion or a scratch and blood on one of his hands. Although staff photographed and videotaped Blaylock following his capture, it is unclear whether those images captured the blood evidence on the hand. Further, it appears that samples of the blood were not obtained prior to Blaylock's being transferred to Corcoran State Prison. The presence of blood on the suspect's hand in a stabbing case is clearly of evidentiary value.

- ***Poor evidence collection, storage, and chain of custody practices.*** Collecting, storing, and establishing the chain of custody of physical evidence is foundational to presenting evidence in court and is critical in defeating defense challenges of bias, evidence altering, evidence contamination, and other issues. The Office of the Inspector General reviewed department and institution policies and procedures for collecting, storing, and transferring evidence and found them generally consistent with accepted policies and procedures within the law enforcement profession. Further, review of the staff's collection of approximately 35 stabbing and slashing instruments during the mass search indicated that most officers appropriately maintained sole custody of the evidence until booking the item into the Security Administration Building evidence locker room. However, in addition to the evidence collection problems previously discussed, the Office of the Inspector General found that the actual practices of custody staff within the Security Administration Building and in the Investigative Services Unit were not always compliant. Specifically, the Office of the Inspector General found:

  - In collecting stabbing and slashing instruments, staff did not attempt to preserve the weapon for forensic examination, including latent and blood trace evidence. Such evidence is directly relevant in establishing possession when inmates are double-bunked, as is the case with most inmates in Sycamore Hall-West. Moreover, rather than placing the instruments into paper bags, some staff temporarily stored the recovered weapons in their vests and cargo pants, without considering the presence of trace evidence.

  - The Evidence Locker Register, used to record evidence in the Security Administration Building, is not formatted to keep a complete record when there are multiple movements of the evidence. Instead, there is space for only one entry without having to resort to ad hoc recording. Additionally, the Evidence Locker Register consists of loose-leaf pages in a binder. As such, the possibility of adding or eliminating pages exists, threatening the integrity of the document. Further, the Investigative Services Unit has two additional sites in the

Administration building used to store evidence without logs, registers or any other tracking system for the evidence stored there.

- Entries in the Evidence Locker Register pertaining to the mass search for weapons cited above contained numerous irregularities. Some did not record the quantities of weapons found, and the dates of the entries for fourteen weapons are not chronological, suggesting that some weapons were turned in before the contemporaneous recording of entries required by sound chain of custody procedures. At least seven entries were made in the handwriting of someone other than that of the officer who secured the evidence despite a requirement that the booking officer complete the entry. The date of the transfer, and the identity of the San Bernardino County Sheriff's Department employee who received the weapons are not recorded in the register as required by sound chain of custody practices.

- Investigative Services Unit staff does not consider forensic examination of evidence in its criminal investigations. When the Office of the Inspector General inquired how evidence requiring further forensic examination is handled at the institution, Investigative Services Unit staff stated that correctional officers rarely, if ever, request forensic examination of evidence. The Investigative Services Unit officer responsible for the evidence function stated that he could not remember when a request for forensic examination was made on an item of evidence booked by staff. The Investigative Services Unit officer stated that because the vast majority of criminal prosecutions involved crimes that were witnessed by staff, there was no need for examination of evidence for latent prints or blood evidence except when requested by a prosecutor.

- Correctional staff who recover evidence such as weapons take the evidence to the Security Administration Building's evidence locker room, where the Office of the Inspector General observed numerous unsecured paper bags of evidence stacked on top of the locked evidence lockers. Although these bags appeared to be closed and sealed, any person in the evidence room would have access to the evidence.

- Although Security Administration Building personnel monitor access to the evidence locker room, it is possible for an officer inside the room to work unobserved. Failing to limit access to booked evidence to specified property custodians could bring into question the chain of custody. Further, the locker door cards describing the booking of the evidence indicated that their contents had been booked up to two years before. The fact that evidence has remained in lockers for up to two years while other evidence was stored on top of those lockers suggests that evidence initially booked into the Security Administration Building's evidence room is not moved to more secured locations for long-term storage.

Inadequate command and control over the incident. When the Office of the Inspector general asked the warden and her executive staff why crime scene preservation and evidence protection and collection procedures were ignored or poorly implemented, the response was direct and to-the-point: the assault on Officer Gonzalez was a one-on-one act that was unique and horrific. The nature of the incident completely overwhelmed staff. Consequently, the warden and her staff gave priority to issues that immediately became apparent and ignored those issues that did not immediately become apparent. One executive staff member explained that, "The main priority was to save the officer's life. Everything was emotion-based. All bets were off."

Despite the shift in priorities brought on by Officer Gonzalez' death less than an hour after the stabbing, the warden and her staff still did not implement the Emergency Operations Procedures. By not doing so, they lost the value of the checklists and the myriad policies and procedures for command and control, crime scene preservation and evidence preservation, and other functions addressed by the procedures. To their credit, the warden and her staff responded immediately to provide medical aid to Officer Gonzalez. They also moved swiftly to isolate and take into custody three inmates whom they reasonably believed were involved in the assault. They also provided for the safety of the suspected assailant by placing him in Palm Hall, with staff guarding him, and arranging to transport him to another institution within hours of the incident. Simultaneously, staff moved to prevent destruction of the unaccounted for murder weapon by searching and removing the inmates from Sycamore Hall-West and conducting mass searches of the tiers and cells.

However, prison management did not consider coordinating the staff's efforts to find the murder weapon with an effort to preserve the crime scene, with the result that the crime scene was irreparably altered and contaminated, and critical evidence was destroyed or lost.

Moreover, institution management did not use the considerable outside investigative expertise available or consider forensic crime scene analysis until 2:05 p.m., more than three hours after the assault, when detectives from the Chino Police Department arrived at the request of Investigative Services Unit staff to provide investigative advice. Prior to their arrival, three investigators from the department's Law Enforcement Investigations Unit had shown up within one and one-half hours of the assault. However, because investigative responsibility remained with the Investigative Services Unit, the Law Enforcement Investigations Unit staff provided only investigative support. With the arrival of a deputy director from the Department of Corrections the status of the criminal investigation was revisited in the early evening. After an assessment of the state of the investigation, investigative responsibility was transferred to Law Enforcement Investigations Unit.

The following day, after further discussion regarding the investigative expertise and resources available to the department, including Law Enforcement Investigations Unit,

investigative responsibility was ultimately transferred to the San Bernardino County Sheriff's Department.

As a result of the preceding conditions identified by the Office of the Inspector General, important forensic and other physical evidence was lost. Further, the admissibility of other evidence such as stabbing instruments may be challenged in future legal proceedings. Lack of this evidence may make it more difficult to successfully prosecute inmate Blaylock or to obtain a conviction.

Staff at the crime scene failed to preserve the crime scene and preserve evidence for the following reasons:

- ***Traumatized staff.*** Some correctional staff assigned to Sycamore Hall-West and Reception Center Central, as well as other institution staff, were traumatized by the incident, and their academy training and institutional training were inadequate for them to respond automatically.

- ***Investigative Services Unit shortcomings.*** The investigation of criminal acts by inmates at the California Institution for Men is the responsibility of the Investigative Services Unit. However, staff in the Investigative Services Unit had neither the training nor the experience to respond adequately to a staff homicide. Of two lieutenants, one sergeant, and two correctional officers in the unit, only the two correctional officers had had training in homicide investigations and none had ever investigated a staff homicide. Moreover, the two lieutenants had not attended the basic investigation course. None of the five was familiar with forensic examination techniques, there was no crime laboratory support, and the Investigative Services Unit did not practice sound evidence collection, storage, and transfer techniques.

- ***No memorandum of understanding for lead agency in staff homicide investigations.*** Although the institution has various memoranda of understanding with local law enforcement and the district attorney for deadly force investigations and prosecution of certain types of inmate offenses, there is no memorandum of understanding with a competent local law enforcement agency by which that agency would assume the lead role in investigating the murder or attempted murder of a staff member. Given the limitations of the prison's Investigative Services Unit cited in this report, such an agreement would be appropriate.

- ***Failure to learn from a 2003 incident.*** During its review, the Office of the Inspector General learned of an officer-involved shooting in 2003 in the Palm Hall exercise yard. In that incident, a correctional officer used deadly force to stop an inmate-on-inmate attack. Both the department's Office of Investigative Services and the department's Law Enforcement Investigation Unit reviewed the incident; both entities criticized the lack of crime scene preservation and evidence collection. The two investigative organizations found little coordination between Palm Hall correctional staff and the Investigative Services Unit staff responding to the incident. As a result, the crime scene was disturbed to the point where the two organizations personally

contacted the institution and recommended that the institution establish a "squad" of trained correctional staff to respond to crime scenes and either cordon them off or collect evidence as necessary.

RECOMMENDATIONS

The Office of the Inspector General recommends that the Department of Corrections take the following actions:

- **Evaluate the need for a memorandum of understanding or protocols governing when an outside agency should take primary responsibility for the criminal investigation of a crime against a staff member. In doing so, consider the limited resources of institutional investigative units and the emotional impact that a crime against staff may have on the institution's ability to react properly.**

- **Reevaluate and assess the scope and responsibility of institutions' Investigative Services Units as the primary criminal investigative entity given their manpower, training, and resource limitations.**

- **Clearly define the role and expectations of Investigative Services Units in identifying and securing potential crime scenes, identifying and preserving evidence and, if they remain the primary investigative entity, proper collection and processing of the crime scene and evidence.**

- **Evaluate the need for training at the correctional officer, sergeant, and Investigative Services Unit levels regarding the identification and collection of physical evidence with potential forensic examination in mind, including but not limited to the manner of collection, processing and documentation.**

- **Develop a "lessons learned" instructional curriculum by which all institutions can learn what went right and what went wrong in the events leading up to and following the death of Officer Gonzalez.**

In addition, the Office of the Inspector General recommends that the California Institution for Men take the following actions:

- **Evaluate whether the "squad" concept of correctional officers specially trained in crime scene investigation and crime scene and evidence preservation is appropriate for the California Institution for Men under existing conditions.**

- **Using departmental policies and procedures, as well as the best practices of the law enforcement profession, develop better methods for processing, booking, and transferring evidence. These methods should include a**

"chain of custody" that will satisfy legal and operational requirements of both the transferring and receiving entities.

FINDING 9

The Office of the Inspector General made confidential findings related to the adequacy of mental health care for particular inmates at the California Institution for Men.

The investigation of the Office of the Inspector General found that the California Institution for Men failed to adequately assess and address particular inmates mental health needs. However, due to state and federal medical privacy laws, those findings cannot be presented in a public document. Accordingly, pursuant to Penal Code section 6131 (b) the information in this section has been presented only to the Governor and the Youth and Adult Correctional Agency.

FINDING 10

The Office of the Inspector General found that Blaylock was permitted to conduct a telephone conference with an attorney before he was indicted for the murder of Officer Gonzalez even though the attorney's request for the conference was not properly submitted in writing.

The Office of the Inspector General found that Corcoran State Prison, where Blaylock was transferred following the incident, allowed Blaylock to speak to an attorney by telephone before he was indicted for the murder of Officer Gonzalez and therefore before he had a right to counsel in the matter under the Sixth Amendment. The prison's litigation coordinator allowed the telephone conference even though the attorney's request was not properly submitted in writing. The Office of the Inspector General found, however, that the litigation coordinator acted reasonably in granting the request.

The Office of the Inspector General found that after Blaylock was transferred from the California Institution for Men to California State Prison, Corcoran, an attorney called Corcoran State Prison's litigation coordinator and requested to speak with Blaylock. The attorney told the litigation coordinator that she currently represented Blaylock in an appellate case and that she wanted to speak to him to advise him not to speak with police. The litigation coordinator obtained the attorney's name and contact information, terminated the call, and then confirmed the attorney's name and contact information through the California State Bar's web site. The litigation coordinator called the attorney back at the phone number listed on the California State Bar's web site and informed her that a teleconference would be arranged. With the litigation coordinator's approval, the teleconference between Blaylock and the attorney was completed within the next hour. The litigation coordinator said that at the time the attorney contacted her, she was unaware of Blaylock's alleged involvement in the murder of Officer Gonzalez.

Under the Sixth Amendment of the United States Constitution, Blaylock had no right to counsel regarding the murder of Officer Gonzalez because that right attaches only "at the time adversary judicial proceedings are initiated against the accused, such as when the defendant is indicted or arraigned" [*People v. Frye* (1998) 18 Cal. 4th 894, 897]. Thus, Blaylock had no Sixth Amendment right to counsel regarding the murder of Officer Gonzalez because he had not yet been indicted or arraigned on that charge. Accordingly, criminal investigators were free to approach Blaylock, provide his Miranda warnings and attempt to interrogate him regarding that crime, at which time Blaylock could invoke his Fifth Amendment right to remain silent and request the presence of an attorney.

The litigation coordinator informed the Office of the Inspector General that requests from attorneys to conduct confidential telephone calls are a routine part of her duties and that she can authorize such calls once she is satisfied that the caller is a bona fide attorney. The litigation coordinator further stated that approving such calls is within her authority and that she does not need to obtain approval from her superiors or the warden. In this case, she told the Office of the Inspector General that this attorney's request was handled in the same fashion as all other such requests, that granting the request was entirely her

decision, and that she did not request approval from the warden or others before granting the request.

The Office of the Inspector General confirmed through the California Appellate Court web site that the attorney in question is, in fact, the attorney of record in *People v. Blaylock*, California Appellate Court Case No. B176178 (a matter unrelated to the murder of Officer Gonzalez).

Telephone calls between an attorney and an inmate-client are governed by Title 15 of the California Code of Regulations, section 3282(g). Under Title 15, section 3282(a)(2), a telephone call between an inmate and an attorney is considered a "confidential call."

According to Title 15, section 3282 (g)(1):

> *[C]onfidential calls may be approved on a case-by-case basis by the institution head or designee* ***only*** *upon written request from an inmate's attorney on the attorney's office letterhead stationery. The date, time duration, and place where the inmate will make or receive the call, and manner of the call are within the discretion of the institution head. A confidential call from an inmate shall be made from a prison telephone or, with appropriate authentication of the call, may be received from the attorney. [Emphasis added]*

Section 3282(g)(2) of Title 15 states as follows:

> *[I]t is within the discretion of the institution head or designee to approve or deny a confidential call, provided that the attorney/client communication privilege is not violated. Thus, an institution head or designee may deny a confidential call based on a determination that normal legal mail or attorney visits were the appropriate means of communications and were not utilized by the inmate or attorney. If the demand for confidential calls seriously burdens institutional operations, the institution head or designee may prioritize confidential calls.*

The Department of Corrections Correctional Law Unit told the Office of the Inspector General that although these sections may be somewhat confusing, they probably allow individual institutions a degree of flexibility on how to handle requests for "confidential calls" from attorneys. The Correctional Law Unit said that many institutions were never set up for accepting and coordinating confidential calls, noting that where some attorneys may request telephone conferences with inmate-clients weekly, such requests would be burdensome on the institution.

Based on its interview of the litigation coordinator at Corcoran State Prison, the Office of the Inspector General found that the attorney's request for a confidential call with Blaylock was not based on a written request on the attorney's office letterhead stationery as required by Title 15, section 3282(g)(1). Further, the Office of the Inspector General found that the requesting attorney advised the litigation coordinator that she intended to tell Blaylock not to speak with the police. As Blaylock's Sixth Amendment right to counsel attached only as to the offense for which he was being represented (and not to any and all future crimes), there is an argument that the attorney's telephone conference

with Blaylock was granted prematurely. However, the Office of the Inspector General questions whether it is appropriate for the litigation coordinator to inquire about the purpose or substance of any attorney's confidential call to a client.

A representative of the Department of Corrections Correctional Law Unit told the Office of the Inspector General that the Title 15 provisions controlling confidential calls is somewhat confusing and appears to allow individual institutions leeway in its implementation. Although the litigation coordinator did not adhere strictly to the Title 15, section 3282 (g)(1) requirement that attorneys' requests to confer by telephone with clients be written on the attorney's letterhead, she made reasonable efforts to establish that the caller was, in fact, a licensed attorney.

RECOMMENDATIONS

The Office of the Inspector General recommends that the Department of Corrections take the following actions:

- **Evaluate and, if necessary, modify regulations governing "confidential calls" between inmates and their attorneys. Such modifications may address (1) permitting verification through independent sources that the requesting attorney is licensed to practice, (2) verifying that the attorney actually represents the inmate in question and (3) balancing inmates' right to counsel with the institution's need to validate such calls and its resources available to facilitate them.**

- **Develop procedures for wardens and chief deputy wardens to communicate with key institutional staff members (such as the litigation coordinator and the public information officer) when inmates requiring special handling enter their institutions. Such communications should include instructions to staff that all external inquiries concerning these inmates be referred to the attention of the warden or warden's designee.**

-NOTES-

-SUMMARY-

-INDEX-

-NOTES-

-SUMMARY-

-INDEX-

SECTION 5

LEGAL ISSUES

SIGNIFICANT NATIONAL LEGAL DEVELOPMENTS IN 2005

Presented By: Paul Sanzo
First Assistant Attorney General
Corrections/Parole Unit
State of Colorado

-NOTES-

-SUMMARY-

-INDEX-

-NOTES-

-SUMMARY-

-INDEX-

-NOTES-

-SUMMARY-

-INDEX-

-NOTES-

-SUMMARY-

-INDEX-

SECTION 6

PROMOTING A POSITIVE CORRECTIONS CULTURE

Examining Organizational Culture

Organizational Culture: A Definition

Organizational culture may be viewed as a "product" of organizational behavior and individual and organizational behavior derive from culture. Culture is, simply, the product of the prevailing values, assumptions and beliefs people hold that drive the way they think and behave at work. The values, assumptions, and beliefs may or may not be those of the constituted leadership but it is those that "prevail" – that are dominant – that will determine the culture of the organization. A leader may think that the organization is just and fair and espouse those principles but if those on the receiving end are not receiving just and fair treatment, such treatment will define the culture of the unit or organization. Culture IS as culture DOES....

Organizational "Climate" vs Organizational "Culture"

We can begin to understand an office or prison's culture by exploring its climate. Climate is, basically, how the culture feels to the people who work in the organization or who are the recipients of its services. It is comprised of characteristics people can observe, hear and feel. If we want to understand what happens and how things happen, we ask about the climate. If we want to understand why things happen as they do, we explore the culture.

Some organizations have powerful and coherent cultures while others are weak and divergent. Within the organization there exist numerous subcultures – cultures formed around work specialties, work shifts, etc., and also formed around values, informal missions divergent from the organizational mission, personal interests or needs, etc.. These are ad hoc cultures that emerge, often with a negative effect on the organization and its mission, and operate with their own set of values. They develop because the organization's leadership does not pay attention to groups that choose to operate according to their own standards or because there is no clear culture to which they have to adhere.

Culture is highly complex in correctional settings because there are so many subcultures among staff and inmates. As we define "culture", we define "subculture" – *the prevailing values, assumptions and beliefs people hold that drive the way they think and behave.* When these subcultures espouse negative values and are in opposition or conflict with the organizational mission; unproductive - even destructive - subcultures exist. These subcultures often become a prevailing culture in the organization or work unit. As you can see, there is opportunity and danger of "culture clash" in the prison setting at many levels.

Default Culture

As noted, subcultures emerge that can have a negative impact on the organization and its mission when leaders do not attend to the culture. In a void of attention, a default culture will often emerge that is progressively negative. In this sense, *the culture of the organization is not different than your home, lawn, garden, auto, children, community, etc. – if they are not purposefully cared for they will deteriorate.* The unattended garden will inevitably revert to its default – no productivity, weeds, and overgrowth – lacking form and purpose. So it is with the culture of the organization: unless there is planned and purposeful activity on the part of the organization's formal and informal leaders to make it otherwise, the culture and impact of an ad hoc group that is characterized by negative values will become increasingly representative of the whole organization. An environment of neglect is an environment in decay.

The "default culture" of an organization is the culture that "naturally" evolves and prevails if there are not substantial efforts to shape and mold a culture that embraces growth values – trust, love, justice, freedom,

In the correctional organization, members of the ad hoc, default culture are most likely to be self-focused and unwilling or unable to identify with certain other groups within the correctional community as deserving members of the organization. Depersonalization and dehumanization are common and enable otherwise good persons to do bad and hurtful things. The superiority of the in-charge group is not based on superior conduct or accomplishment; rather, it is established by its institutionalized portrayal of inmates or groups of staff as being "worth-less" – worth-less than the in-charge group. In this culture, disrespectful and destructive interactions based on the nature of an inmate's offense, conduct, intelligence, race, gender, position, etc. are common practice and accepted.

In the default culture, labeling or name-calling serves to reduce the humanity of groups that the default culture chooses to victimize. References such as bitch, fag, whore, s–t head, a– hole, and the like are blatantly destructive and when tolerated or condoned provide tacit approval for even greater abuse and discrimination. A "sense of superiority" in fact, becomes a <u>position</u> of superiority with unauthorized and ruinous powers over those targeted when it receives the support or acknowledgment (real or perceived) of unit or organizational leadership.

Failure to pay attention to culture provides all the support and acknowledgment that the default culture needs to spiral downward and out of control.

Exploring and Understanding an Organization's Culture

Knowledge of an organization's culture is one of the essential ingredients of effective leadership and management as it provides leaders a tool for understanding:

- the organization's history and the current realities;
- how the organization has dealt with change and might respond to new ideas in the future;
- the causes for behaviors and relationships they observe;
- the relationship between management and staff;
- the relationship between staff and inmates;
- the relationship between the work unit and Central Office, the community, and other stakeholders;
- operational vagaries of the work unit;
- staff morale, issues of job performance, accountability and supervision.

We can understand organizational culture through the principles of Rubik's Cube™, a model developed by Carol Flaherty-Zonis[1] which is the foundation of her NIC work exploring corrections cultures and planning for change.. Each side of the Cube represents an aspect of culture that we must understand, while the core (gears) represents the values, assumptions and beliefs people hold. This visual clearly demonstrates the interdependence of all parts of the organization in maintaining a positive culture, appropriate direction, and achieving its mission – change one part and you change the relationship of all. This model of culture – a dynamic puzzle of interdependent pieces and capable of change – includes aspects of:

- Leadership of the Organization
- Management of the Organization
- Interpersonal Relationships within the Organization
- History of the Organization
- Perceptions of the Stakeholders
- Environment Outside the Culture

Because culture is so important, it is imperative that organizations examine it. There are numerous ways to do that, formally and informally—through inventories, surveys, focus groups and conversations— with people internal and external to the organization. Leaders can make culture examination an integral part of their strategic planning process.

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[1] Flaherty-Zonis, Carol. Strategic Planning, Management, and Response: Navigating the Environment. National Institute of Corrections,2003

Why does culture matter?

No matter what the method of exploration, it is important to get to why things happen and not just talk about what happens. Leaders can look at symptoms and provide "fixes" to surface challenges or they can look for causes and find longer-lasting, more profound solutions. Leaders can identify individuals who do not do as they "should" or they can look to the organization and its culture to encourage system examination and change. Leaders can respond to problems or behaviors one at a time or they can work strategically to change the context in which they occur – that is, the culture that supports or encourages such problems or behaviors.

Culture matters because as diseased blood causes all the organs of the body to wither and die, a "diseased" culture destroys those associated with it: their opportunities, outlook, hopes, dreams, and future. An organization cannot function well and achieve its mission in a culture that is oppositional to its declared values, direction and mission.

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How do cultures change?

Changing the context – the culture – requires, at a minimum; persistence, patience, insight, courage, kindness, respect, and the capacity to see the forest and the trees. It requires:

1. a vision of a preferred culture;
2. involvement of staff in crafting strategies to move the organization in that direction;
3. identification of specific activities that will begin to impact the context/culture:
4. training at any/all levels of the organization;
5. honest, ongoing assessment of "how we are doing"; and possibly,
6. guidance and assistance of a "change agent" (potentially available through NIC).

Taking on a culture is not work for the faint of heart, especially for leaders who may have moved up through the culture as it has been. Consider how difficult it can be to ask people to change a culture from which the leaders have benefitted, with which they are familiar and which may have supported their rise to a leadership position! Yet it may be those very leaders who have to lead the process of examination and change.

NIC INSTITUTIONAL CULTURE INITIATIVE

Presenting Problem

Institutional Culture Assessment Protocol

Action Plan

Change Advisor

Change Advisor

Promoting Positive Prison Culture
Strategic Planning
Strategic Management
Change Leadership
Multi-generational Workforce
NIC Technical Assistance
NIC Training
Other

Change Advisor

Assessment

Executive Training
for Deputy Directors

-NOTES-	-SUMMARY-

-INDEX-

-NOTES-

-SUMMARY-

-INDEX-

-NOTES-

-SUMMARY-

-INDEX-

Executive Training
for Deputy Directors

-NOTES-

-SUMMARY-

-INDEX-

SECTION 7

COMMISSION ON PRISON ABUSE

Executive Training
for Deputy Directors

-NOTES-	-SUMMARY-

-INDEX-

Executive Training
for Deputy Directors

-NOTES-	-SUMMARY-

-INDEX-

SECTION 8

THREE MODULES

1. SUCCESSION PLANNING
2. FUNDING/BUDGET
3. SUPERMAX

-NOTES-

-SUMMARY-

-INDEX-

Executive Training
for Deputy Directors

-NOTES-

-SUMMARY-

-INDEX-

SECTION 9

DEPUTY DIRECTOR LIST SERVE

USING THE DEPUTY DIRECTORS

LISTSERV

Using the Deputy Directors Listserv

Contents

Section I	Directions from a "Non-Techie"
Section II	The Real Directions
Section III	E - mail addresses for all current members

Directions for Using the Deputy Directors Listserv

by

Susan M. Hunter

(The "non - techie")

TO SEND A MESSAGE

1. When you are in e-mail, click the icon to send a new message.

2. In the address box type:

   Internet:Deputy-dirs@www.nicic.org

   Or

   Deputy-dirs@www.nicic.org

If your computer system requires the word "Internet" in the address for other outside agency mail, then you use it for a Listserv message too. If your system does not use the word Internet, then you type the second line as above.

3. In the Subject box, type subject of your message.

4. In Message box, type your message.

5. When your message is complete, click on Send.

Your message will now appear as incoming mail in the regular e-mail box of all members of the Listserv.

TO REPLY TO A MESSAGE

There are two ways to provide the information that another Listserv member is requesting.

1. Click on Reply. Type in your answer.
   Click on Send.

2. Click on Reply. In the Address or To line, delete the deputy-dirs@www.nicic.org
   Type in the e-mail address of the person asking the question. Type in your answer.
   Click on Send.

What is the difference?
If you click on Reply, all deputy directors on the Listserv will get your message. If you type in one address, only that person gets your message.

Which is better?
It depends. The answers to many/most questions provide interesting information to the deputies and they like reading the answers. If that is the case (ex. the recent question about correctional officer vacancies), it is better to click on Reply so everyone can read the response.

However, if you do not have information to share and just want to say hi and/or tease the sender (ex. Dick Turner is always a good sport!), it is better to do that by typing in their individual address so you do not take up everyone else's time by reading your personal message to someone.

It is easy to goof. I have - unfortunately - several times sent personal replies to the whole group because I am so used to doing a quick reply, that I clicked on that automatically and gasped as it went to everyone!

What are all those other directions in the "Real Directions" section?
You can get a copy of everyone's e-mail address (we are providing that but there will be changes over the year) or enter the Listserv from the web ("non-techies" don't mess with those instructions) for which you need a password, etc. The "basics" for using the Listserv are here. Beyond the basics are included in the "real directions".

Hope that helps!

Deputy Directors' Listserv: Welcome & Member Guidelines

Welcome to Prison-Deps, an NIC listserv for deputy directors of operations in state, Federal, and large urban prison systems. Regional directors, when they supervise prisons, are also included on the listserv. You have just been added to Prison-Deps and will receive all messages sent to the list.

The listserv is hosted on the NIC web server and runs on Lyris software. It provides a private, online forum among administrators of the nation's prison systems, facilitating communication both among these professionals and between them and NIC.

Postings to the list can be sent to deputy-dirs@www.nicic.org.

Send questions and comments about the system to Connie Clem, list administrator, at cclem@nicic.org.

These guidelines cover the following user questions:

Who can access the list?
What will I receive from the list?
What can I send to the list?
How do new members join?
Useful email commands
Accessing the listserv on the Web
Bouncing mail and other questions

WHO CAN ACCESS THE LIST?

"Deputy-dirs" is a private listserv:

Only approved members can participate. New members must be approved, based on criteria developed by the membership.

No one outside the approved membership can view messages posted to the list, obtain a list of its members and their email addresses, or send messages to the list. If a member considers it appropriate, however, he or she may send a message to the list on behalf of an outside person.

Because "Deputy-dirs" is private, NIC will not moderate the listserv discussion--members' messages will be posted immediately, without review by NIC. It is assumed that members will use the list to discuss matters related to prison management and operation.

WHAT WILL I RECEIVE FROM THE LIST?

Members will receive all postings to the list. The subject line for messages will begin, "[deputy-dirs]", making it easy to recognize listserv email.

WHAT CAN I SEND TO THE LIST?

Members can send queries or observations, replies to posted messages, attached files, URLs for useful websites, and relevant postings you have received from other listservs.

Please do not post copyrighted material to the list without the permission of the copyright holder.

Messages and their attachments are limited to 50K. Generally, attachments should be avoided. Instead, it is preferable to post a notice of the item so that other list members can ask for the attachment to be sent to them separately.

Please be considerate of other members. Listserv posts should be appropriate for all list members. If you have a message for one list member that will not be useful to other members, please send your email to that person separately rather than to the listserv.

-- To share your response with all list members, use the "reply to" button in your email system.

-- To respond to only the member who posted a message, type or paste that member's email address in the "send to" line in your email application.

HOW DO NEW MEMBERS JOIN?

Network members can join the list via the NIC Information Center website or by email to the server.

To join via email:
Address your message to deputy-dirs-request@www.nicic.org.
Type "subscribe" in the body of the message.

USEFUL EMAIL COMMANDS

* To send a message to the listservù Address email to deputy-dirs@www.nicic.org

* To communicate with the server via email for other purposes (these functions can also be done via the website)ù Address email to request-deputy-dirs@www.nicic.org

--To join the listserv via email Address to request-deputy-dirs@www.nicic.org.
Include the word "subscribe" in the body of the message.

--To obtain a list of all members' names and email addressesù
Address to request-deputy-dirs@www.nicic.org.
Include the word "review" in the body.

--To be reminded of your password or other personal settingsù
Address email to request-deputy-dirs@www.nicic.org.

Include the word "query" in the body. The system will email your password and other settings to you.

--To change your passwordù
Address email to request-deputy-dirs@www.nicic.org.
Include "set oldpw=dd-temp pw=******** " in the body, where ********
represents the new password you are selecting.

--To change your email addressù
Address email to request-deputy-dirs@www.nicic.org.
Include the phrase "set deputy-dirs email= *****@***.***" in the body
(Example: set deputy-dirs email= mrogers@server.com).

--To leave the listù
Address email to request-deputy-dirs@www.nicic.org.
Include the word "unsubscribe" in the body.

--For help using the listservù
Address email to request-deputy-dirs@www.nicic.org
Include the word "help" in the body.

Participating in the system from the Web--

Website access to the list allows members to follow threaded discussions and search all messages for topics of interest. Members can also use the website interface to change their passwords and other user settings.

For ease of access, members are encouraged to bookmark the Deputy-dirs webpage. Point your browser to http://www.nicic.org/lists.htm. Select "NIC Private Lists," and then select "Deputy Directors of State Corrections."

Use your "back" or "home" button to exit the listserv. Clicking on the NIC seal from the main Lyris menu page will send you to the Information Center home page.

What you'll see on the entry screen--

-- A prompt for existing members' email address and password. Complete the form and click on "enter." The default password is "dd-temp." (To ensure system privacy, change to a private password as soon as possible.)

-- A prompt for new members to join the list.

-- A prompt at the bottom of the screen for members to query the system for a forgotten password. (The system will send the password to your email address.)

What you'll see on the main user menuù

From this menu, you can read messages, create a message, change your user settings, and quit the list.

ù Reading messages -- Go to "read messages"to read messages posted to the list, view discussion threads, or search for the occurrence of particular words in the subject line or body of posted messages.

If you would like to respond to a message viewed on the website, you can do so in two ways: 1) Click on the "reply" line of the displayed message to send your reply to the entire listserv membership. Or, 2) Click on the name of the person who posted a message to send your reply to only that person.

ù Changing your user settings ù "User settings" include your name, email address, password, and features that allow members to control how they receive list email. If your email address changes, you can update the system here.

BOUNCING MAIL AND OTHER QUESTIONS

Bouncing mail--

If your email address changes or your email system goes down, the system will stop your mail and will attempt to contact you by email case the problem is only a short-term outage. If your address is not resolved, you will be put "on hold" and may miss useful postings.

If you know your address will be changing, please notify NIC or send a correction to the server via email or the website, following the instructions given above. NIC staff will contact you if we notice problems with your email address.

Questions--
For general help using the listserv system, send a message to request-deputy-dirs@www.nicic.org with "help" in the body. The system
will email you general system information. Send other questions and comments to cclem@nicic.org and/or ccoblentz@bop.gov

Deputy Directors
Listserv

STATE	NAME	EMAIL ADDRESS
Alabama	Greg Lovelace	glovelace@doc.state.al.us
Alaska	Donald Stolworthy Michael Addington	donald_stolworthy@correct.state.ak.us Michael_addington@correct.state.ak.us
Arizona	George Herman	gherman@adc.state.az.us
Arkansas	David Guntharp Ray Hobbs Larry May Max Mobley Ronnie Dobbs	David.Guntharp@dcp.state.ar.us Ray.Hobbs@mail.state.ar.us Larry.May@mail.state.ar.us max.mobley@mailstate.ar.us ronald.dobbs@mail.state.ar.us
California	Susan Hubbard Ana Ramirez-Palmer George Galaza	shubbard@instdiv.corr.ca.gov arpalmer@instdiv.corr.ca.gov ggalaza@instdiv.corr.ca.gov
Colorado	Nolin Renfrow Gene Atherton Mary Smith	nolin.renfrow@doc.state.co.us gene.atherton@doc.state.co.us mary.smith@doc.state.co.us
Connecticut	Brian R. Murphy	briank.murphy@po.state.ct.us
Delaware	Paul Howard	pahoward@state.de.us
District of Columbia	Jim Anthony	james.anthony@dc.gov
Florida	George Denman Tina Hayes Greg Drake	Denman.George@mail.dc.state.fl.us hayes.hieteenthia@mail.dc.state.fl.us drake.greg@mail.dc.state.fl.us
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Illinois	Ron Meek Ian Oliver	rmeek@idoc.state.il.us ioliver@idoc.state.il.us
Illinois/ Cook County	John Maul	No email address
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Iowa	Jeanette Bucklew Larry Brimeyer	jeanette.bucklew@doc.state.ia.us larry.brimeyer@doc.state.ia.us
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Montana		
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New Mexico	John Shanks	john.shanks@state.nm.us
New York	Lucien Leclaire	No email address
New York City	John Antonelli Robert N. Davoren	john.antonelli@doc.nyc.gov robert.davoren@doc.nyc.gov
North Carolina	Dan Stieneke	sdl16@doc.state.nc.us
North Dakota	No Deputy Director	
Ohio	Thomas Stickrath Terry Collins Stephen Huffman Toni Brooks Michael Randle	Tom.stickrath@odrc.state.oh.us Terry.collins@odrc.state.oh.us Stephen.Huffman@odrc.state.oh.us Toni.Brooks@odrc.state.oh.us michael.randle@odrc.state.oh.us
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Oregon	Mitch Morrow	mitch.morrow@doc.state.or.us

Pennsylvania	John M. McCullough John Shaffer Mary V. Leftridge Byrd Donald Vaughn	jmcculloug@state.pa.us joshaffer@state.pa.us mleftridge@state.pa.us dvaughn@state.pa.us
City of Philadelphia		@prisons.phila.gov
Rhode Island	Jake Gadsden	jgadsden@doc.state.ri.us
South Carolina	Robert Ward Carl J. Frederick	Ward.robert@doc.state.sc.us frederick.carl@doc.state.sc.us
South Dakota	Doug Weber Laurie Feiler	doug.weber@state.sd.us Laurie.feiler@state.sd.us
Tennessee	Gayle Ray Howard G. Cook	gayle.ray@state.tn.us howard.cook@state.tn.us
Texas	Doug Dretke Gilbert Campuzano Nathaniel Quarterman	Dretke@tdcj.state.tx.com Gcampuzano@tdcj.state.tx.com nathaniel.quarterman@tdcj.state.tx.com
Utah	Scott Carver Annabelle Brough	scottcarver@utah.gov abrough@utah.gov
Vermont	Janice Ryan	janicer@doc.state.vt.us
Virginia	John Jabe	Jabejm@vadoc.state.va.us
Washington	Lynne DeLano	Lndelano@doc1.wa.gov
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Wisconsin	Steven Casperson Rick Raemisch	steven.casperson@doc.state.wi.us Rick.Raemisch@doc.state.wi.us
Wyoming	Steve Lindly	slindl@wdoc.state.wy.us

Federal Bureau of Prisons Military	John Vanyur Peter Grande	jvanyur peter.grande@us.army.mil
Guam	Ted Lewis	tedguam@hotmail.com
Puerto Rico	Jamie Lopez Martinez	
Saipan, MP	John M. Ayuyu	jmayuyu@vzpacifa.net
USVI, St. Croix	Ewin Harris	
National Institute of Corrections	Susan Hunter Ed Wolahan Bill Wilkey Morris Thigpen Larry Solomon Cameron Coblentz Belinda P. Watson Thomas Corcoran Evelyn Bush Maureen Buell	shunter@bop.gov ewolahan@bop.gov bwilkey@bop.gov mthigpen@bop.gov lsolomon@bop.gov ccoblentz@bop.gov Bpwatson@bop.gov tcorcoran@bop.gov e1bush@bop.gov mbuell@bop.gov
Office of Justice Programs		
OTHER	Dick Franklin	rchfrank@earthlink.net

revised 7/13/2004

Executive Training
for Deputy Directors

-NOTES-	-SUMMARY-

-INDEX-

Executive Training
for Deputy Directors

-NOTES-	-SUMMARY-

-INDEX-

Executive Training
for Deputy Directors

-NOTES-

-SUMMARY-

-INDEX-

SECTION 10

NATIONAL INCIDENT MANAGEMENT SYSTEM

Introduction to ICS

John S. Shaffer, Ph.D.

Pennsylvania Department of Corrections

History of ICS

The principals date back to WWII

The US Military used "Forward Command" to organize personnel and resources in the Pacific campaigns due to the great distances

History of ICS

In the 1970s, major wildfires in California created a need for a more organized response

The result was FIRESCOPE (Firefighting Resources of California Organized for Potential Emergencies)

This organization was used to get all involved working like a team during emergencies

History of ICS

FIRESCOPE set in place methods to address

- Organizational differences
- Ineffective communications
- Lack of defined command structure

The end product was the original Incident Command System for effective crisis site management

PA Emergency Preparedness Program

In 1990, PA DOC received a grant to contract with a private firm, LETRA, to develop an emergency preparedness system – Jeffrey Schwartz, Ph.D.

LETRA is a California based firm that used many of the principles from the then new FIRESCOPE program

DOC EP Program and ICS

LETRA based their program on what was learned from FIRESCOPE as did ICS

This is the reason you will see many similarities between the current DOC EP program and ICS which also evolved from California FIRESCOPE

ICS Joins Law Enforcement

ICS expanded beyond just fire emergencies and developed into an "all-risk" system during the 1990s

Law enforcement noted that ICS resource management principles apply to the full range of law enforcement incidents

Added benefit of improved integration with other emergency assets

Advantages of ICS

The following slides highlight some of the gains with the transition to ICS and NIMS

Uniform Command

Effective command elements:

- Flexible from single agency involvement to multiple agencies
- Adaptable to any incident type
- Capable of logical expansion from initial action to complex, major emergencies

ICS Command Principals from Business

- Management by objective
- Delegation of authority
- Strategic Planning
- Empowerment

Effective Command Addresses:

Danger

Dynamic situations

Complexity

Confusion

8 Characteristics of Incident Command

- Common terminology
- Modular organization
- Integrated communications
- Command structure
- Consolidated action plan
- Manageable span of control
- Designated incident elements
- Comprehensive resource management

ICS is Resource Management

ICS principles are to:

- Command
- Control
- Coordinate

The principles apply to both people and things

ICS does not teach or promote any type of tactics

Applications for the Use of ICS

- Full spectrum of incidents
- Planned and unplanned events
- ICS is used to manage emergency and non-emergency events
- ICS works well for both small and large situations
- ICS is flexible

Incident Command System Organization

Guidelines in Developing the ICS Organization

Determine organization needs

Establish the incident command post

Consider needs for command staff

Monitor and maintain span of control

Demobilize organizational elements as soon as possible

ICS Organization

Incident Commander

In charge at the incident

May have one or more deputy incident commanders

May assign personnel for command staff and general staff

Information Officer

Develops information

Releases information as authorized

Reduces risks created by multiple release sources

Liaison Officer

Serves as the point of contact for other agencies

Prison Manager

Runs the unaffected areas of the facility

Works closely with other Command Staff in regards to resource needs

Safety Officer

The Safety Officer is responsible for identifying, assessing, and anticipating hazardous and unsafe conditions related to the incident

Position is selected based on expertise and the situation; not necessarily the institution Safety Manager

Recorder

Records Incident Commander activities

Records the direction given by the Incident Commander

Not the main record keeper of the incident

General Staff

OPERATIONS SECTION CHIEF

PLANNING SECTION CHIEF

LOGISTICS SECTION CHIEF

FINANCE / ADMINISTRATION SECTION CHIEF

Planning Section Chief

Develop and manage the Planning / Intelligence Section

Collect, analyze, and display information

Prepare incident action plan

Maintain situation and resource status info

Maintain incident documentation

Prepare demobilization plan

Operations Section Chief

Develop and manage the Operations Section

Accomplish the incident objectives

Only one person assigned to this role

Logistics Section Chief

- Establish and manage the Logistic Section
- Responsible to acquire
  - Services
  - Personnel
  - Equipment
  - Materials

Finance / Administration Section Chief

Establish and manage the Finance and Administration Section

On-site financial and administrative management

Management by Objective

Establish incident objectives

Select the appropriate strategy(s)

Apply the tactical direction and/or resources to achieve the selected strategy(s)

Definition of Objective

Incident Objective(s): Statements of intent related to the overall incident. Essentially, the objectives answer the question of <u>what</u> we want to accomplish. Objectives are time focused and resolution driven to resolve the overall incident.

Good Objectives

A good objective is SMART

- S-simple
- M-measurable
- A-attainable
- R-realistic
- T-task oriented

Incident Objectives

Objectives are the "what" in the action plan. What is it that we are to accomplish?

Objectives give all involved that clear direction of what needs to be accomplished.

Example:"There is a fire in the prison. What is the objective?"

Answer: "Put out the fire." **Not** call the Fire Department or call 911

Strategy

Strategy(s): Describes the general method or methods that should be used either individually or in combination, which will result in achieving the incident objective. Answers "how" you are going to meet the objective.

Example: Put water on the fire.

Tactics

Tactics: Describes what must be accomplished within the selected strategy or strategies in order to achieve the Incident Objectives. It defines the "who" in the strategy.

Assignments: Puts a name on "who" is going to do this.

Example: The local fire department will put out the fire.

Initial Actions in ICS

IC= Objectives

Planning, Ops, Logistics = Strategies

Planning/Ops = Tactics

Operations = Assignments

Strike Team/Task Force = Receive assignments (tactics)

Tactics and Tactical

In ICS, tactics refers to specifically the way a defined task is carried out

It is not restricted to just accomplishing an objective through force

ICS 5-Step Process

Report-initial report and verification

Contain-minimize escalation, secure, and account

Mobilize-evacuate people, notify, recall staff, develop action plan

Respond-put the plan into action

Recover-address post-incident concerns and return to as normal as possible

Incident Action Plan

Can be oral or written

Includes measurable tactical objectives

List of activated organizational elements

Makes assignments to accomplish the objectives

FLEXIBILITY

NEEDS OF INCIDENTS WILL DETERMINE THE REQUIRED ORGANIZATION

SUPERVISOR
1
2
3
4
5

Span of Control

INEFFECTIVE
AND
POSSIBLY
DANGEROUS

EFFECTIVE
SPAN OF CONTROL

ICS Color Code

Command Staff-Red

Operations-Blue

Planning-Yellow

Logistics-Brown

Finance/Administration-Green

INCIDENT OBJECTIVES	1. INCIDENT NAME Albion Power Failure	2. DATE PREPARED 11/25/2004	3. TIME PREPARED 1000

3. OPERATIONAL PERIOD (DATE/TIME)

1000 11/25/04 to 2200 11/25/04

4. GENERAL CONTROL OBJECTIVES FOR THE INCIDENT

Restore commercial power to the facility
Maintain facility security
Provide Thanksgiving day meal
Repair emergency generators
Supply alternatives for lack of heat
Prepare to deliver alternate lighting

5. WEATHER FORECAST FOR OPERATIONAL PERIOD

Temp lows of 35 degrees to a high of 48 degrees. No precipitation is forecasted for the operational period

6. GENERAL / SAFETY MESSAGE

Low temps may be a health/safety risk

8. ATTACHMENTS

- ☐ Organization Summary List (ICS 203)
- ☐ Incident Radio Communications Plan (ICS 205)
- ☐ _____
- ☐ Strike Team/Task Force Assignment List (ICS 204)
- ☐ Medical Plan (ICS 206)
- ☐ _____
- ☐ _____
- ☐ _____
- ☐ _____

202 ICS PADOC	9. PREPARED BY (PLANNING SECTION CHIEF) Peter Lan	10. APPROVED BY (INCIDENT COMMANDER) John Icee

Green Light Order
Incident Commander
Recorder
Safety Officer
Public Information Officer
Prison Manager
Liaison Officer
Planning Chief
Resource Unit
Situation Unit
Demobilization Unit
Documentation Unit
Operations Chief
Branch Director
Strike Team
Strike Team
Task Force
Strike Team
Strike Team (CRST)
Staging Mgr
Branch Director
Strike Team
Task Force
Strike Team
Strike Team
Single Resource
Logistics Chief
Service Branch
Comm Unit
Prison Services
Employee /Inmate Services
Support Branch
Internal Prison Support
External Prison Support
Finance Administration Chief
Time Unit
Procurement Unit
Compensation Claims Unit
Cost Unit

Critical Incident Management Manuals

VOLUME 1 (Red)

Action Book

VOLUME 2 (Blue)

Information Book

Reminder that manuals and associated documents are considered "Confidential"

VOLUME 1 (RED BINDER)

Table of Contents

Command Notification

Chain of Command

External Notifications

Staff Call Backs

List of Emergency Equipment

VOLUME 1 (RED BINDER)

7. List of Emergency Locations
8. Emergency Family Notifications
9. Appendices
10. Deactivation Checklist

VOLUME 1 (RED BINDER)

Incident Commander

Operations Section

Planning Section

Logistics Section

Finance/Administration Section

Post Orders

- Incident Commander
- Recorder
- Prison Manager
- Public Information Officer
- Safety Officer
- Agency Liaison
- Operations Chief
- Staging Area Manager
- Branch Director
- Group/Division Supervisor
- Strike Team/Task Force Leader

Post Orders (cont.)

Planning Chief

Situation Unit Leader

Resource Unit Leader

Documentation Unit Leader

Demobilization Unit Leader

Logistics Chief

Service Branch Director

Communications Unit Leader

Prison Services Unit Leader

Employee/Inmate Support

Support Branch Director

Internal Prison Support

External Prison Support

Post Orders (cont.)

Finance/Administration Chief

Procurement Unit Leader

Time, Compensation, and Claims Unit Leader

Pre-Planned Responses

- Inmate Disturbances
- Hostage Incidents
- Escapes
- Employee Work Stoppage
- Outside Assault/Civil Disorder
- Fire
- Floods
- Tornado/Hurricane Earthquakes
- Mass Casualties
- Bomb Threat
- Disaster Assistance
- Chemical Spill
- Nuclear Disaster
- Inmate Refusal to Work
- Winter Storms
- Other

020893

VOLUME 2 (BLUE BINDER)

Table of Contents

Record of Changes

Care of Manuals and Authorization of Changes

Distribution

Institution Risk Analysis

Emergency Policies

VOLUME 2 (BLUE BINDER)

External Agency Agreements

Evacuation Plan

Medical Services Plan

Food Services Plan

Floor Plans, Institution Maps, Utility Locations

Fire Evacuation Plans (diagrams)

Planning Meeting Checklist

Situation and Resources	Planning
Incident Objectives and Policy Issues	Incident Commander
Primary and Alternate Strategies	Operations
Branch, Division, Group Boundaries and Functions	Operations
Tactical Operations and Tactics	Operations
Tactical Resource Assignments	Operations (assisted by Logistics, Planning
Operations Facilities and Reporting Locations	Operations and Logistics
Develop Resources and Support	Planning and Logistics
Comm, Medical, Traffic Plans	Planning and Logistics
Approve Plan	Incident Commander

Homeland Security Presidential Directive 5 – February 28, 2003

Directed Secretary, DHS to develop and administer:

- **National Incident Management System** (NIMS)
  - Core set of concepts, principles and terminology for incident command and multiagency coordination.
- **National Response Plan** (NRP)
  - All-discipline, all-hazards plan.

Relationship: NIMS and NRP

National Incident Management System (NIMS)

Used for all events

NIMS aligns command, control, organization structure, terminology, communication protocols, resources and resource-typing for synchronization of response efforts at all echelons of government.

DHS integrates and applies Federal resources both pre and post incident.

Resources, knowledge, and abilities from Federal departments & agencies.

National Response Plan (NRP)

Activated for incidents of national significance.

System
NIMS

"…a consistent nationwide approach for Federal, State, tribal, and local governments to work effectively and efficiently together to prepare for, prevent, respond to, and recover from domestic incidents, regardless of cause, size, or complexity…"

NIMS: What It Is / What It's Not

NIMS is…

- Core set of:
  - Doctrine
  - Concepts
  - Principles
  - Terminology
  - Organizational processes
- Applicable to all hazards

NIMS is <u>not</u>…

- An operational incident management plan.
- A resource allocation plan.
- A terrorism / WMD-specific plan.
- Designed to address international events.

NIMS Components

- Command and Management
- Preparedness
- Resource Management
- Communications and Information Management
- Supporting Technologies
- Ongoing Management and Maintenance

Command and Management
Incident Command System Concepts and Principles

- Most incidents are managed locally
- Field command and management functions must comply with standard set of ICS organizations, doctrine, and procedures
- Modular and scalable
- Interactive management components
- Enables diverse organizations to work together
  - Common terminology
  - Common standards
  - Common procedures
- Incident Action Plans (IAP)
  - Overall incident objectives for operational period
- Minimal disruption to existing systems and processes
- User friendly and applicable across spectrum of emergency response and incident management disciplines

Preparedness

Concepts & Principles

- Continuous cycle of
  - Planning
  - Training
  - Equipping
  - Exercising
  - Evaluating
  - Taking action to correct and mitigate
- Processes for providing guidelines; protocols; standards for planning, training, qualifications and certification; and publication management
- *"National-level preparedness standards related to the NIMS will be maintained and managed through a multijurisdictional, multidiscipline center, using a collaborative process."*
- Mitigation activities are important elements of preparedness

Preparedness

Certification and Mutual Aid

National equipment standards, guidelines, and protocols and review of certified equipment lists done in coordination with

- Federal, State, local, tribal, private sector and nongovernmental agencies
- Standards-making, certifying, and accrediting organizations

Mutual Aid agreements should include:

- Procedures for requesting and providing assistance
- Procedures, authorities, and rules for payment and cost issues
- Recognition of qualifications and certifications

Credentialing

A Nationwide System of Credentialing:

NIMS calls for "a documentation and database system related to qualification, certification, and credentialing of incident management personnel and organizations";

Specifies and standardizes the roles and responsibilities of the first responders operating in a disaster;

Ensures that personnel responding to an incident have been properly trained and qualified to operate in those positions;

Provides uniform certification programs that allow first responders to provide mutual aid nationwide;

Ensures the proper identification of first responder personnel; and,

Working with existing State or discipline-specific credentialing bodies toward national recognition for multi-jurisdictional response under mutual aid agreements.

NIMS Implementation

FY 2005 Implementation Guidance

- Letter to Governors
- Letters to Federal Departments and Agencies
- Memo to DHS Directorates and offices

To the maximum extent possible, States, territories, tribes, and local entities are encouraged to achieve full NIMS implementation and institutionalization across the entire response system during FY 2005

In order for NIMS to be implemented successfully across the nation, it is critical that States provide support and leadership to tribal and local entities to ensure full NIMS implementation

Minimum FY 2005 NIMS Implementation Requirements

State and territory level efforts to implement the NIMS must include the following:

- Incorporating NIMS concepts, such as the ICS, into existing training programs and exercises;
- Using Federal preparedness funding to support NIMS implementation at State and local levels;
- Incorporating NIMS concepts into Emergency Operations Plans;
- Promoting and establishing intrastate mutual aid agreements and compacts;
- Coordinating and providing technical assistance to local entities regarding NIMS; and
- Institutionalizing the use of the Incident Command System (ICS)

Minimum FY 2005 NIMS Compliance Requirements

At the State, territorial, tribal, and local levels, jurisdictions should support NIMS implementation by:

- Completing the NIMS Awareness Course: "National Incident Management System (NIMS), An Introduction" IS 700;
- Formally recognizing the NIMS and adopting the NIMS principles and policies;
- Establish a NIMS baseline by determining which NIMS requirements you already meet;
- Establishing a timeframe and developing a strategy for full NIMS implementation; and
- Institutionalizing the use of the Incident Command System (ICS).

NIMS FY 2006 and FY 2007 Requirements

FY 2006

Applicants will be required to certify as part of their FY 2006 grant applications that they have met the FY 2005 NIMS requirements

FY 2007

Full NIMS compliance will be a condition for Federal preparedness assistance

Additional information about NIMS compliance and resources for achieving compliance will be forthcoming from the NIC

Support of NIMS Implementation

Creation of NIC Advisory Committee under the Homeland Security Advisory Council

NIC is developing tools to support NIMS implementation:

- NIMS Capability Assessment Support Tool (NIMCAST)
- NIMS Awareness Training
- Executive Order Template
- Sample Language for Grants Guidance
- Series of “How To” Guides

INVESTIGATIONS 2003

- CONFISCATED CELL PHONES
- STAFF CASES
- INMATE CASES

An OIG undercover operation revealed a staff member accepted money from an inmate's mother and cousin in exchange for smuggling creatine and a cell phone into the facility. The staff member pled guilty to one count of Conspiring to Bribe a Public Official.

CASE SUMMARIES

- Six staff cases sustained
- Cell phones in BOP facilities
- Some inadvertant
- Some clearly intentional

CASE SUMMARIES

On February 28, 2004, an inmate walked away from a satellite camp after staff discovered the inmate in possession of $20.00 and a cell phone. The inmate was placed on escape status. The case has been submitted for prosecution.

CASE SUMMARIES

On March 30, 2004, an inmate walked away from a minimum security facility after a pat search revealed he possessed a cell phone. The inmate remains on escape status.

INTERVENTION IS COMPLEX

- AMPS, TDMA, CDMA, GSM, IDEN

CELL PHONES

- transmit on multiple frequencies
- are increasingly smaller
- are inexpensive
- can be purchased with very little accountability

Cell Phone Protocols

CARRIER	SUBSCRIBERS (MIL)	SHARE	PROTOCOL
Verizon	29.4	23.0%	CDMA
Cingular Wireless	21.6	16.9%	TDMA/GSM
AT&T Wireless	18.0	14.1%	TDMA
Sprint	13.8	10.8%	CDMA
Nextel	8.7	6.8%	IDEN
T-Mobile	7.0	5.5%	GSM
Alltel	6.7	5.2%	CDMA

POTENTIAL INTERVENTIONS

Jamming

Denial of Service

Signal Detection and Location

Passive Interception

JAMMING

- Equipment emits a signal that interferes with cell phone signals
- Prohibited by Communications Act of 1934
- May interfere with commercial signals and public safety signals
- Effectiveness unknown - unable to test
- Used in some foreign countries

DENIAL OF SERVICE

- Simulate a cellular tower and tell nearby cell phones no service is available
- Prohibited by Communications Act of 1934
- Effectiveness unknown - unable to test

PASSIVE INTERCEPTION

- Collects cell phone number, number called and electronic serial number
- Requires Order from Magistrate Judge
- Collects information from cell phones outside institution perimeter
- Very expensive - requires unique equipment for each protocol
- Complicated to use
- Tested at FCI Williamsburg - didn't work well for BOP's needs

SIGNAL DETECTION and LOCATION

- No regulatory issues
- Difficult in a correctional environment
- Very expensive - requires unique equipment for each protocol
- Complicated to use
- Tested at FCI Williamsburg - didn't work well

Executive Training
for Deputy Directors

-NOTES-	-SUMMARY-

-INDEX-

Executive Training
for Deputy Directors

-NOTES-	-SUMMARY-

-INDEX-

Executive Training
for Deputy Directors

-NOTES-	-SUMMARY-

-INDEX-

SECTION 12

TRENDS IN AMERICA

Trends in America

Charting the course ahead

The premier organization in forecasting policy trends for state leaders

www.csg.org

June 2005

Table of Contents

A message from
CSG's Executive Director 4

Navigating Complexity in the 21st Century 5

Trends at a Glance 6

Change Drivers

Silver Society: Aging of America 9
Immigrant Nation: Changing Face of America 12
Growth Dynamics: Regional Hot Spots 15
Economic Transformation: Knowledge is King 18
Globalization Era: New Forces at Work 20
Information Revolution: Sorting it Out 23
Privacy vs. Security: A Balancing Act 26
Resource Management: Sustaining Our Future 29
Polarized Populace: Eroding Common Ground 32
Ambiguous Authority: Who's in Charge 35

The Voices of Leadership 38

What's Next? 40

— A message from CSG's Executive Director —

Dear Members:

Today's state officials and policy-makers have access to more information than ever before. At the click of a mouse, you can call up facts and figures on virtually any subject. And if you're not sure where to turn for information, there are countless advocacy groups willing to help you out.

Having access to information on a particular subject is one thing; being able to evaluate and interpret it in the broader context of today's rapidly transforming world is another. We live in a time of incredible transition, in the midst of changes so profound we will only be able to fully understand them with hindsight. But that doesn't mean we can't prepare for what lies ahead.

Our mission at The Council of State Governments is to help state policy-makers navigate the turbulent waters of governing in the 21st century. We seek to help you steer your state and constituents on the best course—not just avoiding the rocks and staying afloat, but moving forward toward a destination and a higher level of excellence.

We are creating new trends-oriented products that respond to what our members have asked for: analysis of relevant trends and their implications for states, along with policy options to pursue. *Trends in America: Charting the Course Ahead,* the first in a series of trends publications, highlights the major forces shaping our society, our political climate and our world, along with their implications for state government. These trends transcend specific issues and cut across traditional policy areas. They affect all branches of state government in all parts of the country. Our goal is to be a beacon for state leaders, illuminating the dangers and opportunities these powerful change forces present.

In addition, CSG is also working to develop and identify innovative options for states to address the many challenges emerging as a result of these trends. In December, we will produce the second edition of *Trends in America*, a follow-up report identifying specific steps state policy-makers can take—not just to respond to the changes already occurring, but to anticipate those yet to come.

Together, CSG's *Trends in America* publications will serve as critical tools for state leaders as they navigate the turbulent waters of our society today and tomorrow. At CSG, we see these publications as an essential component of our vital foresight mission. For state policy-makers, we hope they serve as important guidebooks, helping our members chart the course into the future.

Daniel M. Sprague
Executive Director

Navigating Complexity in the 21st Century

There is widespread agreement among today's authors and analysts that our 21st century world is turbulent, complex, dynamic and interconnected. Our economy and social composition are vastly more global and driven by different forces than those of only two decades ago. We communicate and conduct daily transactions in dramatically new ways, and the sheer volume of information and data flows available to most people 24/7 is mind-boggling.

At the core of these revolutionary shifts in society is massive change, but even more alarming is the incredible speed of change that confronts us as individuals and challenges our time-honored institutions. Charles Darwin noted that it is not the strongest or the most intelligent species that survive over time, but rather those most responsive to change. Historically, U.S. citizens look to government institutions to help our communities, states and nation respond to changing domestic and international developments. The question that now becomes paramount is what are governments doing to understand the nature of our fast-changing world and to transform themselves to better respond to the new demands and challenges of the 21st century?

Most of our current governance institutions were heavily influenced by 18th and 19th century European theorists and experience. Importantly, we incorporated our own American genius and preferences to these government institutions, but the point remains that while 21st century technology has revolutionized some important aspects of government, our basic institutional arrangements are grounded in an era long past. Even Max Weber, one of the seminal founders of the field of public administration in 19th century Germany, would readily recognize today's governmental organization.

In spite of this, the rate of change continues to accelerate. States can't afford to be entrenched in bureaucratic, change-resistant structures. The challenge is for states and their institutions to become more flexible and responsive to the rapidly changing environment in which they operate.

In times of radical change, state policy-makers need scouts to scan the horizon of change, interpreters to identify how these trends will impact state government and guides to present policy and program options to deal with quickly emerging conditions. Fortunately, The Council of State Governments is uniquely suited to serve in these capacities. Our regional offices help us identify emerging trends, keeping in mind that they don't affect all states or geographic areas exactly the same way. Our members come from all three branches of government, providing multiple perspectives no other organization can match. Many of our private-sector Associates share with us trends they've identified in working with combinations of states. And, our affiliated state official organizations draw upon their specialized expertise to help us identify rapidly changing circumstances and potential responses to them.

States can't afford to be entrenched in bureaucratic, change-resistant structures. The challenge is for states and their institutions to become more flexible and responsive to the rapidly changing environment in which they operate.

In our work as scanners and interpreters, we have identified 10 major change drivers that cut across traditional policy areas. These change drivers are already affecting states and will continue to impact them for years to come. Although these change drivers all have long-term implications, CSG's focus is on what they will mean for state officials over the next five years.

Trends in America: Charting the Course Ahead is the result of extensive research and regular interaction with policy experts from private and public sectors. The goal of this report is to help our members see the big picture of today and outlines of tomorrow as they engage in the demanding work of passing laws and executing programs in response to constituents' needs. Our hope is that understanding these 10 powerful change drivers and their implications will help state officials respond to the unprecedented transformations taking place—not only to help them govern better today, but to prepare state leaders for the challenges ahead.

CSG's work would not be complete without also identifying innovative options and programs so that states may address the issues and implications of trends. In December, we will produce the second edition of *Trends in America* that will outline possible steps state policy-makers can take to respond to the changes already occurring and anticipated in the future. We hope that, together, these publications will serve as powerful decision-making tools for state leaders.

— Trends at a Glance —

Change Driver #1

Silver Society: Aging of America

Because people are living longer and having fewer children, the percentage of older people in the United States is growing. The number of people older than 65 will more than double between 2000 and 2050, and the population over age 85 will quadruple. Fueling America's population transformation are the 76 million baby boomers born between 1946 and 1964. What difficult decisions will states have to make as the population ages?

Change Driver #2

Immigrant Nation: Changing Face of America

The percentage of the population comprised of immigrants is close to record levels, and the number of immigrants is at an all-time high. In recent years, most immigrants have come from Latin America and Asia. And many of these newcomers are dispersing to areas and states where immigrants traditionally have not lived. What are the economic impacts to states as the immigrant population increases?

Change Driver #3

Growth Dynamics: Regional Hot Spots

While the South and West are growing faster than the rest of the nation, another population trend is taking place. The population in all regions is becoming more concentrated in suburban areas. And people are moving beyond the traditional boundaries of suburbia into what is now known as exurbia. How will the changing demographic landscape alter the demand for education, health care and other services?

— Trends at a Glance —

Change Driver #4

Economic Transformation: Knowledge Is King

The United States has gradually shifted from a manufacturing-based economy to a technology- and service-based economy. The new economy will be marked by technological advancements that enable businesses to locate almost anywhere. In the era of knowledge, new high-tech solutions and innovations will continue to foster economic development. Are state economic development and fiscal policies adapting fast enough to keep pace with these dramatic changes?

Change Driver #5

Globalization Era: New Forces at Work

Globalization will continue to integrate businesses, governments and people across the world. This process will be driven by trade and investment and accelerated by information technology. Rapid changes in the global economy will propel state governments into the international arena and constantly demand greater levels of awareness and engagement among state officials. Are states equipped to compete and take advantage of benefits offered by the global economy?

Change Driver #6

Information Revolution: Sorting it Out

The Internet has revolutionized information dissemination. Because of increased access to vast amounts of information, people will become more demanding of both business and government. There will be an increased emphasis on the art of communication. And there will be a growing need to integrate and make sense out of the fragmented information that's available. Is this the age of information overload? How will "blogging" affect the political process?

— Trends at a Glance —

Change Driver #7

Privacy vs. Security: A Balancing Act

New technologies will present businesses and governments opportunities to increase their efficiency and offer new products and services. But they will also have the potential to dramatically erode personal privacy. Homeland security concerns, data mining, personal profiling and identity theft are just some of the evolving issues transforming our society. States are finding themselves on the frontlines of far reaching privacy and security policy questions. Is America trending toward less privacy?

Change Driver #8

Resource Management: Sustaining Our Future

Americans will continue to use large amounts of energy, electronic devices, paper and natural resources and generate large volumes of wastes. The growing U.S. population, combined with economic growth and increased consumption in other nations, will continue to increase demands on natural resources and the environment's capacity to assimilate wastes. Are states open to innovative solutions that address current and emerging natural resource issues?

Change Driver #9

Polarized Populace: Eroding Common Ground

The political process is more polarized now than it has been since the early 20th century, and the polarized debate has focused largely on "culture wars." At the same time that the country has become more polarized in the political arena, there is also a trend of greater income inequality. What are the far-reaching consequences of political and economic polarization on state government?

Change Driver #10

Ambiguous Authority: Who's in Charge?

Governing in the 21st century will be increasingly complex and dynamic. Although states have taken on more responsibility for implementing federal programs, the balance of power is shifting to the federal government. At the same time, the relationship between citizens and state government will continue to evolve and change, placing new demands on state government. Is cooperation among the states an effective strategy to prevent or address federal pre-emption of state powers?

Silver Society: Aging of America

What are the trends?

Two simple facts are shaping America's future: People are living longer and having fewer children. The outcome of these two trends is that the percentage of older people in the United States is growing. The aging population will have profound consequences, which state leaders are beginning to recognize but largely have not addressed.

In the first half of the 20th century, the graphs of population distribution by age group resembled half-pyramids, with a large base of younger people supporting a small top layer of older people. Longer life expectancies in the future should change that half-pyramid into a bullet-shape.

Most social programs, public and private health insurance systems and retirement funds rely on younger working generations to support older generations. There are currently nearly five people of working age for each older person. In the near future, this ratio will drop to fewer than three workers for each older person. Demographers and policy-makers alike worry there will not be enough younger workers or productivity gains in the economy to adequately address these programs' future financial needs.

According to the U.S. Census Bureau, the number of people older than 65 will more than double between 2000 and 2050, and the population over age 85 will quadruple. Fueling America's population transformation are the 76 million baby boomers born between 1946 and 1964. This unusually large demographic group has changed America's institutions as they have grown older, starting with schools and then moving into the work force. The boomers' upcoming exodus from the work force will gain momentum rapidly as the first wave of boomers turns 65 in 2011.

What does this trend mean for states?

Americans' expectations of what it means to get older are changing. This is partly because of the boomers' influence. The boomers are healthier, more financially secure and more educated than previous generations. Despite these positive characteristics, the aging of the population will provide many challenges as well.

The aging of the population will continue to exert pressure on health care costs, forcing difficult choices. According to the Centers for Disease Control and Prevention, health care expenditures for a 65-year-old on average are four times those for a 40-year-old. Because there will be more older people who live longer, experts predict that overall U.S. health care expenditures will increase 25 percent by 2030.

Long-term care needs are particularly problematic. The Medicaid program is currently the largest payer for those types of services, accounting for almost half of all long-term care spending. Few Americans have

- As people live longer and have fewer children, the percentage of older people in the U.S. population is increasing.
- The number of working-age people compared to the number of retirees is decreasing.
- The 76 million baby boomers are nearing retirement age.

"States and communities would be well advised to adapt their physical infrastructures and services to the needs of older Americans."

—Gov. Jim Douglas, Vermont

long-term care insurance or sufficient resources to provide for their needs should they become disabled. Thus, the government ends up picking up the tab.

Changing family structures combined with the aging population may lead to a caregiving crisis. Currently, families provide most of the support for aging individuals. According to the National Family Caregiving Alliance, nearly one out of every four households is involved in caring for people age 50 or over. The combination of an aging populace and changing family structures—including fewer children, higher divorce rates, more single parent families, greater job mobility and delayed childbearing—means that family members may provide fewer of the support services seniors need in the future.

Because states and localities are often the human service payers and providers of last resort, there are concerns about the adequacy of social service networks and the potential rise of elder abuse and neglect. There is already a shortage of allied health professionals such as nurse aides, who could help fill the caregiving gap, and the shortage will only get worse in the next few years.

State tax structures may not be well-equipped to handle the aging of the population. As the population ages, state tax collections will be affected. State budgets rely heavily on income and sales taxes for revenue. As more and more baby boomers retire, states may see a dramatic decline in income tax revenues. Why? For one thing, many states exempt all or part of private and public pension income from taxation. This results in a smaller tax base.

Although baby boomers are wealthier than previous generations, their consumption patterns may change as they age. For instance, older individuals may spend more money on non-taxed services such as health care. In addition, retired baby boomers may have less disposable income than they did while they were working, which could affect state sales tax revenues.

Also, many states have enacted a homestead exemption or have given tax credits that reduce the amount of property taxes paid by the elderly. This exemption may restrict local revenues, possibly putting greater emphasis on intergovernmental aid.

Work force shortages are on the horizon and will be particularly problematic in certain sectors of the economy. Since a vibrant economy can translate into a healthy revenue base, states are closely examining aging's impact on the work force. Baby boomers comprise as much as 60 percent of today's prime-age work force, and their retirement will leave many vacancies.

Some economic sectors will be hit harder than others. Don Jakeway, CEO of the Michigan Economic Development Corporation, notes that the need for many manufacturing positions may be eliminated by industry advancements as technology, robotics and new techniques increase productivity and require fewer people.

Demographic Changes: An Aging Population

The generations trailing the baby boomers are smaller, resulting in increased competition for those workers. Given the healthcare needs of an elderly population, this shift is only going to exacerbate current health care work force shortages.

Source: U.S. Census Bureau

However, the labor-intensive service sectors may face a different scenario. Health care, teaching and other service industries are expected to experience acute shortages as the need for additional workers increases just as many workers are eligible to retire. State governments are particularly vulnerable to future work force shortages. Thirty percent of the states' work force will be eligible for retirement by 2006, according to a 2002 study by CSG and the National Association of State Personnel Executives.

State pension and retirement systems face funding problems. As federal policy-makers debate the future of Social Security, state pension and retirement funds face similar funding dilemmas. The combination of poor economic returns in the recent past and growing liabilities from increasing numbers of retirees has translated into funding problems for nearly every state's public retirement system.

This is occurring at a time when state revenues are not rising sharply and the costs of other state priorities, health care in particular, are increasing. Since state courts have declared that government must pay all pension benefits regardless of the state's fiscal situation, states are looking into ways to deal with the current funding situation and avoid similar situations in the future.

There is a growing need for elder-ready communities. "States and communities would be well advised to adapt their physical infrastructures and services to the needs of older Americans," said Vermont Gov. Jim Douglas. Elder-ready communities are pedestrian-friendly, have public transportation options and are relatively compact so that people do not have to travel far to get to the grocery store, pharmacy or health care providers. Because mobility is a major consideration as people age, elder-friendly communities focus on alleviating the problems associated with elderly drivers. As age increases, sensory and motor capabilities decline, perception and attention impairments become more common and, as a result, driving becomes more difficult. According to the National Highway Traffic Safety Administration, drivers over the age of 65 are more likely than all other drivers to be involved in and killed in traffic accidents on a per-mile-driven and per-licensed-driver basis.

Elder-ready communities have elder-friendly housing such as smaller, one-story dwellings. Older people often do not want to live in large houses that require a lot of upkeep. In addition, as more people retire and live on fixed incomes, housing affordability will become a major issue.

States are already promoting the concept of elder-ready communities. In 2000, Florida launched its Elder Ready Communities Program to help local leaders assess their community's elder readiness and develop a plan to promote an elder-friendly environment. By actively encouraging local communities to be sensitive to the needs of seniors, states can play a major role in addressing the effects of the aging population.

What does the future hold?

In the next few years, we won't experience cataclysmic effects from the aging population. The changes will be gradual, but over time the cumulative demographic, social and political consequences will likely be dramatic.

Scientific and medical advances will continue to contribute to long and relatively healthy lives. The recent trend toward policies that favor home- and community-based care, rather than institutional care, will continue, and new technologies will allow seniors to live independently longer. Health care and services that cater to older Americans will play an increasingly significant role in the economy. End-of-life and quality-of-life issues will take a prominent place in political debates as people live longer—sometimes with serious medical conditions.

The aging baby boomers will redefine what it means to retire. Many will continue working well into their 70s and 80s, perhaps retiring from one career to try something new. Others will be actively engaged in their communities through volunteer work or political activism. One way or another, the boomers will force policy-makers to reconsider the way retirement systems are structured and funded.

According to the Centers for Disease Control and Prevention, health care expenditures for a 65-year-old on average are four times those for a 40-year-old. Because there will be more older people who live longer, experts predict that overall U.S. health care expenditures will increase 25 percent by 2030.

Immigrant Nation: Changing Face of America

What are the trends?

The United States is known as a nation of immigrants, and recent trends have continued that tradition. The U.S. Census Bureau estimates that immigrants comprised about 12 percent of the total U.S. population in 2004 with 34.2 million people, an all-time high number of people. This proportion is close to the record percentage reached during the early 20th century.

Compared to historic trends, the landscape of immigration today is unique in two ways. First, the majority of immigrants no longer come from Europe. In recent years, people from Latin America and Asia have made up the largest segments of the foreign-born population. According to the Census Bureau, in 2004, 53 percent of the foreign-born population originated in Latin America, while 25 percent were born in Asia.

Second, many of these newcomers are dispersing to areas and states where immigrants have not traditionally lived. Although most immigrants live in the gateway states of California, Florida, Illinois, New Jersey, New York and Texas, other states have experienced a substantial influx of immigrants over the past decade.

Immigrants play an important role in the U.S. economy. They contribute to the nation's cultural diversity, and those who have fled conflict and persecution in their countries of origin are important spokespersons for the United States and the values for which it stands. There is debate over whether America should be known as a "melting pot," in which immigrants assimilate into one mainstream culture, or as a "mixed salad" consisting of unique cultures and traditions. Nevertheless, diversity is an important value that strengthens states and local communities, but it also presents challenges and costs.

What do the trends mean for states?

Given a lack of national policy or guidance, states are taking matters into their own hands to provide immigrants with jobs, education, training and health care—critical components to social integration. All of this, however, comes with a price tag. A report by the National Academy of Sciences in 1997 found that immigrants and their children contribute more in taxes than they receive in federal, state and local government benefits combined over their lifetimes. When looking at just the state and local levels, however, immigrants use more government services than they pay state and local taxes.

Immigrants play an important role in state economies. Immigrants provide skilled and unskilled labor needed to keep the U.S. economy going. According to the Census Bureau, immigrants account for 14 percent of the total work force and 20 percent of the low-wage work force. In the last decade, one out of every two new workers in the labor force was foreign born. And it is expected that immigrants will play an increasingly important role in fueling state economies by filling vacant positions created by the retiring baby boomers.

From an economic perspective, there are two distinct groups of immigrants—those with high-tech skills and high levels of educational attainment, and those without. Members of these two groups face very different futures in terms of assimilation, job opportunities and their economic contribution to society.

In some states, immigrants are a critical component of the work force for specific industries, such as agriculture, hotel services, construction, health care and computer programming. "Immigrants fulfill important work force shortages and add economic value to state and local communities," said Senate President Earl Ray Tomblin of West Virginia.

Although most foreign-born workers are here legally, undocumented workers play a significant role in our econo-

According to a 2004 Census Bureau report, the foreign-born population is more than twice as likely as natives to be uninsured. In 2002, for example, 12.8 percent of the native population did not have health insurance compared to 33.4 percent of the foreign-born population.

my—but one that is harder to measure. Exactly how much undocumented immigrants contribute to state economies, pay in taxes and use public services is unclear.

As with native children, educating immigrants is a vital social and economic interest. Educating immigrants at the elementary, secondary and post-secondary levels, however, presents many unique challenges. Most notably, studies have shown that language and cultural differences between students and teachers inhibits learning and widens the achievement gaps between natives and immigrants. Even when students speak English, teachers often struggle to communicate effectively with non-English speaking parents about their children's performance and needs.

Not all foreign-born students face similar learning challenges. Compared with other immigrant groups, Asian immigrants, for example, have a relatively high educational attainment rate. Nevertheless, states with high levels of immigration appear unprepared to deal with the influx of non-English speaking students. The number of K–12 English Language Learners (ELL) in the United States, for example, has increased dramatically since 1990. Despite this change, few public school teachers instructing ELL students have received proper training or have a degree in English as a Second Language or bilingual education.

Although immigrants are less likely than natives to possess a high school diploma, those who have completed high school are more likely to have a graduate degree than their native born counterparts. However, immigrants without a high school degree outnumber those with graduate degrees.

Health care systems must prepare for and respond to racial and ethnic health differences and cultural and health literacy issues. States face many challenges in providing necessary health care to immigrants, both documented and undocumented. Asians, for example, have higher rates of stomach and liver cancers. Hispanics have higher rates of cervical, esophageal, gallbladder and stomach cancer, and a disproportionate number of Hispanics die from cancer.

People from different cultures may shy away from certain treatments, and some cultures may prefer nontraditional remedies over mainstream medical practices. Health literacy, which is the ability to read, understand and act on health information, is much more problematic for non-English speakers. Even a lack of basic awareness about the American health care system can lead to problems. For example, immigrants may show up at a hospital or clinic expecting free health care, if a national health system provides free care in their homeland.

In addition, according to a 2004 Census Bureau report, the foreign-born population is more than twice as likely as natives to be uninsured. In 2002, for example, 12.8 percent of the native population did not have health in-

- The number of immigrants continues to increase to record levels.
- Immigrants are becoming a larger proportion of the American population.
- Immigrants from Latin America and Asia make up the largest segments of the foreign-born population.
- Immigrants are dispersing to nontraditional immigrant states.

"Immigrants fulfill important work force shortages and add economic value to state and local communities."

—Senate President Earl Ray Tomblin, West Virginia

surance compared to 33.4 percent of the foreign-born population. The lack of insurance, spiraling Medicaid costs and a shortage of health care workers are causing many states to consider health benefit reforms that may disproportionately impact immigrant communities.

States can help address the differences among groups by ensuring that relevant health care information is available in various languages through educational campaigns geared at certain populations and by helping to ensure that health care providers are equipped to serve the states' diverse populations.

Immigrants may not have a clear understanding of state, local and federal laws. This lack of knowledge, combined with cultural differences, can lead to unnecessary encounters with law enforcement and the criminal justice system. A lack of language and cultural training among police and corrections officers often exacerbates problems in some communities. Additionally, many undocumented immigrants are reluctant to report crimes and resist help from law enforcement officials for fear of being deported.

A study outlined in the 2003 *National Institute of Justice Journal*, for example, found that immigrant women who are victims of domestic violence face many unique challenges. Like other domestic violence victims, they are afraid to report abuse to the authorities for fear of exacerbating their abusers' anger and losing the abusers' economic support. For immigrant women, however, these fears are "compounded by additional worries caused by language barriers and possible immigration problems for themselves and their extended families. Like many minority crime victims, these women also face personal and cultural obstacles."

Undocumented immigrants present special challenges for state criminal justice officials. According to the U.S. Bureau of Justice Statistics, as many as 250,000 illegal aliens marked for deportation are now serving time in U.S. prisons or are on probation or parole. States pay part of the costs of incarcerating and supervising deportees and undocumented immigrants who commit state and local-level crimes. Considering that incarceration costs average more than $30,000 a year per prisoner, state officials are seeking ways to reduce expenses, without compromising public safety. In fact, Arizona Gov. Janet Napolitano has asked the federal government to pay the state almost $118 million for keeping thousands of undocumented immigrants behind bars over the past 18 months.

Educating immigrants at the elementary, secondary and post-secondary levels, however, presents many unique challenges. Most notably, studies have shown that language and cultural differences between students and teachers inhibits learning and widens the achievement gaps between natives and immigrants.

What does the future hold?

Barring significant changes in federal immigration policies, states will continue to see a rise in their foreign-born populations, with Latinos and Asians comprising the bulk of these increases. Although immigrants will continue to gravitate toward states like California, Florida and New York, they will also disperse to other states that are not as familiar with the unique needs of immigrants. And immigrants will continue to play a critical, yet evolving role in our society and economy.

"Long-term success for multiethnic societies requires sustained attention to … solving the immigrant and minority integration puzzle in ways that fully respect the democratic and associated principles that define these societies," according to Dr. Demetrios G. Papademetriou, president of the Migration Policy Institute. Schools will shoulder the burden of English language training and assimilation. In states where immigrants are eligible for public services, many low-income immigrants will continue to require assistance with health care and related services. States that invest in helping immigrants assimilate into American society will benefit as new generations of American citizens are born into immigrant families. These mixed-status families can make larger social and economic contributions if given the opportunity and if states invest now.

Growth Dynamics: Regional Hot Spots

What are the trends?

In today's world of instant communications and rapid economic changes, people—and companies—are more mobile than they used to be. People are more footloose than in the past, and many choose where to live based on quality-of-life factors such as safety and natural amenities. According to the U.S. Census Bureau, the proportions of the population living in the West and South are on the rise, while the Midwest and Northeast's shares of the population are decreasing.

California, the demographic and economic giant of the West, has fueled much of the region's expansion for years. International immigration is a major factor in the West's continued growth while much of the South's population increase is attributable to domestic migration. By the mid-1990s jobs were following people to the West, while migration to the South has been partly the result of intense state economic development efforts, from promoting research and development in North Carolina's Research Triangle to recruiting automobile manufacturers throughout the region.

Population growth continues to concentrate in and around suburbia. This trend has been around for a long time. What has changed, however, is the definition of suburbia. As the inner rings of suburbs around growing cities have expanded, people are choosing to move into the less populated outer rings of suburbia, which are now known as exurbia. Urban sprawl, or low-density, suburban development, is occurring across the country, and it is reaching new dimensions. But this trend is particularly pronounced in the South.

What do these trends mean for the states?

Both the quantity of population growth in the South and West as well as the type of growth—low-density development into the outer rings of suburbia—have profound effects at the state level.

There is increasing demand for government services in growing regions. As the population grows, state officials have to respond to their needs. "More people means more demand for government services such as education, public safety, infrastructure development and health care," said Nevada Assemblyman Lynn Hettrick. "This is coming at a time when the costs of many of these services are on the rise."

On the flip side, some states will experience slow growth or even population losses in the future. These states will have relatively smaller tax bases, but they will still have to provide certain core services. So providing cost-effective services is an important issue.

The cost of housing is rising in growing areas. As affordable housing has become scarcer in many parts of the country, housing has become a

- The West and South are leading the nation in population growth.
- Population growth continues to concentrate in and around suburbia.
- Suburbia is spreading into exurbia.

"More people means more demand for government services such as education, public safety, infrastructure development and health care. This is coming at a time when the costs of many of these services are on the rise."

—Assemblyman Lynn Hettrick, Nevada

more prominent issue on state officials' radar screens. In the new economy, affordable housing is an important quality-of-life factor that can influence where people choose to live, and, consequently, where companies choose to locate.

Home values are highest in the fast-growing West, leading some people to search for less expensive housing in other locations. Some Californians, for example, are leaving the state. For the most part, they're moving to other fast-growing but relatively less expensive places in Nevada, Texas, Georgia, Colorado and North Carolina.

Growing regions are experiencing increasing demands for highways and public transportation. A growing number of people work outside their home counties, partly because of the search for affordable housing. The results are more traffic and longer commute times.

Longer commutes mean less time to spend with family and friends and less time for hobbies, recreational activities and civic involvement. Commuting is stressful, which can lead to several health and work-related problems. Partly due to the stress associated with commuting, there is an increased interest in public commuter rail lines in the South.

Growing regions are under pressure to construct new schools and educate more children. Overcrowding in schools can be attributed to several circumstances, including increases in enrollment because of immigration, domestic migration and the baby boom echo—the children of baby boomers. Increasing enrollment in these growing areas leads to a need for more teachers and possibly new school buildings. At the same time, concerns about equitable education finance are leading some states to distribute resources more evenly among growing, stagnant and declining areas.

Because the South and parts of the Southwest are retirement destinations, these regions will especially feel the effects of the aging baby boom generation, but they are also experiencing a growing school-age population. The confluence of these two trends is a double drain on state finances.

As people migrate to growing suburbs in the South and West, this may lead to critical work force shortages in other regions. Work force shortages can negatively impact state economies by increasing the cost of or restricting access to certain goods and services. In addition, work force shortages have the potential to limit state revenues by lowering the income tax base.

States are already experiencing work force shortages in certain sectors, such as health care. In many rural areas, clinics and hospitals are struggling to survive as the population base shrinks. Operating margins at safety net hospitals and clinics can plummet, threatening health care access for many residents.

The changing demographic landscape is altering the political landscape. As the population shifts, growing regions will gain political power as others regions lose political clout. This is true at both the national level and within states.

Percent Change in Population Projections, 2005–2030

Source: U.S. Census Bureau, Population Division, Interim State Population Projections, 2005

Policy-makers need to know how many people will be using government services, but they also need to know what types of services they will need and how to pay for them.

As the United States becomes more and more a suburban nation, the political power of rural areas is diminishing. Redistricting plans will likely continue shifting legislative power to the metropolitan areas, and the number of rural residents elected to state offices will continue to decrease.

Increasing demands are being placed on environmental resources. For instance, urban sprawl contributes to air pollution, especially ozone pollution, because of increased commuting time. And as urban areas spread into neighboring lands, preserving ecologically valuable wetlands and other habitats becomes more important. A great deal of plant and animal species extinction can be attributed to loss or degradation of habitat caused by residential and commercial development, so states are likely to face challenges balancing the needs of humans with those of endangered species.

In addition, regional shifts in population are accentuating water shortages. There is a growing disconnect between rural and urban water interests. In rural areas, farmers need water for irrigation. Growing populations in urban areas, however, compete for water supplies to service their increasing residential and industrial demand. While these intrastate and interstate conflicts are relatively common in some areas of the West, they are becoming increasingly common in other parts of the country.

Demographic shifts are affecting farming practices. Shifting population patterns are changing farming practices in many areas. Some farmers are taking advantage of growing populations by operating equine facilities and agritourism operations that cater to these populations. At the other extreme, some farmers are choosing to get out of the business all together. According to the American Farmland Trust, more than 1 million acres of farmland are developed for residential, industrial and commercial use each year.

As subdivisions are constructed next to operating farms, there is an increasing conflict between farmers and residents. Some residents, after moving to these subdivisions, complain of the noise and odors produced on farms. This potential conflict is especially likely in areas with large-scale farming operations. These conflicts are creating a growing demand for some states to address "right-to-farm" laws, which exempt farms from nuisance laws.

What does the future hold?

These trends in regional population growth are likely to continue for the foreseeable future. For the next few decades, the West is predicted to grow twice as fast as the national average. The Northeast and the Midwest will grow at just one-half of the average. However, there is some evidence of a countertrend. For instance, some places in the Midwest are becoming more attractive to people fleeing California's high property costs and long commutes. Whether this trend continues or how it impacts the Midwest's population growth remains to be seen.

The percentage of the population living in metropolitan areas, more specifically suburban areas, is expected to increase over the next two decades. While suburbia is expected to grow, there is increasing interest in how this development occurs. The principles of smart growth, livable communities, healthy communities, new community design and elder-friendly communities are starting to merge to create momentum for addressing issues related to urban sprawl. As Delaware Gov. Ruth Ann Minner explains, "Neighborhoods are not just a collection of individual houses; they are a community. Just as we are striving to create livable communities as our state grows, we have an opportunity to turn our existing subdivisions into livable neighborhoods."

Population shifts affect all areas of public policy. To plan for the future, "The numbers alone won't tell you what you need to know. State policy-makers should understand how and why these demographic shifts are occurring," said Marc Perry of the Census Bureau. That is, policy-makers need to know how many people will be using government services, but they also need to know what types of services they will need and how to pay for them.

Urban sprawl contributes to air pollution, especially ozone pollution, because of increased commuting time. And as urban areas spread into neighboring lands, preserving ecologically valuable wetlands and other habitats becomes more important.

Economic Transformation: Knowledge Is King

What are the trends?

The "new economy" is a general term used to describe the many factors that have transformed the U.S. economy over the past few decades. Technological changes have given rise to new industries such as those based on biotechnology and nanotechnology. The United States is shifting to a service-based economy focused on ideas and knowledge, one that involves different skill sets than those required by the previous manufacturing-based system. In addition, our economy is now intricately linked to the rest of the world through globalization. The hallmark of the new economy is innovation, which is occurring at an increasingly rapid pace.

In the old economy, inexpensive land, labor and access to roads and natural resources gave states a competitive advantage. To be successful in the new economy, however, states also need good information infrastructure, highly skilled workers and amenities that enhance workers' quality of life.

The old economy was characterized by large firms that did not always respond quickly to change. The new economy, in contrast, is characterized by small, entrepreneurial firms that are innovative and flexible. These firms are better equipped than many larger firms to take advantage of rapidly emerging and constantly changing niche markets. These small, innovative firms are responsible for most of the job creation in this country.

In contrast to the workers of the old economy who worked for the same company for life, workers in the new economy, asserts author Daniel Pink, act as free agents. Many of these workers are members of the creative class who generate new ideas and new technology. According to the economist Richard Florida, in 2002, creative professions such as engineering, computer programming, financial services, and the arts and entertainment comprised 30 percent of the work force, up from 20 percent in 1980. And creative sector workers account for nearly half of all wage and salary income.

What do these trends mean for the states?

Although much of the nation's economic growth is generated by small, entrepreneurial firms, many state economic development efforts focus primarily on traditional industrial recruitment programs. States, however, are beginning to realize that economic development efforts in the 21st century may be different than those used in the past. "Developing state policies to foster economic growth and expansion in the new economy is one strategy that can pay large dividends in the future," said Delaware Gov. Ruth Ann Minner.

There is a growing need for lifelong learning opportunities. For generations, Americans have heard that education is the key to a brighter future. There is more truth to this statement today than ever before, but education doesn't necessarily stop with a high school or college degree.

For lifelong learning to be fruitful, people need a good basic education. And a solid background in science and technology is important in the new economy. More Americans are enrolling in and receiving degrees from post-secondary institutions. However, the rate of degrees awarded in science and engineering fields is declining. The National Science Foundation reports that 21 percent of master's degrees awarded in the United States in 2001 were in science and engineering, down from 30 percent in the 1960s. At the same time, foreign institutions have improved their programs and are now awarding the majority of such degrees.

Investment in research and development is becoming more important. While public funding for research and development was key to American innovation and the resulting economic expansion experienced during the 1950s and 1960s, federal funding for basic engineering and physical science research has experienced negligible growth over the last 30 years. Currently, according to the National Science Foundation, private sector investment in research and development now far outpaces public investments, with private sources funding more than 68 percent of research and development efforts.

This increasing importance of research and development is coming at a time when state investment in higher education is declining. This is putting some states in a precarious situation when it comes to competing in the new economy.

Venture capital and other types of financial capital are important to the creation and survival of many new economy firms. Venture capital is concentrated in just a few regions in the United States. Since most high-growth, high-tech firms may require venture capital, states are increasingly looking at options to help entrepreneurs access this type of financing.

The new economy will continue to force states to strike a balance between retaining elements of traditional sectors while adapting to the ever-changing demands of the new economy. Investments in education, services, technology and the creative sectors will prove an important part of state economic development efforts going forward.

In addition, a new type of financier is emerging. Angel investors, who are often successful entrepreneurs willing to invest in other entrepreneurial firms, are investing more and more money in growth firms. As a result, some states are looking at ways to encourage angel investors to provide financing for new economy firms.

Quality-of-life issues are important to the creative workers of the new economy. The workers of the creative class prefer vibrant downtowns, numerous recreational opportunities and cultural amenities. And, according to Richard Florida, they don't like urban sprawl.

This is leading to an increased interest in downtown revitalization and smart growth policies. Although community development and community revitalization are sometimes considered local issues, some states are looking to aid communities in their efforts.

Most state tax codes are built around the old economy, which may limit their revenue streams. The existing state tax structures are not in line with the fastest growing sectors of the economy. For instance, most states do not broadly tax services like those rendered by doctors, lawyers, accountants or auto mechanics. As a result, they are unable to tap the revenues from this growing sector of their economy.

In addition, the new economy has stewarded the rise of e-commerce. Many products are increasingly sold on the Internet and through catalogs, but states currently aren't able to collect sales taxes on these purchases. Some economists estimate that states are currently losing more than $16 billion in annual tax revenue to remote and Internet sales. A federal moratorium prohibits states from collecting tax on electronic transactions completed out of state. While the moratorium is set to expire in 2007, establishing uniform tax collection systems is a highly complex endeavor. This situation has prompted many states to join the Streamlined Sales and Use Tax Project—an initiative established to simplify and modernize sales and use tax collection and administration.

What does the future hold?

States face several challenges in the coming years that amount to an economic checkmate. The new economy will continue to force states to strike a balance between retaining elements of traditional sectors while adapting to the ever-changing demands of the new economy. Investments in education, services, technology and the creative sectors will prove an important part of state economic development efforts going forward.

The economic landscape is rapidly changing. State officials who scan the horizon and adapt policies, tax structures and economic development efforts in order to meet the changing demands will have the capacity to capture more of the benefits of the new economy while reducing the negative effects.

- The United States has gradually shifted from a manufacturing-based economy to a service-based economy.
- Innovation is the driving force of the new economy.
- Small entrepreneurial firms are creating more jobs than large firms.

"Developing state policies to foster economic growth and expansion in the new economy is one strategy that can pay large dividends in the future."

—Gov. Ruth Ann Minner, Delaware

Globalization Era: New Forces at Work

What are the trends?

From the comfort of our homes or offices, we can communicate with people anywhere in the world with the click of a mouse. The pace of our lives is faster, more dynamic and more challenging than ever before. All of these trends are caused by a phenomenon called globalization. According to the Center for Strategic and International Studies, "Globalization is a process of integration among businesses, governments and people of different nations." This process is driven by trade and investment and is accelerated by information technology.

Globalization poses challenges to 21st century governance. The power of non-state actors, including corporations and non-governmental organizations, is increasing. Economic globalization and the dispersion of technologies, especially information technologies, can place enormous new strains on national and state governments. Growing connectivity and the proliferation of virtual communities of interest are starting to complicate states' ability to govern. Corporations are becoming global and more diverse, so they are increasingly outside the control of any state or nation.

Although globalization is here to stay, it is a dynamic process that requires constant monitoring and evaluation. Rapid changes in the global economy have propelled state governments into the international arena and constantly demand greater levels of awareness and engagement among state officials. "We are living in a highly connected environment, so we have to recognize all the challenges and opportunities of globalization," said Gov. Jim Douglas of Vermont. Today, no state can afford to ignore the trade relationships, environmental issues, cultural ties and other interests that link all levels of American government with the broader international community.

What do the trends mean for states?

Globalization has a profound impact on all aspects of state governance, from the economy to security, the environment and health. States, active players in the international arena, both contribute to and are affected by the increasing pace of globalization.

States are actively seeking international trade, cultural and educational opportunities. In a global economy, state international engagement is essential for promoting economic growth and creating jobs for state residents. States have responded to the increased pace of globalization by investing in trade-promotion programs, cross-border environmental cooperation efforts, educational exchanges and a wide range of partnerships with counterparts around the globe. According to George Washington University's *Global Activities by U.S. States: Findings of a Survey of State Government International Activities*, in 2002 states spent approximately $190 million on international programs (excluding investment incentives), up from $20 million in 1982.

According to the State International Development Organizations, only four states maintained overseas offices in 1980. Today, there are as many as 240 such offices. During the 2001–2002 legislative sessions, state legislatures passed 270 bills or resolutions on international topics, up from 72 in 1991–1992. States spend more than $40 million a year for international cultural activities. Additionally, governors and lieutenant governors often lead or host international delegations to broaden knowledge and understanding of economic and cultural ties between the United States and our international partners.

International competition and trade agreements are challenging states. American businesses have to face not only domestic competition from their industry colleagues, they also have to respond and react to increasing international competition. In addition, international trade agreements decided at the federal level may limit states' abilities to exercise regulatory and legislative powers. The agreements often impose new compliance costs and regulatory burdens. States may find themselves inadvertently violating trade agreements that were passed without their input. States may also be directly affected by decisions rendered by multinational bodies, such as the World Trade Organization.

This was the case when the Methanex Corporation of Vancouver, British Columbia, challenged the U.S. federal government under Chapter 11 of the North American Free Trade Agreement on California's decision to phase out the use of a gasoline additive containing methanol, which the company makes. Methanex was not asking for the ban to be lifted, but rather for $970 million in compensation if the

Rapid changes in the global economy have propelled state governments into the international arena and constantly demand greater levels of awareness and engagement among state officials.

company were prevented from doing business in California because of the ban. The decision is still pending.

Recent negotiations of the Central American Free Trade Agreement and the proposed Free Trade Area of the Americas clearly point out that states have a lot at stake and need to be active partners and advisors to the federal government in making decisions to join international trade agreements. State officials also have to fully understand all of the consequences such agreements may bring.

"Off-shoring" and "outsourcing" are impacting state economies. Manufacturing jobs are disappearing from the United States. As a result of stiff competition and economic shifts, labor-intensive jobs are moving to cheaper markets overseas. However, many jobs that require significantly higher levels of skill, such as computer programming and other IT applications, are also being off-shored. Potential job losses because of off-shoring and outsourcing could profoundly affect state economies.

At the same time, many critical U.S.-based occupations, such as teachers, doctors and nurses, that are not filled by Americans are being "insourced" to highly skilled foreign nationals. Moreover, foreign companies continue to invest in U.S. industries, which have a positive impact on the "bottom line."

Protecting public health is more difficult than ever. In the era of global connectedness, the ease of international travel has resulted in the worldwide spread of infectious diseases and other health threats. For example, the Severe Acute Respiratory Syndrome (SARS) epidemic, potential outbreaks of monkey pox or the cases of bovine spongiform encephalopathy, commonly known as mad cow disease, all had economic ramifications in the affected countries.

Such incidents, while creating panic and directly affecting states' economies, also raise questions about the potential for terrorist attacks on our food and water supplies. States are playing a larger role in protecting the safety of our food system and critical water infrastructure. First responders have more complex roles and responsibilities, including responding to potential terrorist attacks, such as the use of biological or chemical weapons.

Globalization presents unique challenges in environmental management. For instance, states are concerned with the threat of invasive species. The United Nations Convention on Biological Diversity defines invasive alien species as "species introduced deliberately or unintentionally outside their natural habitats where they have the ability to establish themselves, invade, out-compete natives and take over the new environments."

- The pace of globalization is accelerating.
- Globalization poses challenges to state governance
- Globalization is a dynamic process that require constant monitoring and evaluation.

"We are living in a highly connected environment, so we have to recognize all the challenges and opportunities of globalization."

—Gov. Jim Douglas, Vermont

Invasive alien species are considered the most important threat to biological diversity loss after habitat destruction. Once in place, it is very difficult to eradicate those organisms from the local flora and fauna. Just last year, Asian carp invasion was featured in many headlines. And zebra mussels' infestation of the Great Lakes area is expanding. Recently they were discovered in Lake George, N.Y. According to the Lake George Association, "They pose a multibillion dollar threat to the Lake George region's outdoor recreation, tourism, property value and municipal water supply."

Globalization presents challenges in the field of public safety and justice, such as transnational terrorism and drug cartels. In the age of global interconnectedness, it is easier for criminals to gather information, acquire weapons and—most importantly—to remain connected and organized from remote and multiple locations. The recent arrests of three individuals who plotted attacks on U.S. financial institutions provide an example of such activities. In April 2005, federal authorities revealed an indictment against three men in British custody in connection with possible terrorist attacks on financial targets in the United States. Officials have identified the targets as the New York Stock Exchange and Citigroup Center in Manhattan, the International Monetary Fund and the World Bank in Washington, and Prudential headquarters in Newark, New Jersey. Obviously, state officials in New York and New Jersey are concerned with the possibility of these types of terrorist attacks, but these terrorism concerns are not limited to these two states.

States are more involved in protecting our homeland and are bearing significant costs of this expanded responsibility. For instance, states need to train and equip law enforcement personnel to respond to different types of threats. As the role of state and local law enforcement in protecting the homeland expands, so does the need for cooperation and coordination within and among the various state institutions and organizations. This networking and better communication may help leverage limited state resources.

What does the future hold?

Globalization is not a new phenomenon, but its future is not fixed, either. The magnitude and speed of change resulting from globalization will define the future of the United States and the rest of the world. As states continue to struggle to meet domestic needs with limited resources, they cannot afford to neglect the pursuit of international engagement. Elected leaders need to increase their awareness of their states' international interests and activities in order to make informed decisions. States' future prosperity will depend on their ability to react and adapt to changing global dynamics.

In the era of globalization, efforts to inform policy-makers and the general public about our increasingly global society are critical. As globalization expert Earl Fry explains, "States are putting more emphasis on curriculum which will provide the skills that people need. They need to continue this approach, maybe adding more on international relations and language training, which will make Americans more sensitive to what is going on around the world." Ensuring that the U.S. work force adequately understands the economic and political dynamics of globalization is also important. Meanwhile, policy-makers must become fully aware of the needs and strengths of their own states to remain competitive in the global economy.

American businesses have to face not only domestic competition from their industry colleagues, they also have to respond and react to increasing international competition. International trade agreements decided at the federal level may limit states' abilities to exercise regulatory and legislative powers.

Information Revolution: Sorting it Out

What are the trends?

The Internet has revolutionized access to information. There is a vast amount of information available in cyberspace. That's both good news and bad news. It's good because people can get the information they want when they need it. On the other hand, there is so much information out there that it's difficult to sort through all of it to discern the quality information from the "junk."

Because of increased access to all types of information, people are becoming more demanding of both business and government. For instance, patients no longer have to take their doctor's word at face value. They can go online and find information about their condition. And people now have more access to information about government services, regulations and legislation than ever before.

The information revolution has brought with it an increased emphasis on communication. The Internet is one communication tool, but there are many others, including cell phones with text messaging and personal digital assistants. Instant access to information is now becoming instant access to people.

In the midst of all this, there is a growing need to integrate and make sense out of the fragmented information at our fingertips. There is a growing movement to turn this information into value-added knowledge, both for government and the private sector. After all, knowledge is power.

What do the trends mean for the states?

With increased access to information, people's expectations are changing. This is leading to numerous transformations in the public sector, ranging from changes in communication strategies to significant operational and structural modifications in state government. "Access to more information significantly improves decision-making and organizational efficiency but is creating new problems, particularly concerning privacy," said Rep. Roger Roy of Delaware.

Communication between state officials and the public is changing. In addition to state Web sites, many elected officials have personal Web pages and campaign pages. E-mail gives citizens unparalleled access to public officials and vice versa. Those communication vehicles will continue, but they are being supplemented by emerging technologies such as Web logs, also known as "blogs." Blogs are an extension of electronic bulletin boards where people can and do comment about almost anything.

Because of these changes, state officials can no longer rely solely on local newspapers or radio and TV stations to communicate their

- There is a vast amount of information available.
- Increased access to information empowers people and changes their expectations of business and government.
- There is increased emphasis on ways to communicate information.
- There is a growing need to coordinate fragmented information.

"Access to more information significantly improves decision-making and organizational efficiency but is creating new problems, particularly concerning privacy."

—Rep. Roger Roy, Delaware

messages. They may have to post their messages on their Web sites, post on their blogs or comment on someone else's blog. Blogging offers candidates and elected officials the opportunity to quickly and efficiently broadcast their messages to anyone who is willing to receive it. Without the constraints of waiting for local news coverage or raising lots of money, blogs could level the playing field between candidates who have large campaign funds and those who don't.

E-government is changing the way government operates. E-government is helping states become more efficient. Access to information has empowered citizens. They now expect government to do more with less. In order to do that, governments are being challenged to integrate and streamline their operations, and e-government is an important part of the process.

During the first stage of e-government, states created Web sites on which they posted documents and forms. Most states are currently in the second stage of e-government, in which they provide at least some services online. For instance, several states allow residents to purchase licenses, pay taxes or renew vehicle registrations through their Web sites.

We are now entering the third stage of e-government, which is even more citizen-focused than the previous stages. Rather than organizing Web sites along the lines of how government is structured, states are beginning to organize them according to function, thus making it easier for citizens who may not realize that one function is the responsibility of several agencies. Integration and streamlining are the guiding principles in this stage, and new technologies and easier access to information are allowing government agencies to collaborate more.

Information technology sets the stage for networking governmental services. Many governmental services are actually provided by nonprofit organizations or private companies. Information technology allows government agencies to focus on managing these partnerships rather than providing the services themselves.

Technology and information are the keys to making these partnerships successful. New technology has allowed state officials to access significant amounts of information about clients, the efficiency of services and the contracted organizations that provide the services. Information technology also allows government and partner organizations to coordinate efforts, collaborate on projects and establish systems of accountability.

New technologies allow for more public participation in the policy-making process. Citizens and interest groups have more opportunities for involvement in the political process. For example, while blogs are a new communication tool for state officials, blogging also enables the average citizen to compliment or critique candidates, government officials and government policies before a wide audience. People can use blogs to rally others to take action for or against public policies, which could bring new players to the policy debate and create additional competition for government officials' time and attention. In addition, bloggers are becoming fact checkers who could eventually usurp the mainstream news media as government watchdogs. Public officials' comments will be under closer scrutiny than ever before.

State officials can no longer rely solely on local newspapers or radio and TV stations to communicate their messages.

Interest groups can quickly learn what other states are doing in certain policy areas, a process that used to take a lot of time and resources. They can then pass this information on to their group members and public officials in an effort to influence the decision-making process. At the extreme, information technology can increase factionalism by helping individuals and groups with narrow agendas find one another in cyberspace and form ad hoc groups focused on a single issue.

Critics argue that information technology is allowing interest groups to have too much influence in policy-making. In Colorado, for example, some legislators recently moved to ban the use of personal digital assistants on the floor because lobbyists were sending messages to legislators telling them how to vote on certain issues. Critics

New communication technologies are in the works, and there is no end in sight to this information revolution. As more emphasis is placed on integrating and coordinating information, organizational and policy boundaries will begin to disappear.

claim that this instant access to state officials doesn't allow them time to think about issues and puts pressure on them to act too quickly.

There is a need to verify information. Rumors can spread quickly in the information age. There is no formal mechanism for people to know if they can trust information on the Internet. Bloggers now check facts and can shed light on misinformation. At the same time, they have the ability to disseminate any information they want before someone else can check their facts.

As futurist M. Rex Miller put it in the May–June 2005 issue of *The Futurist*, "We have little or no connection to the original sources of information and things we buy, use or believe. We're moving away from a world we can touch and hold to a world that operates on intangibles like information and reputation."

To maintain a good reputation among constituents, government officials have less room for error than ever before. Any inaccuracies or mistakes in communications are quickly reported in cyberspace. Consequently, the need for highly skilled policy analysts and communication specialists is increasing.

State and local governments are trying to determine their roles in addressing the digital divide. For example, several municipalities are considering different ways to provide high-speed access to their residents. Some cities want to create wireless "hot spots." Some want to provide Internet service directly, while others want to pay for the Internet infrastructure and then turn it over to the private sector to provide the service.

Municipal broadband development is leading to tensions with the private sector. Some business spokespersons and other critics argue that government is overstepping its boundaries and is competing directly with the private sector. Consequently, some private companies are lobbying state legislatures to either restrict or ban municipalities' broadband efforts. These efforts are also leading to intergovernmental tensions as local officials feel that state restrictions are limiting residents' Internet access.

What does the future hold?

The amount of information available will continue to increase at an exponential rate. New communication technologies are in the works, and there is no end in sight to this information revolution. As more emphasis is placed on integrating and coordinating information, organizational and policy boundaries will begin to disappear. Consequently, there will be more emphasis on taking a holistic approach to decision-making.

This integration and coordination may be expedited by certain technologies. For example, technologies that enable face-to-face interactions, such as video teleconferences and telemedicine, may help overcome some of the limitations of current forms of communication. And the ability to share information easily has the potential to facilitate more cooperation among state agencies, among agencies in different states and among all levels of government. In short, the information revolution has the potential to revolutionize state government.

Privacy vs. Security: A Balancing Act

What are the trends?

New technologies present amazing opportunities for businesses and governments to increase their efficiency and offer new products and services. But they also have the potential to dramatically erode personal privacy. Innovations such as the Internet, satellites, nanotechnology, biometrics, radio frequency identification and DNA analysis are transforming our society—but at a price.

Meanwhile, the political landscape concerning personal privacy and access to public and private information has dramatically changed in recent years. There is without doubt an increased awareness of and emphasis on homeland security, as the war in Iraq continues and the threat of potential terrorist attacks persists at home and abroad. Since the Sept. 11 attacks nearly four years ago, Americans have struggled with the amount of personal privacy they are willing to give up for safety, especially as new technologies have allowed for increased levels of surveillance and tracking. Citizens are asking their leaders to help find the balance.

Genetic testing may eventually allow health insurance companies to target policy-holders at risk of certain medical conditions to educate them and encourage them to take preventive measures. But it could just as easily be used to deny them coverage for that condition.

What do these trends mean for states?

The combination of technological innovations and heightened security concerns has led to more surveillance of public and private spaces, including cyberspace, and more tracking of individuals and their behavior. These trends have also raised concerns about possible violations of constitutional rights and civil liberties. As technology advances, states are struggling with the issues of privacy and security and are finding themselves on the frontlines of far-reaching policy questions that will have significant implications for individual privacy.

States have new homeland security responsibilities. The threat of terrorism and homeland security requirements have forced states to transform and balance new responsibilities in many ways. For example, state officials are now responsible for helping protect critical infrastructure, ensuring safety of the food supply and helping federal law enforcement authorities identify terrorists before they act. State agencies are involved in a range of homeland security planning efforts, which require time and resources.

Americans have struggled with the amount of personal privacy they are willing to give up for safety, especially as new technologies have allowed for increased levels of surveillance and tracking.

States are busy preparing for massive emergency response operations at home, and first responders and National Guard members are playing a larger role in national defense overseas.

While their homeland security responsibilities are increasing, state law enforcement officials still have to deal with traditional public safety concerns, such as drug trafficking and other crimes. There is concern that some crime-fighting efforts have suffered as a result of terrorism-related demands. There are also concerns about the time and budget constraints on first responders. According to a 2004 report by the National Emergency Management Association, "The new era of disaster management for state government is a balance between the growing need to protect and prepare communities for domestic terrorism and the ever-present threat of natural disasters."

States are fighting new types of crime created by technology. State and local law enforcement agencies are fighting new types of crimes such as identity theft and cybercrimes. More than 9.3 million Americans had their identities stolen in 2004, costing more than $52 billion in fraudulent activities, according to the Privacy Rights Clearinghouse, a nonprofit consumer group that tracks privacy issues. The Federal Trade Commission reports that more than 27.5 million Americans have been victims of identity theft in the last five years. Because of the staggering costs and negative effects on the economy, state leaders are continually searching for new ways to combat and prevent identity theft.

"I had thought about identity theft and the impact it has on our citizens and economy, but only from a disconnected perspective—until it happened to me," said Delaware Gov. Ruth Ann Minner. "I had my identity stolen and used for fraudulent purposes in early 2005 and it was only because as governor my time is strictly scheduled and accounted for that I could prove to creditors that it wasn't me out there spending money, but someone who had appropriated my identity. Others may not be so fortunate in proving identity theft."

In addition, new technologies present unique challenges when it comes to protecting personal privacy. For example, while government officials may be able to pass laws against spam or Internet fraud, can they enforce them? State agencies may not have the training or equipment necessary to prosecute high-tech crimes. And jurisdictional barriers can complicate investigations of crimes in cyberspace.

States have access to valuable new tools, but they require increased diligence in safeguarding individuals' personal information. Information technology allows people in different state agencies, or even counterparts in other states, to share information in order to enhance government's efficiency and effectiveness. But it also increases the need to ensure that individuals' privacy is maintained. The Multistate

- New technologies allow business and government to increase efficiency and offer new products and services.
- These same technologies have the potential to erode personal privacy.
- The combination of new technologies and homeland security concerns have led to more surveillance and tracking.

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—Gov. Ruth Ann Minner, Delaware

Privacy and Security: A Balancing Act
How ID theft victims' information is misused, 2002–2004

Credit card fraud	28%
Phone or utilities fraud	19%
Bank fraud	18%
Employment-related fraud	13%
Government documents or benefits fraud	8%
Loan fraud	5%
Other ID theft	22%

Source: National & States Trends in Fraud and Identity Theft, Federal Trade Commission, Feb. 2005

Anti-Terrorism Information Exchange (MATRIX) project, for example, was designed after Sept. 11 to help law enforcement officials exchange sensitive information about criminal activity and potential terrorists. But, partly because some people raised such strong objections due to privacy concerns, most of the participating states eventually withdrew from the project, which ended in April 2005.

Similarly, many states have turned to data mining, a practice used increasingly in the private sector. Governments and private companies maintain enormous databases of information, whether on market trends or taxation. According to the National Association of State Chief Information Officers, "The purpose of data mining is to identify patterns in order to make predictions from information contained in databases. It allows the user to be proactive in identifying and predicting trends with that information." States are using data mining to reduce waste, fraud and abuse. For example, the U.S. Government Accountability Office reports that 21 states use data mining to help detect fraudulent Medicaid billing.

While data mining creates new efficiencies, it can also lead to personal profiling. Government agencies are contracting with private companies to maintain databases, and citizens expect that the information they supply to government agencies is safe, protected and will not be shared. This blurring of the line between government and corporate America raises questions about how secure personal information really is. States are working to determine what the appropriate levels of access to information should be, how that information can be better protected and opportunities for citizens to opt out of data mining, especially in light of recent security breaches involving several private sector customer databases.

The use of new technologies by the private sector raises questions about government's role in ensuring personal privacy. Data mining and information sharing allow companies to market specific services and products to fit individual needs, but they also give private companies access to vast amounts of personal information about individuals and families, such as purchasing patterns, personal finances and medical conditions.

Combined with other new technologies, these trends may be a double-edged sword, and states will play a key role in determining how new technologies are used. For example, genetic testing may eventually allow health insurance companies to target policy-holders at risk of certain medical conditions to educate them and encourage them to take preventive measures. But it could just as easily be used to deny them coverage for that condition.

Similarly, automobile black boxes—a standard part of newer American-built cars—are able to record information about a car's speed, brake performance and other factors. Proponents believe that the recorders provide important information for crash investigations, can help improve road safety and allow insurance companies to verify accident claims. Opponents believe they are an invasion of privacy. One issue to be resolved is who owns the data—the car owner, private industry or the government? Another issue concerns how and when the information can be used. Can it be used against a person in court? The resolution of those two issues is taking state government into new territory.

There is debate over what government records should be open to the public. In recent years, all levels of government have faced difficult questions about when the need to ensure public safety outweighs the public's right to have access to government information. Many states reconsidered their Freedom of Information Acts after Sept. 11, often adding new exemptions.

The need to protect critical infrastructure owned by the private sector, such as railroads, nuclear power plants or electric utilities, poses special challenges, since private companies may be reluctant to reveal sensitive information if they think their competitors will have access to it through open government records. States are trying to balance the public's desire to know about possible security risks with the dangers of releasing this type of data to possible terrorists.

What does the future hold?

The threat of terrorism is expected to evolve in the next several years, and state law enforcement agencies may see additional responsibilities for implementing homeland security programs. Government surveillance and tracking is likely to continue evolving along its current course—targeting specific areas to regulate physical security. But these cutting-edge surveillance techniques will heighten demands from citizens for states to ensure their security while protecting their individual rights to privacy.

As more databases are created and interconnected, the volume of personal information available to the private sector and government agencies will increase. Data mining and information sharing between government and the private sector will continue to be a problem as the move to run government like a business continues to push the envelope of efficiency and risks encroaching on individuals' privacy. And the interconnectedness of many types of data will make the consequences of identity theft even more serious than they currently are. State leaders, as the guardians of individual liberty, have an opportunity to help balance the needs for privacy and security.

Resource Management: Sustaining Our Future

What are the trends?

Population growth, combined with economic growth and increased consumption in the United States and other nations, is increasing demands on natural resources and the environment's capacity to assimilate waste. Future population growth will occur within a setting that has already seen profound changes over the last half century. The Millennium Ecosystem Assessment recently concluded that humans have changed most ecosystems such as water, forests and air supply beyond recognition over the last 50 years. "Approximately 60 percent of the ecosystem services that support life on Earth ... are being degraded or used unsustainably," the assessment found.

In the United States, we live in a society noted for its consumerism. Compared to the rest of the world, Americans use large amounts of energy, electronic devices, food, paper and natural resources. This high level of consumption generates large volumes of waste. U.S. consumers are used to the availability of well-packaged disposable items, from paper towels and paper plates to disposable razors and contacts. According to the U.S. Environmental Protection Agency, in the last 40 years the amount of waste the average American produces has nearly doubled.

Population growth and economic development choices can affect environmental quality and can contribute to gradual climate changes. There are more automobiles on the road than ever, and these contribute to carbon dioxide emissions. And power generation and industrial processes, especially those that involve fossil fuel combustion, contribute to carbon dioxide and other greenhouse gas emissions. These emissions are linked to global warming and have the potential to worsen existing environmental problems like air pollution.

States play a central role in managing natural resources and protecting the environment because they are responsible for implementing most federal environmental programs. According to the Environmental Council of the States, states perform 90 percent of the work necessary to carry out federal programs such as the Clean Air Act, Clean Water Act and many others. States spend $15 billion annually on environmental protection, 70 percent of which comes from state revenues.

What do the trends mean for states?

States have a lot at stake in terms of providing for sustainable growth of their economies. Developing long-range plans for the use and protection of natural resources is among the most important challenges for state planners.

States are dealing with the growing amount of waste, including e-waste. While we have made gains in the proper disposal of solid

- Americans' high level of consumption requires large amounts of natural resources and generates large volumes of waste.
- Population growth in the United States and improved standards of living in other parts of the world are straining supplies of natural resources.
- Population growth and economic development choices can affect environmental quality and lead to gradual climate changes.
- States are increasingly playing a leading role in managing natural resources and protecting the environment.

"We have to remind ourselves that sustaining our natural resources is not a one-time project.

—Assemblyman Lynn Hettrick, Nevada

and hazardous waste, we still generate large amounts of waste materials. State and local governments already face problems locating landfills, providing sanitary trash pick-up services and recycling products. As consumption continues to increase, these problems will only grow in the years to come.

In addition, the new economy brings a new type of waste: e-waste from electronic products, including computers and cell phones. According to the EPA, Americans have about 500 million old, unused cell phones, and they go through approximately 130 million more each year—the equivalent of 65,000 tons of waste. Cell phones contain toxic metals such as arsenic, beryllium, cadmium, copper and nickel. While some companies offer take-back programs, most cell phones are not disposed of properly.

Similarly, between 300 million and 600 million computers became obsolete between 1997 and 2004. Computers and monitors often contain heavy metals and other hazardous substances, and disposing of them can be dangerous and costly. As technological advances push new generations of electronic products to the market more quickly and as the life cycle of such products becomes shorter, states are examining new ways to deal with e-waste.

States are exploring ways to encourage alternative energy sources and energy conservation. The prevalent view among experts is that the world could reach peak oil production capacity in the next 10 to 40 years. Likewise, natural gas supplies are projected to last about 50 years. Given these predictions and the push to reduce dependence on foreign energy sources, alternative fuels such as ethanol, biodiesel and hydrogen are gaining prominence.

Many states are taking action to promote alternatives to oil and other fossil fuels. Several states offer incentive programs to encourage the purchase of alternative fuel vehicles, the conversion of vehicles to run on biofuels, and the installation and operation of fueling facilities to serve these vehicles. States are looking at alternative energy not only as a power source, but also to fuel economic development. However, as this industry grows, so does the need for best practices, model solutions and incentives.

States are also acting to conserve energy and promote energy efficiency. California, for instance, has built a "green" government building, and New York renovated one of its government office buildings to be more environmentally friendly. In addition, many states have incentive programs and regulations that promote energy efficiency.

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Population growth is placing demands on water resources. According to the U.S. Census Bureau, nine of the nation's fastest growing cities are in the West. While already stressed by persistent droughts, these areas are experiencing a rapid increase in demand for water. Similarly, the South is now engaged in water wars, due partly to population growth. For many state officials, water is the issue for the 2000s. "At the heart, it is an issue of scarcity," said David Kranz of the California Farm Bureau told *State Government News* in 2003. "Water supply cannot keep up with population growth."

Even though agricultural lands in parts of the West are very productive, farmers increasingly face competition from cheaper imports. In light of these changes, the most lucrative option for an aging population of agricultural producers may be to sell their water rights to the growing cities of the arid West. The effect on their states'

Several states offer incentive programs to encourage the purchase of alternative fuel vehicles, the conversion of vehicles to run on biofuels and the installation and operation of fueling facilities to serve these vehicles.

economies, food supply and plans for natural resource management may be significant.

Changes in environmental quality affect human health. Environmental health issues are gaining in importance. Environmental and public health experts suspect that many chronic diseases, such as asthma and cancers, are linked to environmental factors. In recent years, there has been a growing body of scientific evidence indicating that exposure to environmental hazards accounts for a significant proportion of prevalent chronic diseases—the most expensive factor in overall health care costs. While it is well known that lead is highly toxic to humans, especially young children, there are hundreds of other chemicals for which there are no data connecting environmental releases and human health consequences. Also, where data exist, the data sets often are not linked in a usable way.

Air quality poses unique risks for older Americans. EPA studies of human exposure to air pollutants indicate that indoor levels of pollutants may be two to five times—and occasionally 100 times—higher than outdoor levels. Older Americans spend more time indoors, which raises concerns about identifying and addressing sources of indoor air pollution. As states carry a significant burden of overall health spending, facts like these will have to be taken into consideration in future budget plans.

States face environmental and economic consequences from climate change. With higher temperatures, smog levels may increase in urban areas, posing health hazards for residents. Climate change is expected to alter weather patterns and can increase the chance of severe droughts that can devastate state economies based on agriculture. In addition, warmer temperatures can result in significant declines in the levels of surface water. Meanwhile, melting ice caps lead to rising sea levels, contributing to coastal erosion—which can be extremely costly for states. Recently, an Alaskan tribe had to be relocated from its submerging island to the mainland, at a cost of close to $400 million. The tribe members are now known as the first "refugees of global warming."

States are looking for solutions to prevent such impacts or develop approaches to respond to and mitigate them. In recent years, state leaders have recognized this and have led efforts to reduce emissions of greenhouse gases. Most noteworthy are two regional, multistate initiatives: the Regional Greenhouse Gas Initiative and the West Coast Governors' Global Warming Initiative.

What does the future hold?

States face a range of challenges related to natural resource management. As the population grows in the United States and throughout the world, more natural resources will be used and more waste will be generated. Increasing populations and regional growth in the West and South will place increasing pressure on our already oversubscribed water resources.

Climate change threatens to fundamentally alter natural systems such as coasts, forests and agricultural lands. Development pressures generated by humans in rich and poor countries already pose great risks to many species' survival; climate change will add to these pressures. Mitigating the threat of climate change will require the spread of new technologies such as renewable energy, fuel cells and alternative fuels, along with technologies and practices that remove carbon from the atmosphere and sequester it either in the ground or in forests.

In the coming years, state policy-makers will be challenged to develop state and local strategies to manage these resources, balancing regional economic development with protection of the resources on which states rely. "We have to remind ourselves that sustaining our natural resources is not a one-time project," said Assemblyman Lynn Hettrick of Nevada. It needs to become a continuous process, one that is flexible and adaptable to ever-changing conditions.

Polarized Populace: Eroding Common Ground

What are the trends?

Political scientists and politicians agree that over the last three decades, the nation's political environment has become more polarized than during much of the 20th century. This polarization is partly due to a realignment of the two major political parties since the civil rights movement. As conservative Southern Democrats shifted to the Republican Party, the two parties have become more clearly divided along ideological lines. At the same time, the numbers of Republicans and Democrats have grown so close that in many state legislatures, one or two seat changes could alter the entire balance of party control.

But is the general public as polarized as the politicians? Not necessarily. Some experts contend that the general public is less polarized than in the past, although political activists are becoming more polarized. Other experts, however, believe the populace is divided. In any event, it is clear that certain issues are more divisive than others among the general public and in the political process. Although Americans may ultimately have more similarities than differences, the so-called "culture wars" over issues such as abortion, gay and lesbian rights, and the role of religion in public life have taken a prominent place in the nation's politics.

At the same time that the country has become more polarized in the political arena, there has also been a trend in recent decades of greater income inequality between the "haves" and the "have nots." According to the U.S. Census Bureau, this trend has been caused by changes in the labor market, such as the shift from a manufacturing-based economy to a relatively lower-paying service economy; the increasing importance of higher education and high-tech skills; the decreasing influence of labor unions; and the declining value of the minimum wage. Other factors include economic competition between the United States and low-wage developing countries; an increasing number of immigrants working for low wages; and changes in household composition, including more single-parent families and individuals living alone.

Compromise and consensus are increasingly difficult to achieve—a fact that can lead to political gridlock, burnout and frustration among elected officials and voters.

What do the trends mean for the states?

Political and economic polarization have far-reaching consequences at all levels of government. But, especially with political polarization, what the future holds will depend on how state officials respond to the current environment.

The political process has become more adversarial. As politics have become more polarized, there has been a marked decline in civility among members of different parties. Compromise and consensus are increasingly difficult to achieve—a fact that can lead to political gridlock, burnout and frustration among elected officials and voters. Some states can't agree on legislative leadership positions, committee assignments or even office space. Alan Rosenthal, a professor at Rutgers University, said that in addition to partisanship, outside interest group advocacy—particularly on ideological

Polarized politics may increase political participation by mobilizing voters and advocates on all sides of an issue. However, it runs the risk of alienating the general public, causing them to turn to independent candidates or third parties—or away from politics altogether.

and social issues—contributes heavily to legislative incivility. "They do believe the other side is the enemy and is evil," said Rosenthal.

Polarized politics may increase political participation by mobilizing voters and advocates on all sides of an issue. However, it runs the risk of alienating the general public, causing them to turn to independent candidates or third parties—or away from politics altogether. Some voters are even crying out to send their elected officials to "civility classes" to learn how to interact with their colleagues, because they see their representatives as spending more time fighting than getting things done.

There is a greater emphasis on social issues. State governments are still responsible for providing and ensuring basic services on which everyone depends: schools, roads, health care and public safety. But state officials spend an increasing amount of time on controversial social and moral issues such as gay marriage, abortion and contraception. And as family structures and women's roles have changed in recent decades, states have taken a greater interest in areas that used to be exclusive to the private sphere, such as child care and child support. Some people see the focus on controversial social issues—and the partisan wrangling that often accompanies them—as distracting state officials from focusing on other basic services and roles of government. Others, however, may welcome states' involvement.

While interest groups and activists on both ends of the political spectrum have been active for generations regarding social issues, the speed of communication has intensified the debates. Often, the groups and individuals involved in a particular political battle are not just locals, and local cases on controversial issues may take on national significance, such as the Massachusetts Supreme Court's 2003 ruling legalizing gay marriage. Similarly, Terri Schiavo's case sparked a national debate recently, as the brain-damaged woman's husband and parents fought in the courts over whether or not to remove her feeding tube. Social issues like these can polarize the populace, but they also highlight struggles between the various branches of government at both the federal and state levels over their appropriate roles in policy-making. Legislatures, governors and courts are all actively engaging on social issues.

Close elections have increased pressure on states to examine their elections processes. As the state and national political parties look for new strategies to gain seats, state legislatures' role in redistricting is receiving a closer look. Some observers believe that changes in the redistricting process are both a cause and consequence of political polarization. Texas Democrats, for example, drew national attention in 2003 when they left the state in order to prevent Republicans from

- The nation's political environment has become increasingly polarized.
- There is debate about whether the populace as a whole is as divided as the political arena.
- Income inequality between the richest and poorest Americans is increasing.

"The real question may be whether the bitter partisan battles continue, or whether politicians can find ways to moderate the debate and focus on common ground.

—Rep. Roger Roy, Delaware

redrawing congressional districts to their party's advantage. This incident helped spark a trend for states to redistrict when party control of legislatures changes, not in response to the decennial census. With the creation of "safe" districts, the real competition comes in the primary, not in the general election—a fact that makes candidates who are to the left or the right of the average voter more likely to get elected.

At the same time that legislators are creating safe districts, there are also instances of close elections. The closeness of the 2000 presidential election revealed several flaws in the nation's election system and led to calls for reform. In response, the Help America Vote Act of 2002 mandates, among other things, provisional voting and identification requirements for some first-time voters. And some states are updating voting equipment, while others are experimenting with Internet voting. Paying for election reforms, many of which are mandated by the federal government, places additional stress on state budgets.

Access to quality education is critical to prevent increased economic inequality. In today's world, education is essential—not only in economic terms, but also to shape informed citizens who are capable of participating fully in civil society and the political process. In recent years, there has been increasing emphasis on an array of educational issues, including early childhood education, "the achievement gap," equity and adequacy of K–12 funding, and school choice. At the same time, rising health care costs are consuming a larger portion of state budgets, threatening to edge out education as the largest category of state spending.

Higher education is increasingly important not just for individuals, but as an engine of economic development for entire communities and regions. Meanwhile, the cost of college continues to rise at the same time that states are forced to make difficult budget cuts, leaving students to foot more of the bill.

States may face an increased demand for social services and public programs from low-income people. With rising income inequality, more people may qualify for state-supported services such as Medicaid, unemployment insurance or Temporary Assistance to Needy Families. Many low-income workers are employed in service-sector jobs that don't offer health insurance or other benefits, or they can't afford the benefits that are offered.

At the same time, states may face decreased tax revenues as low-income workers struggle financially. Since income taxes are a major source of revenue in most states, states' fiscal health is closely tied with the income levels of their citizens. In addition, with the costs of housing, health care, food and gas all rising, low-income people may have less discretionary income, which could affect revenues from sales taxes.

What does the future hold?

In terms of political polarization, some observers say the nation can't get any more divided than it already is. "The real question may be whether the bitter partisan battles continue, or whether politicians can find ways to moderate the debate and focus on common ground," said state Rep. Roger Roy of Delaware. The answer may determine whether the majority of Americans engage in the political process; become increasingly alienated and apathetic; or turn away from the traditional two-party system, backing third parties and independents and advocating electoral reforms that encourage their success. If Congress and the statehouses remain polarized, then look to the courts to continue playing an active role in deciding controversial issues.

Although Americans may ultimately have more similarities than differences, the so-called "culture wars" have taken a prominent place in the nation's politics.

In addition to potential conflicts between the economic "haves" and "have nots," states may face new challenges in the future. Generational gaps are likely to become increasingly important as the population ages. Issues such as Social Security and Medicare are already taking center stage, and older Americans are recognized as a powerful political lobby. Younger Americans, on the other hand, are known as a group for being less engaged in the political process and for being more likely to identify themselves as independents.

In an era of budget deficits and scarce resources, competing demands for government services, such as education and long-term care, may lead to intergenerational conflicts. Some members of the "sandwich generation" may be torn between supporting policies that help their aging parents and those that focus on their children. Intergenerational conflicts may take on racial and ethnic tones, since, in general, African American and Hispanic populations are younger than the aging white population. They may also overlap with geographic divisions, as older and younger people tend to gravitate toward certain locations.

Ambiguous Authority: Who's In Charge?

What are the trends?

Like most everything else in today's world, governing in the 21st century is more complex than ever. The number of subjects government agencies and public officials address has soared, and the nature of these issues is changing. State officials are dealing with complicated questions that weren't on their radar screens 20 years ago, such as stem cell research, homeland security and the impact of international trade agreements.

In the midst of this complexity, the balance of power is changing. "Trying to describe the current balance of powers among various branches or levels of government is a challenge, but the balance of power in the American federal system seems to be shifting toward the federal government," said Senate President Earl Ray Tomblin of West Virginia.

State and local governments have faced a dramatic increase in the number of federal mandates, conditions of aid and pre-emptions of their powers in recent decades. Although they are playing a larger role in implementing some federal programs, and picking up the slack in areas where federal funding has declined, state and local governments increasingly find their budgets determined and constrained by federal policies.

In recent years, the relationship between citizens and government has also changed. There has been a push to make government more efficient and accountable by adopting business practices from the private sector. And although some Americans have disengaged from politics, citizens have grown more active in the policy-making process with new models of governance and with the rising influence of various interest groups. In addition, there has been a resurgence in "direct democracy," such as the use of citizen initiatives and referenda, especially in the West.

What do the trends mean for the states?

The complexity of public policy issues, combined with the ever-changing interactions among the various levels of government, have many implications for state government. Add to the mix the evolving relationship between government and the public, and it's clear that state officials work in a challenging, dynamic environment.

States are being asked to do more with less. Although some of the recent budget shortfalls were caused by short-term or cyclical conditions, states face significant and long-term structural budget problems that pose serious challenges for the future. At the same time, however, they also face increased costs associated with federal mandates and conditions of aid such as those related to the No Child Left Behind Act, the Help America Vote Act, the Medicare Modernization Act, the Individuals with Disabilities Education Act and the Medicaid program. And they

- Governing is more complex than ever before.
- The balance of power has shifted toward the federal government.
- The relationship between government and citizens is changing.

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—Senate President Earl Ray Tomblin, West Virginia

face increased costs related to homeland security, even as states are playing a larger role in national defense through the National Guard's presence in Iraq and Afghanistan.

These demands and constraints on state government are coming at the same time that some federal policies are constraining states' abilities to raise revenues. For example, a federal moratorium prohibits states from collecting taxes on electronic transactions completed out of state. The moratorium followed a 1992 Supreme Court ruling that said requiring businesses to collect taxes in numerous tax jurisdictions is an undue burden on interstate commerce. While the federal moratorium currently is set to expire in 2007, the complexity of establishing uniform tax collection systems makes it unlikely that a federal solution to the problem will be found by that date.

In addition, experts argue that there is a general anti-tax sentiment in the country, further putting pressure on state budgets. Meanwhile, in some cases, citizen ballot initiatives have created costly programs without providing revenue sources for them.

The federal government is increasingly pre-empting powers that used to belong to the states. The No Child Left Behind Act is perhaps the most obvious example of federal government involvement in an area that has traditionally been the realm of state and local governments, but it's certainly not the only one. According to Joseph F. Zimmerman, a professor of political science at the State University of New York at Albany, the number of congressional pre-emptions of state powers exploded starting in 1965, mostly related to civil rights, environmental protection, commerce, finance, health and banking. Recently proposed or enacted federal legislation would continue this trend in areas ranging from driver's licenses to class action lawsuits to regulation of the insurance industry.

Legislation is not the only vehicle for pre-empting state powers; pre-emption also comes through regulations and cases. Both state and federal courts have a significant impact on state spending in areas such as health care and education and are likely to affect governors' and legislators' decisions on how to resolve the current budgetary crisis in state governments.

Meanwhile, mechanisms to promote cooperation between the states, local governments and the federal government, such as the U.S. Advisory Commission on Intergovernmental Relations, have disappeared. And federalism scholar John Kincaid noted in *The Book of the States 2002* that "There has been a decline in federal-state cooperation in major grant programs such as Medicaid and surface transportation, with Congress altering programs more in response to interest groups than state and local governments, which are now viewed as little more than interest groups."

States will continue to be "the laboratories of democracy," developing innovative solutions to the new century's challenges. Increasingly, these solutions will involve cooperation and collaboration among the various branches of government; among states; and among government, the private sector and citizens.

While the federal government is playing a larger role in certain policy areas, states are taking a more proactive and cooperative approach to some regional and national issues. In the face of common problems that span beyond their individual boundaries, states have joined together in recent years to address regional and even national issues. This cooperation may come through formal agreements, such as interstate compacts, or through more informal collaborative mechanisms.

Some people see this increasing cooperation among states as a strategy to prevent or address federal pre-emption of state powers. One area where multistate efforts are notable is in environmental policy, more specifically greenhouse gases. State attorneys general, in particular, have joined together to address shared problems, most notably in the 1998 tobacco settlement. But governors

In the face of common problems that span beyond their individual boundaries, states have joined together in recent years to address regional and even national issues.

have also thrown their hats in the ring on national issues. For example, states are cooperating to address the rising costs of prescription medications, and several governors have promoted reimportation of prescription drugs, despite a federal prohibition.

State officials face increasing and competing demands. The growing number and complexity of issues that affect state government is placing increasing time demands on state officials. Participants in a recent focus group conducted by CSG-*WEST* agreed that pressured elected officials spend less time analyzing policy responses, increase their reliance on staff and lobbyists and end up making quicker decisions based on ideology rather than on detailed, nonpartisan analysis.

This is particularly obvious in citizen legislatures that lack the staff and support required to meet these increased demands. According to Gary Moncrief, a professor of political science at Boise State University, 90 percent of veteran state legislators believe the pressures of the job have increased. In the last 20 years, constituency size for state legislators has increased more than 500 percent in some areas and the number of bills introduced has more than tripled.

Many state legislators and governors face term limits, so not only are they under daily time constraints but they are limited to a certain amount of time in office. While term limits were designed to increase accountability and diversity, the high turnover caused by term limits in some cases has led to loss of institutional memory, has allowed legislators with relatively little experience to take leadership positions and has increased the need for training programs for new legislators. Combined with the existing complexity in public policy, this has led to increased pressures on state officials.

The emphasis on efficiency has led to the rise of consumer-driven government. Both government and citizens are focusing more on the efficiency of transactions. Citizens want to make sure they get the best value for their tax dollars. They are advocating and politicians are campaigning for a business-like, consumer-based approach to government. As a result, some states are looking for ways to restructure government and institute performance measures to increase efficiency.

This shift may improve the daily services of government to citizens through a rise in one-stop shops for government services and consolidation of various permitting and regulating structures, but there are downsides as well. If individuals tend to think of themselves merely as consumers of government services, rather than as citizens working toward a common good, they could adopt a "what's-in-it-for-me" approach to government, in which they only support policies that directly benefit them or their loved ones. In an era when all levels of government face difficult questions about how to allocate resources, this attitude makes it harder than ever to compromise or build consensus.

The increase in consumer-driven government is particularly obvious in much of the West and other states with citizen initiatives and referenda. Individuals and special interest groups can use these tools to appeal directly to the public, bypassing the more deliberative process of the legislature. While the initiative process does allow the public to quickly address an issue, votes are generally up or down, often making decisions on complex issues too simplistic. States are experiencing a conflict between what citizens want and what they are willing to pay for.

What does the future hold?

For the foreseeable future, the shift in the balance of powers toward the federal government is likely to continue. In light of growing federal deficits and increased spending on defense and entitlement programs, discretionary federal spending is likely to decrease. This means that states will not only face federal mandates, they will also face pressure to spend money in areas where federal spending is declining, such as low-income housing, transportation and economic development. In general, demand for government services will continue to grow, but state budgets will be increasingly constrained by existing programs and federal laws, regulations and conditions of aid, along with constituents' aversion to tax increases and revenue streams based on stagnant or declining sectors of the economy.

Despite these challenges, states will continue to be "the laboratories of democracy," developing innovative solutions to the new century's challenges. Increasingly, these solutions will involve cooperation and collaboration among the various branches of government; among states; and among government, the private sector and citizens.

— Voice of Leadership —

The Council of State Governments' leaders help identify emerging trends that affect state government. And CSG's leadership is out front and on the cutting edge of the 10 change drivers with innovative programs, policies and legislation. Below are the voices of the people who help make CSG the premier organization in forecasting state trends.

Governor Ruth Ann Minner (Delaware)

2005 CSG President

Economic Transformation: Knowledge Is King

"Delaware's New Economy Initiative was developed with the challenges of the 21st century in mind. One of the components of the initiative is a virtual emerging technologies incubator to provide services needed by start-up technology firms. We are also providing technology-based small business seed funds. In addition, we are planning to create a clean energy research center focused initially on fuel cell research."

Privacy and Security: A Balancing Act

"Like several other policy areas currently being impacted by science and technology, privacy and security's future has yet to be written. State leaders have an opportunity and an obligation to balance the needs of both privacy and security in order to preserve and protect the values that make America great."

Growth Dynamics: Regional Hot Spots

"The Livable Delaware program is a positive, proactive strategy designed to coordinate state, county and local government actions to curb sprawl and increase the 'livability' of Delaware communities. Governmental actions are only one part of the equation; the efforts of individual homeowners, neighborhood associations, civic groups and others are just as important in achieving a Livable Delaware."

Governor Jim Douglas (Vermont)

2005 CSG President-Elect

Silver Society: Aging in America

"States can prevent significant costs to the health care system and keep older Americans active and involved in their communities. In Vermont, the Governor's Commission on Healthy Aging works to ensure focus and coordination among state agencies as we work to meet two important goals: containing health care costs and keeping elders active and productive in the community."

Globalization Era: New Forces at Work

"Vermont's Agency of Commerce and Community Development, in conjunction with the Vermont World Trade Office, provides classes and workshops to stimulate international trade education and global awareness in Vermont. We want to offer educational programs and resources online, as well as personalized services to individuals and companies statewide that will result in higher participation and understanding of international business, culture and trade."

— Voice of Leadership —

Assemblyman Lynn C. Hettrick (Nevada)
2005 CSG Chair

Growth Dynamics: Regional Hot Spot

"Nevada is the fastest-growing state in the nation, so we know firsthand both the opportunities and challenges that growth brings. CSG provides a forum to discuss these issues with my colleagues in other growing states. But CSG, with its unique regional structure, also focuses on how these population shifts to the West and South affect the states in the other regions. This helps me put the whole trend into perspective."

Resource Management: Sustaining Our Future

"We face a future that presents a number of uncertainties. Will we have enough water resources to supply a growing population? What is an equitable system for sharing these resources? What is certain is that we must remain open to innovative solutions that address current and emerging natural resource issues. Now more than ever, and for the foreseeable future, states will remain in the forefront of providing those innovative solutions to these critical questions."

Senate President Earl Ray Tomblin (West Virginia)
2005 CSG Chair-Elect

Ambiguous Authority: Who's in Charge

"State and local officials play a vital role in our country's federalist system of government. We're on the front lines, implementing programs, providing services and interacting with our citizens every day. Of course, like everything else, government has to change with the times. But as we adapt to the challenges and opportunities of the new century, we need to preserve the balance of powers that has helped make America great."

Immigrant Nation: Changing Face of America

"Educating immigrants at the elementary, secondary and post-secondary levels presents educators with unique challenges. Language and cultural differences between students and teachers may inhibit learning and widen the achievement gap. Since the need for skilled workers will likely increase in the future, educating immigrants and their children is critical."

Representative Roger Roy (Delaware)
2005 CSG Vice-Chair

Information Revolution: Sorting it Out

"My state's economy depends upon timely and accurate financial information from markets around the world. As a state leader, it's increasingly important to help ensure that the global flow of information remains unimpeded so businesses and governments can make the best decisions about delivering products and services to citizens."

Polarized Populace: Eroding Common Ground

"As individuals and as members of a certain party, we may have our differences, but we can't let partisanship and political gamesmanship prevent us from doing our jobs. We have an obligation to our constituents and to future generations to honestly address these difficult issues the best we can, and to try to come to some sort of consensus."

What's Next?

Trends in America: Charting the Course Ahead addresses the 10 most powerful change drivers impacting the United States, its citizens and those who make state government policy decisions. These cutting-edge change drivers affect state policies and resource allocations. Just as the beam of a lighthouse points out obstacles in the path of sailing ships and helps them navigate their course, The Council of State Governments identifies trends and also alerts states to innovative programs and policies that have allowed other states to make significant advances in an array of policy areas.

The Council of State Governments knows that state officials care about widening the scope of their vision and increasing awareness of trends that will shape the future. CSG understands that state decision-makers are seeking to stay ahead of the curve in terms of new programs and policies to improve the everyday lives of constituents.

For this reason, The Council of State Governments is here to help state officials stay informed of policy innovations across the nation and to chart a path of policy implementation based on the successes of similar programs. The first edition of *Trends in America* has illuminated 10 major change drivers affecting state government. In December 2005, CSG will shift its focus to highlight innovative state legislative and executive approaches capable of addressing these change drivers and the challenges they present.

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The expertise and insight of key decision-makers is invaluable to The Council of State Governments. CSG invites its members—legislators, governors, cabinet secretaries and judges—to provide feedback about potential change drivers and emerging state trends.

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Immigration: Public Safety and Justice Issues

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The Council of State Governments
Preparing states for tomorrow, today...

Immigration: Public Safety and Justice Issues

Melissa Taylor Bell

September 2004

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Table of Contents

Executive Summary 1

1. Immigration and Public Safety and Justice Issues 2

Immigrant Understanding of the American Legal System and Language Barriers 2
Drivers' Licenses and Identification Cards for Illegal Immigrants 2
Gang Violence 3
State Resources and the Deportation Process 3

2. Policy Options 4

Improving Relations and Communication Between Law Enforcement and Immigrants 4
Law Enforcement and Language Barriers 4
Drivers' Licenses and Identification Cards for Illegal Immigrants 5
Curbing Gang-Related Violence 6
State Resources and the Deportation Process 7

Conclusion 8

Endnotes 9

Executive Summary

Each year, thousands of people from all around the world emigrate to the United States to start new lives. These immigrants must become familiar with and adapt to a myriad of local, state and federal laws in this country. Furthermore, they must also learn how the American legal system operates.

In addition to a lack of understanding of U.S. laws and the American legal system, other public safety and justice issues include:

- the debate over the issuance of drivers' licenses and identification cards for illegal immigrants;
- rising gang-related violence in some immigrant communities; and
- little to no reimbursement from the federal government for state facilities that house inmates awaiting deportation.

Policy-makers have a number of options to consider in addressing these issues. For instance, states can:

- promote programs that increase interaction and communications between law enforcement;
- decide whether to issue drivers' licenses to noncitizens and/or accept *matricula consular* as identification cards;
- implement specific programs to help reduce gang activity; and
- become familiar with proposed federal legislation that may influence states' role in immigration policy and the deportation process.

This *TrendsAlert* is broken into two sections. The first section outlines these public safety and justice issues related to immigration. And the second section highlights how some states are addressing these issues.

1. Immigration and Public Safety and Justice Issues

In addition to the inherent illegality of some immigration, states are facing several immigration-related issues in the areas of public safety and law enforcement:

- Immigrants may not understand U.S. laws and the American legal system, and language barriers can intensify the problems.
- States are grappling with issue of drivers' licenses and identification cards for illegal immigrants.
- Gang-related violence is on the rise.
- State facilities house inmates awaiting deportation with little or no reimbursement from the federal government.

Immigrant Understanding of the American Legal System and Language Barriers

Immigrants may not have a clear understanding of the federal, state and local laws of the United States. This lack of knowledge, combined with cultural differences, can lead to encounters with law enforcement. One of the numerous examples of cultural barriers clashing with the American legal system involves a Korean-born woman in Atlanta who beat her stepdaughter with a cane as a disciplinary measure. She was convicted of child cruelty but defended herself by saying it was an acceptable practice in Korea.[1] There are many other examples of cultural differences in child-bearing, health care and marital issues that have led to encounters with state and local law enforcement.

Many immigrants, especially those who are accustomed to corrupt, repressive and violent police forces in their native countries, fear law enforcement. Because of cultural and language barriers, police officers have difficulty communicating and persuading new immigrants to report crimes, serve as witnesses, provide information on criminal problems or become employees of the police department.

As the number of non-English speakers grows, law enforcement officers are facing language barriers when dealing with suspects and convicted criminals. When a state trooper pulls over someone who does not speak English well, there is always the potential for misunderstanding. The same scenario exists for prison guards who only speak English and convicts with little or no understanding of English.

Drivers' Licenses and Identification Cards for Illegal Immigrants

Since the events of Sept. 11, the debate has grown over immigrants' access to drivers' licenses and state identity documents. Advocates for issuing licenses to undocumented immigrants argue that denying licenses to these immigrants makes everyone in the community less safe. Because many immigrants are likely to drive, with or without a license, unlicensed drivers would endanger public safety because they would tend to not be well-educated about driving laws and unlikely to be insured. These advocates argue that drivers who have access to training, testing, licenses and insurance are far less likely to cause traffic accidents than unlicensed drivers. Unlicensed drivers are almost five times more likely to be in a fatal crash than are validly licensed drivers,[2] and an average of 14 percent of all accidents are caused by uninsured drivers resulting in more than $4.1 billion in insurance losses per year.[3]

Opponents of issuing drivers' licenses to undocumented immigrants argue that issuing a drivers' license, in effect, turns an illegal alien into a *de facto* citizen and rewards illegal behavior. They also point to the fact that driving is a privilege and not a right. In addition, these opponents predict that allowing the issuance of licenses to undocumented immigrants would encourage additional flows of illegal immigrants.

A related issue involves Mexican-issued identification cards or *matricular consulares*. In some states, statutes identify *matricula consular* as a "reasonably reliable" document for indicating the owner's residency for driver's license issuance, residency verification, banking and other purposes. Supporters say the card allows immigrants to open bank accounts to keep money secure and helps prevent crime because aliens are not afraid to seek police help. More than 70 banks including large national banks such as Bank of America, Bank One and Citibank accept the cards. In some states, the cards are used to acquire a driver's license, enroll children in schools and obtain utilities.

Critics of the card say it is intended to circumvent federal immigration law and make it easier to live in this country illegally. And, police, other government officials and private companies typically responsible for turning illegal residents over to federal authorities are relenting. Also at issue is the lack of card security, which has led to multiple cards issued under the same name, address and photograph. This occurs because the Mexican government does not have a centralized cardholder database and does not have the technology to verify identities of card applicants.

Gang Violence

During the first six months of 2003, after years of steady decline the number of murders has leveled off and slowly began to rise while the number of other crimes continued to decrease overall.[6] One of the key factors driving-up the number of murders is the resurgence of gang activity, particularly in Hispanic communities.

Figure 1.1 Incarceration of Noncitizens

It is estimated that between 4 and 7 percent of the more than 1.5 million incarcerated people in this country are noncitizens.[4]

Nearly half of the immigrants in state prisons (47 percent) come from Mexico, and a quarter of inmates are from Latin and Caribbean countries. These statistics indicate that between 70 and 80 percent of immigrant inmates in U.S. state prisons are of Hispanic origin.

The vast majority of incarcerated aliens have entered the United States illegally, rather than entering the country legally and remaining past the authorized period of stay. Sentenced illegal aliens are generally poorer, less educated, younger, more likely to be male and Hispanic, and less likely to have dependents than the incarcerated legal aliens and U.S. citizens.[5]

A recent report by the National Youth Gang Center found that gang activity, which experienced steady decline in the late 1990s, was up 2 to 3 percent in 2000 in cities with populations of more than 25,000. The gang homicide rate increased more than 50 percent from 1999 to 2002, the last year for which national figures are available.[7] Today gang violence seems to be concentrated in Hispanic communities with a high population of illegal immigrants. Most gang violence is intra-Hispanic, often pitting Mexican gangs against Central American ones.

The problem is not confined to large cities, however. Gang members are leaving large cities, such as Los Angeles and Chicago, for smaller cities throughout the country.[8] Hispanic gangs, for example, are emerging in small cities with average populations of approximately 50,000. Charlotte, N.C., Fairfax County, Va., and Gwinnett County, Ga., have all experienced a large upsurge in their Latino populations and, consequently, the number of Latino gangs and gang violence. In North Carolina, the number of Latino residents has increased 400 percent since the 1990s, and this Hispanic population increase has become a major factor in gang-related violence and murder.

State Resources and the Deportation Process

The costs of apprehending, prosecuting and incarcerating illegal aliens have become a major issue at state and local levels.[9] Considering an average annual cost of more than $30,000 to keep an inmate in prison, state officials are searching for ways to reduce or transfer to the federal government the expenses associated with incarcerating criminal aliens, and at the same time meet the public safety needs of the state. States are also pressing for deporting criminal aliens, and lobbying for stricter enforcement of anti-illegal immigration measures.[10]

According to the U.S. Bureau of Justice Statistics, as many as 250,000 aliens marked for deportation are now serving time in U.S. prisons, on probation or on parole.[11] The deportation process, which takes place at the federal level, can take several months. During that time, states pay for the incarceration costs of the deportees.

2. Policy Options

Policy-makers have a number of options to consider in addressing issues related to immigration and public safety and justice. More specifically:

- States can promote programs to increase interaction and communications between law enforcement.
- There are several programs designed to bridge language and cultural barriers.
- Several states are examining the issue of drivers' licenses for noncitizens and the use of *matricula consular* as identification cards.
- There are a number of options to help reduce gang activity, such as forming multi-agency task forces with expertise in gang activity.
- States need to be aware proposed federal legislation that can influence state government's role in federal immigrant policy and the deportation process.

Improving Relations and Communication Between Law Enforcement and Immigrants

State officials may want to consider promoting programs that increase interaction between immigrant communities and law enforcement. In some cities, nonprofit organizations collaborate with police departments to find alternative channels of communication between law enforcement and the various immigrant communities. Initiatives such as police-immigrant working group forums have proven effective. For example, the Vera Institute of Justice in New York City is organizing working groups with representatives from the city's immigrant communities and police department officials for a series of forums on topics such as the community's crime rate, safety, policing needs and concerns, the relationship between the police and the community, and strategies for improving police-community relations. Such community working groups also assist police departments in strengthening relations with immigrant communities through coordinated public education and outreach campaigns.[14]

Figure 2.1 Community Policing Programs

Community policing is defined as a "policing philosophy that promotes and supports organizational strategies to address the causes and reduce the fear of crime and social disorder through problem-solving tactics and police-community partnerships."[12]

In some cities, community policing has helped improve relations between law enforcement and immigrant communities. For example, Chicago Alternative Policing Strategy involves regular meetings between community residents and police who work in the neighborhood. These meetings, held in such places as church basements and park buildings all over the city, facilitate the exchange of information about public safety and security needs within the community and help diffuse many negative perceptions that often exist about the police.[13]

Law Enforcement and Language Barriers

Some states and municipalities are educating their law enforcement officers in Spanish. For example, Badges Without Borders is a program designed to educate Indianapolis police officers and firefighters in the language and culture of the growing Latino population in the city.[15] A similar program in Pennsylvania offers state police officers basic language training in Spanish.[16] In Kentucky, police officers receive a basic level of Spanish language instruction during basic training to help them communicate with non-English speakers in such situations as traffic violations. A federally funded enhanced police corps training program in Kentucky provides a more intensive language training that includes 80 hours of course work and a two-week-long Spanish language emersion program in Mexico.[17] A Spanish language program

launched by the California Highway Patrol bridges the language gap by training cadets in basic law enforcement tasks in both English and Spanish.[18]

California funded the Garden Grove Police Department to employ two bilingual community service officers to serve as liaisons with the growing Asian population. About half of the 143,000 people in the city are Southeast Asians, mainly Vietnamese immigrants, predominantly characterized by poor to no English competency. The police department also established substations in the heart of the city where most of the Vietnamese live. The strategy of hiring bilingual police officers and posting bilingual notices has helped bridge language and cultural gaps and opened access for the police to the immigrant community.[20]

Figure 2.2 **California's Programs to Close Language Gaps**

California offers English language training as part of its Adult Basic Education (ABE) curriculum in correctional facilities.

The program is offered to all inmates, regardless of their citizenship. Although ABE is mandatory, correctional facilities generally do not have enough resources to enforce the mandatory requirements.

Another strategy that California uses to close the language gap between limited English proficient inmates and corrections enforcement and administration is hiring paid bilingual staff in state prisons. Bilingual employees – usually corrections officers, case workers and administrators – are vital for ensuring due process in placing recently admitted inmates who cannot communicate in English language.[19]

The criminal justice system, and the corrections community in particular, has begun to address the growing challenge of language barriers between non-English speaking inmates and corrections officers. In Arizona, any inmate who does not receive a minimum eighth grade score in certain subjects must attend 120 days of functional literacy classes, which include English language instruction. Deportable foreign nationals, however, are excluded from this program.[21]

New Mexico's legislation requires inmates incarcerated for longer than 18 months but fewer than 10 years to be enrolled in the educational program, which includes an ESL course in every state prison facility. The inmates participating in various re-entry initiatives are also required to enroll in the educational program.[22] In North Carolina, language proficiency of every inmate is determined by the ESL Oral Assessment test. Inmates with English language training needs are placed in one of the 14 prison facilities that offer ESL instruction.[23] The program is mandatory for all qualified inmates, regardless of their nationality. Although ESL classes are not mandatory for qualified inmates in Colorado, the state offers strong incentives for enrolling in educational programs. Inmates with a high school or General Educational Development (GED) diploma are eligible for certain jobs at prison facilities, and because the ESL course is a prerequisite for earning those diplomas in prison, the enrollment rate is high despite the voluntary nature of the program.[24]

Drivers' Licenses and Identification Cards for Illegal Immigrants

States have been very active in altering the regulations governing driver's license issuance to noncitizens. During the 2003 state legislative sessions alone, 40 different state legislatures introduced 119 bills that dealt with the immigrant's eligibility and restrictions for obtaining driver's licenses.[25] Six states signed bills into law that expanded immigrant's access to drivers' licenses, while seven states passed legislation restricting access. Generally, restrictive measures include lawful residence requirements, prohibition of foreign-issued identification documents and the requirement that the validity of the license ends with the expiration of the applicant's lawful residence status.[26]

In most states, applicants need to produce proof of identity and a Social Security number before obtaining a drivers' license. However, a Social Security number is not required in Oregon and Vermont. Forty-two states require it only if people have been assigned the number or are eligible

for one.[27] Connecticut and New Hampshire require a Social Security number only from new applicants. Illinois and Kentucky make exemptions to the rule on religious grounds.
In addition, six states accept the Individual Taxpayer Identification Number (ITIN) as an alternative to the Social Security number. ITIN is a tax processing number that the IRS has been issuing to certain nonresident and resident aliens, their spouses and dependents since July 1996. The ITIN is only available to individuals who are residing in the United States legally and are not eligible for a Social Security Number.[28]

Figure 2.3 **State's Drivers' License Requirements**

States Accepting Matricula Consular or Other Foreign ID Card

States Requiring Drivers' Licenses to Expire with Immigrant's Visa

States Accepting ITIN As Alternative to SSN

Source: National Immigration Law Center, January 2004.

Twenty-six states require drivers' license applicants to have proof of lawful presence in the country. Louisiana grants a temporary license to noncitizens working in the agriculture industry. The temporary license has a different appearance and is valid for only a year.[29] Minnesota, Mississippi and Ohio place distinguishing features on the driver's license issued to noncitizens, such as "non U.S. Citizen" and "non-renewable/non-transferable."[30]

There has also been legislative action concerning the use of *matricula consular* as well. Colorado recently outlawed use of the card already approved by many cities there, and legislation to restrict the card has been introduced in the Arizona and Iowa legislatures. A bill introduced during the 2004 legislative session in South Carolina prohibits state agencies, including school districts, from accepting a *matricula consular* as a form of identification. In March 2003 the governor of South Dakota approved legislation that prohibits any state agency, state-supported university or postsecondary technical institute from accepting a *matricula consular* card. Tennessee statutes also explicitly prohibit the state from recognizing *matricula consular* cards as proof of identification for issuing a drivers' license. The card has been rejected in New York, and critics of the card in Utah are lobbying for legislation banning it.

Curbing Gang-Related Violence

To address recent spikes in gang-related violence, state and local law enforcement agencies may want to consider:

- recruiting Spanish-speaking officers or improve the Spanish-speaking skills of law enforcement personnel;
- increasing patrols in gang-heavy areas;
- gaining intelligence on Latino gangs and sharing that information with law enforcement throughout the country; and
- forming special gang units or multi-agency task forces with expertise in gang culture and activity.

A more fundamental way to curb gang activity is to prevent youth from joining gangs in the first place. Children of parents who are poor, working several jobs and are not at home may get

involved with gangs.[31] After-school programs, for instance, are one way to keep unsupervised youth off the streets.

State Resources and the Deportation Process

To alleviate states' financial burden of incarcerating criminal aliens, the Immigration Reform and Control Act of 1986 authorized the U.S. attorney general to partially reimburse the states for the criminal justice costs associated with illegal aliens. The Violent Crime Control and Law Enforcement Act of 1994 expanded the state compensation program to include local jurisdictions and empowered the attorney general to transfer criminal aliens to federal prison if states were unable to incarcerate them due to the lack of space or facilities.[32] The federal government is increasing appropriations for this reimbursement. In 1995, the first year of the State Criminal Alien Assistance Program appropriations, Congress reimbursed $129 million.[33] In fiscal years 2002 and 2003, Congress appropriated $564 and $565 million, respectively.

Proposed federal legislation could also have a major effect on state law enforcement. H.R. 2671, the Clear Law Enforcement for Criminal Alien Removal (CLEAR) Act, and S. 1906, the Homeland Security Enhancement Act, would authorize state and local law enforcement officers to uphold federal immigration laws as a condition of receiving federal funding under the Immigration and Naturalization Act. The proposed act stipulates that states failing to enact laws that authorize police to enforce the federal immigration law may not be federally reimbursed for incarcerating noncitizens and that their reimbursement funds must be reallocated to states that do comply with the CLEAR Act. States also receive federal funding through the Immigration and Naturalization Act to cover the costs associated with refugee resettlement and to support programs such as Refugee Cash Assistance and Refugee Medical Assistance for refugees not eligible for Medicaid.

Figure 2.4 CLEAR's Potential Effects on the States

The CLEAR Act would place three requirements on states to qualify for reimbursement of the costs of detaining illegal aliens.

- In order to receive reimbursement funding, states would have to pass or amend their enforcement laws to bring them into compliance with the federal law and grant the requisite authority to state and local law enforcement officials.
- States would be required to transmit information on illegal immigrants to the U.S. Department of Homeland Security and Justice within 10 days of an encounter.
- States would have to provide the federal government with information on illegal aliens in the state and local prison systems.

The CLEAR Act would provide funding to offset the costs of incarceration of possible deportees. The measure would require the Department of Homeland Security to deposit into a "State and Local Immigration Law Enforcement Fee Account" one-third of all fees collected for immigrant and nonimmigrant visa applications and for adjustment of status applications.[34]

Proponents of the legislation argue that the federal government does not have the capability to apprehend illegal aliens and that state and local law enforcement officers would be a much-needed supplement to federal immigration agents. State and local law enforcement would not be asked to search for illegal aliens, however. The proposed legislation only requires law enforcement officers who question someone for other alleged crimes and suspect the person is in the country illegally to notify federal officials.

Although the legislation would provide training materials for state and local law enforcement, opponents argue that immigration laws are complex and federal immigration agents receive a great deal of training on immigration law. Therefore, a manual or pocket guide may not offer law enforcement the training they need to uphold federal immigration law. Opponents also argue that enactment of this legislation would lead to more racial profiling because it is a judgment call on the part of officers to decide whether they think someone may be in the country illegally. Some also fear that immigrants will be more reluctant to report crimes out of fear of being deported,

even if they are the victims of the crime. State and local policy-makers and law enforcement officials, however, are concerned with the potential backlash from immigrant-heavy communities. There is also the question of what happens to the families of these detainees.

Conclusion

States and immigrants are facing several challenges in the areas of public safety and justice. Immigrants may not have a good understanding of American laws and the legal system when they first arrive, and linguistic and cultural barriers can exacerbate this problem. There are other issues as well. States are debating whether to issue drivers' licenses to illegal immigrants. Rising gang violence in some immigrant communities, which used to be concentrated in a few large cities, is now spreading throughout the country. In addition, states shoulder some of the financial burden of housing illegal immigrants awaiting deportation.

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20) Tammy Seltzer – Bazelon Center for Mental Health Law
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Victims:
How can prison policies best meet the needs of victims (and families?)? Punishment, incapacitation, habilitation, rehabilitation?

Privatization:
Can private prisons improve criminal justice outcomes?

Reentry, Restorative Justice and Recidivism:
How do current concepts of reentry, restorative justice and recidivism interact, and can they be combined to form a criterion of success for departments of corrections.

Racial Disparity:
Is the racial disparity in prisons a question of crime or social policy? Do current incarceration policies improve living conditions in ethnic communities?

Services and Programming:
What levels of services, including health care are departments of corrections ethically obligated to provide to people deprived of liberty? Must health care and education in prison be at lease equivalent to that of the community?

Management/Citizen Review:
Can departments of corrections preserve safety and justice through self monitoring?

Sentencing:
Are longer sentences in the best interest of safety and society?

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What's on TAP:
The O'Connor Project: Can we end racial discrimination without affirmative action? Here's what it will take.
by Lisbeth B. Schorr

Issues In Depth | 11.17.03

Moving Ideas Network, a project of *The American Prospect*, presents resources on the magazine's *Special Report on Criminal Justice Reform*. The report was sponsored by the Jeht Foundation.

› Go to Criminal Justice Reference

Articles in *The American Prospect's* Special Report

One unlikely benefit of the fiscal squeeze on the states is a dramatic rethinking of the "lock-'em-up" view regarding criminal justice. At least 25 states have reformed their mandatory minimum laws. There's new support for creative diversion, treatment, parole and re-entry policies. This special supplement explores both the politics and the substance of this new trend, as well as successes and failures. It is one in a series of in-depth reports on public issues that together articulate a progressive agenda.

It's not that onetime hard-liners are more compassionate about the deeper causes of crime. Rather, states can no longer afford to keep building prisons. The result is a surprising and heartening convergence of views – and strange-bedfellow alliances among prosecutors, judges, police, legislators and reformers – in favor of alternatives that are more cost-effective than long prison terms in preventing crime and reducing recidivism.

Crime and Redemption: States are using fiscal scarcity to find more creative approaches to reducing crime. The notable holdout is Attorney General Ashcroft.
by Drake Bennett and Robert Kuttner

Additional Readings:
- Building Bridges: From Conviction to Employment, A Proposal to Reinvest Corrections Savings in an Employment Initiative, The Council of State Governments (PDF), Eastern Regional Conference, January 2003
- Community Panels for Youth, Children and Family Justice Center, Northwestern University School of Law
- Diminishing Returns: Crime and Incarceration in the 1990s (PDF), by Jenni Gainsborough and Marc Mauer, The Sentencing Project*, September 2000
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The Research Wars: Hard-liners gave long prison sentences credit for the drop in crime. They were mostly wrong.
by Matthew Yglesias

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- Barriers and Promising Approaches to Workforce and Youth Development for Young Offenders (PDF), report to Annie E. Casey Foundation*, 2002
- Shattering "Broken Windows": An Analysis of San Francisco's Alternative Crime Policies, Center for Juvenile and Criminal Justice, October 1999
- State Sentencing and Corrections Policy in an Era of Fiscal Restraint (PDF), by Ryan S. King and Marc Mauer, The Sentencing Project*, February 2002

Reform Done Right: A Chicago program demonstrates the logic of preparing prisoners for life on the outside.
by Ayelish McGarvey

Additional Readings:
- Aftercare as Afterthought: Re-entry and the California Youth

Previous Issues In Depth:
1.21.04 | Educating America

12.17.03 | Low-Wage America

11.17.03 | Criminal Justice Reform

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9.16.03 | Youth and Politics

8.18.03 | Secrecy and Civil Liberties

6.16.03 | Immigrants in the New Economy

4.18.03 | Wealth in America

3.10.03 | The Right and The Law

Authority (PDF), by Michele Byrnes, Daniel Macallair, and Andrea D. Shorter, Center on Juvenile and Criminal Justice, August 2002
- From Prison to Home: The Dimensions and Consequences of Prisoner Reentry (PDF), by Jeremy Travis, Amy L. Solomon and Michelle Waul, Urban Institute
- Project Greenlight, a pilot adult transition program run by the Vera Institute of Justice

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- U.S. Department of Justice, Bureau of Justice Statistics
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Treatment with Teeth: A judge explains why drug courts that mandate and supervise treatment are an effective middle ground to help addicts stay clean and reduce crime.
by Peter Anderson

Additional Readings:
- Drug Policies in the State of Michigan— Economic Effects, Justice Policy Institute
- Reducing Drug Use and Crime: Strategies that Work, The Urban Institute
- Improving the Link Between Research and Drug Treatment in Correctional Settings Drug Treatment: A Summary of Reports from the Strong Science for Strong Practice Project, Daniel P. Mears, Gretchen E. Moore, Jeremy Travis, Laura Winterfield , The Urban Institute
- Drug Treatment in the Criminal Justice System: The Current State of Knowledge, The Urban Institute

The Shawshank Succession: Maine built a state-of-the-art prison to replace the one made infamous in the movies. It filled up almost overnight, but many inside don't belong there. Now the question is what to do with them.
by Joseph Rosenbloom

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- Cutting Correctly: New Prison Policies for Times of Fiscal Crisis (PDF), Center on Juvenile and Criminal Justice, February 2002
- State Sentencing Reforms: Is the "Get Tough" Era Coming to a Close? (PDF), by Marc Mauer, The Sentencing Project*, October 2002

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No Resources, No Results: Kentucky had good intentions in releasing some nonviolent offenders to save money. But the state shortchanged its post-release programs, and an opportunity was lost.
by Sasha Abramsky

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- Justice Kennedy Against Minimum Prison Terms, Families Against Mandatory Minimums
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- Smart on Crime, Families Against Mandatory Minimums

Lawful Re-entry: In Brooklyn, a novel program is reducing recidivism and finding ex-offenders decent jobs. The real surprise is who's running it: a social worker hired by the district attorney's office.
by Bruce Western

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- Legislative Changes on Felony Disenfranchisement (PDF), The Sentencing Project*
- Tough on Crime or Smart on Crime: Jobs Not Jails Make Our Streets Safer, Drum Major Institute*
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Top

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Executive Training
for Deputy Directors

-NOTES-

-SUMMARY-

-INDEX-

Executive Training
for Deputy Directors

-NOTES-

-SUMMARY-

-INDEX-

Executive Training
for Deputy Directors

-NOTES-

-SUMMARY-

-INDEX-