



Department of Corrections and Rehabilitation:

It Does Not Always Follow Its Policies When Discharging Parolees

August 2008 Report 2008-104



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The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the Bureau of State Audits presents its audit report concerning the Department of Corrections and Rehabilitation's (Corrections) adult parole discharge practices.

This report concludes that Corrections does not always follow its policies when discharging parolees. With the exception of deported parolees, its policies require parole agents to initiate a discharge review report for all eligible parolees. Corrections' data indicate that a total of 56,329 parolees were discharged between January 1, 2007, and March 31, 2008. During this 15-month period, Corrections' data also shows that responsible parole units did not complete discharge review reports for 2,458 deported parolees and 2,523 other parolees, and that Corrections lost jurisdiction over these individuals. We also found that Corrections' district administrators, operating within their authority to exercise judgment, often discharged parolees without documenting the basis for their decisions despite staff recommendations to retain parolees. Moreover, we found that the appropriate authority did not participate in making the decisions to retain or discharge six of 83 parolees whose discharge reviews we evaluated for compliance with Corrections' policies. In four cases, Corrections' Board of Parole Hearings (board) should have made the final decision to retain or discharge the parolees, but was not given that opportunity. Corrections' staff should have sent the other two cases to a district administrator for either a decision to discharge or a recommendation to the board to retain the parolees, but staff did not do so.

In response to these issues, Corrections reported that it has taken certain immediate corrective measures and has drafted new regulations and a new policy memorandum that, if implemented, will govern its parole discharge process. Among other things, Corrections reported that its new draft policy will require that discharge review reports be prepared for deported parolees, and that district administrators document the basis for discharging parolees contrary to staff recommendations. Finally, changes to state law and proposed revisions to Corrections' policies, if implemented, could increase the district administrator's role and authority in the discharge review process.

Respectfully submitted,



ELAINE M. HOWLE
State Auditor

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Summary

Results in Brief

The California Penal Code, Section 3000, requires the Department of Corrections and Rehabilitation (Corrections) to release on parole its prison inmates, upon completion of their prison terms, unless Corrections' Board of Parole Hearings (board) waives parole. Parole includes a combination of supervision, surveillance, and counseling. Laws for the State of California (State) require that parolees must be discharged from parole within 30 days of completing their required period of continuous parole unless Corrections recommends that the parolees be retained and the board approves their retention with good cause. With the exception of deported parolees,¹ Corrections' policies require that the parole agent responsible for supervising a parolee initiate a discharge review report when the parolee has served the required period of continuous parole and that the parole agent recommend whether to retain or discharge the parolee. Although the parole agent's unit supervisor can discharge a parolee in many cases, Corrections' policies require the district administrator, who oversees parole supervision in his or her respective district, or the board to discharge those who meet certain criteria.

Corrections' data shows that a total of 56,329 parolees were discharged between January 1, 2007, and March 31, 2008. During this 15-month period, Corrections' data indicate that the responsible parole units did not submit discharge review reports for 4,981, or 9 percent, of these parolees and that Corrections lost jurisdiction over these individuals. Nearly half of these cases involved deported parolees for whom Corrections' current policies require only that parole staff prepare formal discharge review reports if staff wish to retain the parolees. Its policies direct parole units—before relinquishing jurisdiction over the parolee—to run a criminal history report one month before a deported parolee's discharge review date to ensure that the deported parolee has not reentered the United States. However, criminal history reports have limited value because they reveal whether a deported parolee had reentered the United States only if he or she has committed a crime since deportation. In the absence of any evidence that the deportee has reentered the United States, parole staff may recommend that a deported parolee be retained due to any case factors that would significantly affect community safety should the parolee reenter

¹ United States Immigration and Customs Enforcement may place a hold on all confirmed illegal immigrants in Corrections' custody. Upon release to parole, these parolees transfer to federal custody pending deportation to their country of origin. Corrections monitors the status of these parolees during the deportation process. Throughout the report, we refer to these individuals as *deported parolees*. Corrections' current policies allow parole staff to use their discretion on whether to prepare discharge review reports for deported parolees.

Audit Highlights . . .

Our review of the Department of Corrections and Rehabilitation's (Corrections) adult parole discharge practices found that:

- » *Corrections' data indicate that the responsible parole units did not submit discharge review reports for 4,981, or 9 percent, of the 56,329 parolees discharged between January 1, 2007, and March 31, 2008, and that Corrections lost jurisdiction over these individuals.*
- » *District administrators, operating within their authority to exercise judgment, at times discharged parolees despite the parole agents' and unit supervisors' recommendations to retain the parolees without documenting the reasons for their decisions.*
- » *Because of errors made by Corrections' Case Records Office, the appropriate authority did not participate in making the decisions to retain or discharge six of the 83 parolees whose discharge reviews we evaluated for compliance with Corrections' policies.*
- » *Corrections reported that it has taken immediate corrective measures and has drafted new policies that, if implemented, will govern its parole discharge process.*
- » *Changes to state law that became effective January 1, 2008, and proposed revisions to Corrections' policies—if implemented—could increase each district administrator's role and authority in the discharge review process.*

the United States. However, because Corrections does not require parole staff to document their review of deported parolees' criminal history reports or other factors found in the parolees' case files, we could not determine whether staff reviewed these criminal history reports and other case factors for deported parolees before Corrections relinquished jurisdiction over them. The remaining discharged parolees who did not receive discharge review reports were not deported parolees, but the responsible parole units had failed to follow policy and submit the required reports. Consequently, Corrections lost its opportunity to recommend that the board retain these parolees, whose number included 363 individuals originally convicted of violent or serious offenses.

Our review of a sample of 509 of the 18,471 parolees whom unit supervisors or district administrators reportedly discharged between January 1, 2007, and March 31, 2008, showed that Corrections did not always follow its discharge policies. We found that Corrections' central files did not contain a record of completed discharge review reports for seven of the 509 parolees whose files we reviewed. However, because one of these discharged parolees was deported, Corrections' policies did not require a discharge report. Corrections was later able to provide us with a copy of a completed discharge report for another of the seven parolees, but it could not demonstrate that its staff had completed discharge reports for the remaining five parolees whose commitment offenses included fraud for monetary gain and possession of narcotics for sale.

In response to these issues, Corrections reported in August 2008 that it has implemented an immediate measure that will significantly reduce the number of lost jurisdiction cases in the future. Specifically, Corrections asserts that it has ordered two assistant regional administrators to review the case of every parolee who is about to discharge to ensure that a discharge review has been completed. Under the new measure, if the assistant administrators identify a case in which Corrections will lose jurisdiction due to the absence of a discharge review report, the administrators must immediately have one completed or immediately recommend to the board that the parolee be retained so that jurisdiction is not lost. In addition, Corrections reports that a forthcoming policy will require parole staff to prepare discharge review reports for deported parolees.

Additionally, our review indicated that in 31 instances, district administrators, operating within their authority to exercise judgment, discharged parolees despite the parole agents' and unit supervisors' recommendations to retain the parolees. In 15 of these 31 instances, district administrators did not provide explanations for overruling these recommendations and discharging the parolees.

Parole staff recommended retaining these 15 parolees, 13 of whom were either deported or in federal custody, based on various case factors such as the risk they posed to the community. Although Corrections' current policies do not require district administrators to document the basis for discharging parolees despite staff recommendations to retain, Corrections has drafted a new policy that, if implemented, will require such documentation.

For 83 of the 509 parole discharges that we reviewed, we performed additional testing to determine whether Corrections followed all of its discharge policies. We found that because of errors made by Corrections' Case Records Office, the appropriate authority did not participate in making the decisions to retain or discharge six of these parolees. In four cases the board should have made the final decision to retain or discharge the parolees, but was not given the opportunity. Corrections' staff should have sent the other two cases to district administrators for either a decision to discharge or a recommendation to the board to retain the parolees, but staff did not do so. In all six of these cases, the parolees were discharged.

Further, Corrections' audit of 6,380 discharge reviews completed between August 2007 and May 2008 identified instances of noncompliance with its policies. However, Corrections was unable to give us accurate data on the number of cases of noncompliance identified through these limited scope audits. In addition, the types of noncompliance are unknown because regional and district administrators who conducted the audits did not record this information during their reviews.

Moreover, in December 2007, Corrections reported that one of its district administrators discharged parolees after altering discharge review reports prepared by parole agents and unit supervisors who had recommended retaining the parolees. Corrections referred the case to the State's Office of the Inspector General, which investigated the district administrator and determined that he may have used poor judgment but found no evidence of criminal or administrative misconduct. In response to this situation, Corrections plans to issue a new policy that will apply to the entire department and that will prohibit unit supervisors and district administrators from altering discharge review reports prepared by others. Finally, changes to state law that became effective January 1, 2008, and proposed revisions to Corrections' policies—if implemented—could increase each district administrator's role and authority in the discharge review process.

Recommendations

To prevent the automatic discharge of parolees, Corrections should make certain that parole staff prepare discharge review reports promptly for all eligible parolees.

Corrections should finalize and implement the draft policy memorandum that will detail the policy and procedures governing its parole discharge process. The new policy should prohibit unit supervisors and district administrators from altering discharge review reports prepared by others. In addition, the new policy should require district administrators to document their justifications for discharging parolees against the recommendations of both parole agents and unit supervisors. Finally, the new policy should require that parole staff prepare discharge review reports for deported parolees.

To ensure that parolees are discharged in accordance with its policies and state laws, Corrections should ensure that the appropriate authority makes the decisions to discharge or retain parolees.

Agency Comments

Corrections agrees with the findings in our report and indicates that it is taking corrective action to address these issues.

Introduction

Background

The mission of the California Department of Corrections and Rehabilitation (Corrections) is to enhance public safety through safe and secure incarceration of offenders, effective parole supervision, and rehabilitative strategies that successfully reintegrate offenders into communities. Corrections operates California's state prisons, oversees a variety of community correctional facilities, and supervises all parolees during their reentry into society. The California Penal Code, Section 3000, requires Corrections to release on parole its prison inmates, upon completion of their prison terms, unless Corrections' Board of Parole Hearings (board) waives parole. Parole includes a combination of supervision, surveillance, and counseling provided by Corrections' Division of Adult Parole Operations (adult parole). Adult parole is divided into four regions within the State of California (State); these regions encompass 25 districts and 179 parole units. Geographically, region one covers primarily the eastern border of the State from Siskiyou to Kern counties; region two mostly spans the western border from Del Norte to Ventura counties; region three is Los Angeles County; and region four covers the remainder of Southern California including San Bernardino County through Imperial and San Diego counties.

Within each of the 25 districts, unit supervisors report to district administrators and manage the overall parole supervision efforts at the unit level, including the supervision of parole agents. District administrators oversee overall parole supervision efforts in their districts. Adult parole is also responsible for discharging parolees from parole, and it may also recommend that the board retain a parolee. Under the California Penal Code, sections 3000.1, 3001(b), and 3001(c), the board is responsible for discharging and retaining certain parolees. According to data obtained from Corrections on May 2, 2008, it discharged 38,565 felon parolees during 2006 and 44,078 during 2007.

Corrections' Process for Discharging Parolees From State Supervision

State law requires that adult parolees be discharged from parole within 30 days of completing their required period of continuous parole unless Corrections, via the board, finds good cause to retain them. State law bases parolees' required period of continuous parole upon the length of their parole period. For example, an individual not convicted of a violent crime, as defined by California Penal Code, Section 667.5(c), and placed on three years of parole is eligible for discharge once he or she has served at least one year of continuous parole. State regulations provide that a parolee is

on continuous parole if the parolee has not absconded parole supervision or had parole revoked since initial release on parole. A Corrections' policy memorandum further defines *continuous parole* as a parole period with no interruptions because of previous actions taken by the board. The law allows Corrections to retain parolees if the board determines that good cause exists. State law does not, however, dictate the process that Corrections must follow to discharge a parolee. Rather, it authorizes Corrections to prescribe rules and regulations to do so.

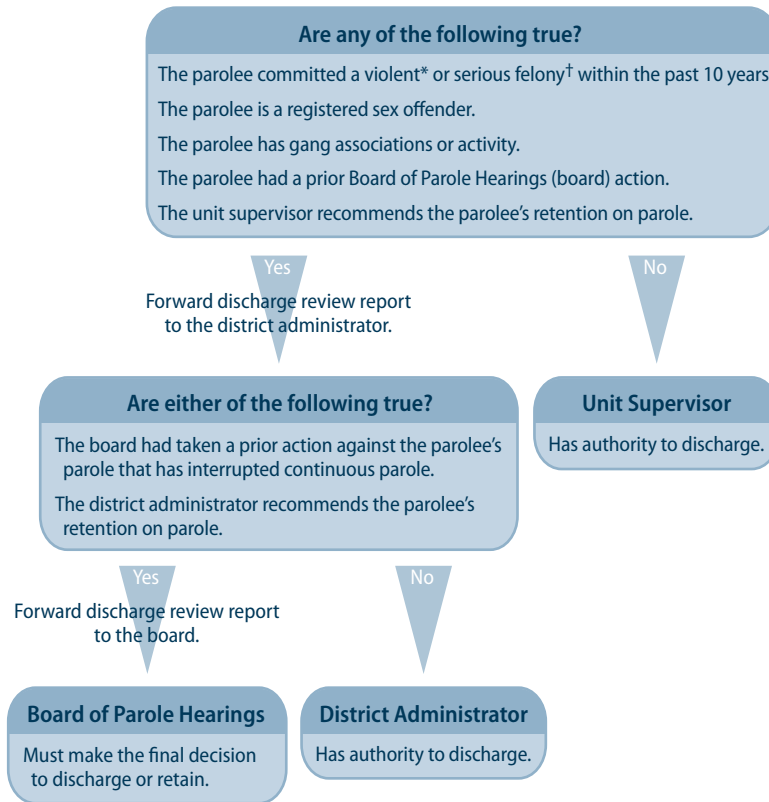
As Figure 1 shows, under Corrections' current discharge process,² unit supervisors generally have the authority to discharge parolees unless they are registered sex offenders, have validated gang associations or activity, or have committed violent or serious crimes as defined by the California Penal Code, sections 667.5(c) and 1192.7(c), within the last 10 years. District administrators generally have the final authority to discharge registered sex offender parolees and those who have committed violent or serious crimes or have validated gang associations, memberships, or affiliations. However, under state law, only the board has the authority to retain parolees on parole. Further, state law and Corrections' current policies specify that only the board has the authority to discharge parolees if the board has previously taken actions against their parole terms, including suspending or revoking their parole or retaining them on parole.

Corrections' current policies³ generally require its parole agents to begin the discharge review process for an eligible parolee by initiating a discharge review report. The parole agent must document on the discharge review report his or her recommendation as to whether the parolee should be discharged or retained, along with the circumstances on which the parole agent based the recommendation. The parole agent must then forward the report to the appropriate unit supervisor, who reviews the report and any supplemental materials and completes his or her section of the discharge review report with a recommendation to discharge or retain the parolee. If Corrections' policy requires the case to undergo further review, as it does if the parolee committed the type of violent offense described in Figure 1, or if the unit supervisor recommends retention, the unit supervisor must forward the discharge review report to a district administrator. In such instances the policy directs the district administrator to review the report and record on the discharge review report his or her decision to discharge or a recommendation to retain. The

² Different parole requirements exist for offenses committed before July 1, 1977. However, because our sample did not include these cases, this report does not depict or discuss such offenses.

³ Adult parole's operations manual and various policy memoranda document Corrections' discharge process. Throughout the report, we collectively refer to these sources as *policies*.

Figure 1
The Department of Corrections and Rehabilitation’s Authority to Discharge Parolees as of May 15, 2007



Sources: California Penal Code, sections 3000.1, 3001, 667.5, and 1192.7, and various Department of Corrections and Rehabilitation policy documents.

* The California Penal Code, Section 667.5 (c), defines *violent felonies*, which include felonies such as murder, rape, robbery, arson, kidnapping, and sexual abuse.

† The California Penal Code, Section 1192.7 (c), defines *serious felonies*, which include felonies such as manslaughter, rape, attempted murder, and assault with a deadly weapon.

district administrator generally has the authority to discharge a parolee who has been on continuous parole and who has no prior board actions. However, if the district administrator recommends retention on parole, he or she must forward the discharge review report to the board for final action.

According to Corrections’ chief of Case Records services, once the unit supervisor or district administrator adds the final recommendation, the discharge review report is sent to Corrections’ Case Records Office, where staff review the case to determine, among other things, whether the appropriate entity authorized the final decision to discharge or retain the parolee. As appropriate, the Case Records Office may forward discharge review reports to the board, return them to the unit level requiring

further action, or process complete discharge review reports and notify the responsible parole unit of a parolee's discharge or retention.

Notwithstanding the previous discussion, Corrections' current policies do not require staff to complete discharge review reports when discharging deported parolees. According to a parole agent III in Corrections' Policies and Procedures Unit, United States Immigration and Customs Enforcement may place a hold on all confirmed illegal immigrants in Corrections' custody. Upon release to parole, these state parolees, referred to in this report as *deported parolees*, will transfer to federal custody pending deportation to their country of origin. Corrections will monitor these parolees' status through the deportation process. Corrections' current policies require staff to run a record check one month before a deported parolees' discharge review date. If there is no indication that the parolee has reentered the United States and committed a crime, the parolee will discharge by operation of law, when eligible. In this situation, Corrections currently does not require staff to prepare a discharge review report. However, Corrections' policy states that staff can submit a discharge review report recommending that a deported parolee be retained on parole if case factors could significantly affect community safety should the parolee reenter the United States.

In addition to the absence of good cause for retaining a parolee, several conditions can dictate parolee discharge. For example, if Corrections does not initiate the discharge review process for an eligible parolee, the parolee is automatically discharged 30 days after becoming eligible for discharge as required by law, and Corrections loses jurisdiction over the parolee. In addition, state law specifies a maximum period, based on the parole period, that Corrections and the board may retain certain parolees. Once these parolees reach the maximum statutorily allowed parole period, Corrections must discharge them. Corrections might also discharge a parolee to another jurisdiction if the parolee receives a commitment to federal prison, to another state's prison, or to a local jurisdiction for a period that exceeds the California parole period. For example, we found that Corrections discharged a parolee whose prison sentence in another state was longer than the maximum parole period allowed under statute in California.

As discussed later in the report, Corrections data indicate that 56,329 parolees were discharged between January 1, 2007, and March 31, 2008, and almost half of them were discharged because they had reached the maximum parole period allowed under statute. Collectively, unit supervisors and district administrators completed discharge reviews for and then discharged 18,471 parolees, or 33 percent of those discharged during that period.

Scope and Methodology

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) examine Corrections' adult parole discharge practices. Specifically, the audit committee requested that we review Corrections' discharge policies and protocols and determine whether they comply with applicable laws and regulations. The audit committee also asked us to review Corrections' internal controls over its parole discharge process and determine whether they are sufficient to ensure compliance with Corrections' policies and state law and to identify inappropriate employee conduct. In addition, the audit committee requested that we ascertain whether a sample of parolees were discharged in accordance with staff recommendations and to determine, to the extent possible, the frequency with which parolees received discharges contrary to staff recommendations. Further, the audit committee asked us to assess whether Corrections discharged a sample of parolees in accordance with its policies, protocols, and applicable laws and regulations. The audit committee also requested that we determine whether Corrections took any corrective action as a result of an internal investigation of one of its regions. Finally, the audit committee asked us to review any proposed changes to laws, regulations, policies, and protocols to determine any potential changes in efficiency and effectiveness related to the discharge process and the extent to which those changes might affect the parole administrators' authority.

To evaluate whether Corrections' discharge policies and procedures comply with applicable state laws and regulations, we identified, reviewed, and compared the two and found that Corrections' discharge policies and procedures do adhere to state laws and regulations. To identify its internal controls over the discharge process, we reviewed Corrections' policies and conducted interviews with its personnel. We also assessed whether the controls are sufficient to ensure compliance with state law and Corrections' discharge policies and whether they are adequate to identify any employee misconduct.

To determine whether district administrators discharged parolees in accordance with staff recommendations and to assess the frequency with which parolees were discharged contrary to staff recommendations, we obtained information from the Offender Based Information System, a Corrections database, for all parolees discharged between January 1, 2007, and March 31, 2008. This database includes information on parolees discharged through several processes. However, using certain discharge codes that Corrections uses in the database, we identified those parolees who were discharged by either unit supervisors or district administrators. We randomly selected 523 of these discharges.

However, we found that the board had discharged nine of these parolees and files for several discharges were unavailable for review. We reviewed files for the remaining 509 discharges to determine whether appropriate personnel prepared a discharge review and, when a district administrator was involved, whether his or her discharge decision agreed with the recommendations from parole unit staff. We judgmentally selected and further analyzed 83 of these discharge reviews to determine whether they complied with all applicable policies, laws, and regulations.

The U.S. Government Accountability Office, whose standards we follow, requires us to assess the reliability of computer-processed data. We assessed the reliability of Corrections' database by performing electronic testing of key data elements, by testing the accuracy and completeness of the data by confirming information for a random sample of records, and by ensuring that a haphazardly selected sample of hard-copy records were present in the data. To evaluate the accuracy of the database, we selected a random sample of 60 discharges and tested whether source documents support the values in key data fields. For three of the 60 selected, we found that the board had in fact made the discharge decisions even though the database indicated that either a unit supervisor or a district administrator had discharged the parolees.

Because our chief concern was ensuring that we did not overlook discharges at the unit level in our more detailed testing, we conducted additional testing to make certain that no records indicate higher level decisions (such as board decisions) that were in fact made at the unit level. To this end, we selected another sample of 60 records that the system reflected were not discharged at the unit level. We found no instances of data indicating that the board had reviewed a parolee when in fact the case had undergone review at the unit level. Thus, the errors regarding the party that discharged parolees do not appear to understate the number of parolees discharged by unit supervisors or district administrators. Although additional records included in the population of unit-level discharges actually show that the discharges did not occur at the unit level, we have assurance that we did not exclude unit-level discharges from our review. Therefore, although we are aware that a certain degree of error exists regarding who discharged a parolee, we do not believe use of this information will lead to an incorrect or unintentional message and have determined that it is sufficiently reliable for our purposes.

During the course of our fieldwork, we identified a population of discharges for which a discharge review was not performed. We obtained additional information on the nature of the crimes

for which these parolees were incarcerated, which is presented in Table 2 on page 18. Because this information is presented for informational purposes only, we did not assess its accuracy.

To determine whether Corrections took any corrective actions following the investigation of parole region one, we interviewed representatives from Corrections' headquarters, internal affairs, and internal audits; from region one; and from the State's Office of the Inspector General. We also interviewed the district administrator in question. From these interviews, we ascertained the status of the investigations and identified any information relevant to this audit. We also identified and reviewed any corrective action that Corrections took or plans to take in response to the investigation. Finally, we identified any proposed changes to laws, regulations, policies, and protocols related to the parole discharge process to determine the intent behind the changes and their impact on the role and the authority of district administrators.

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Audit Results

The Department of Corrections and Rehabilitation Failed to Adhere Consistently to Its Discharge Policies

The policies of the Department of Corrections and Rehabilitation (Corrections) for the State of California (State) dictate who must complete a discharge review report and who has the final authority to discharge parolees; however, Corrections does not always follow its own policies. With the exception of deported parolees, these policies require that parole agents initiate a discharge review before parolees complete their required period of continuous parole and that the parole agents recommend on a discharge report whether to discharge or retain the parolees. Unit supervisors must read discharge review reports and then decide to discharge parolees or to forward the reports to district administrators. Although in many cases the unit supervisor may discharge parolees, the district administrator or the Board of Parole Hearings (board) must review and discharge certain parolees. Only the board, which is part of Corrections, has authority to retain a parolee. Our review of parolees discharged between January 1, 2007, and March 31, 2008, found that Corrections discharged many parolees with no record that Corrections' staff reviewed their cases. In addition, without documenting justifications for their actions, district administrators sometimes discharged parolees despite the respective parole agents' and unit supervisors' recommendations for retention. Finally, Corrections did not always ensure that the appropriate authority participated in discharge decisions. In response to these issues, Corrections reported that it has taken certain immediate corrective measures and has drafted new regulations and a new policy memorandum that, if implemented, will govern its parole discharge process.

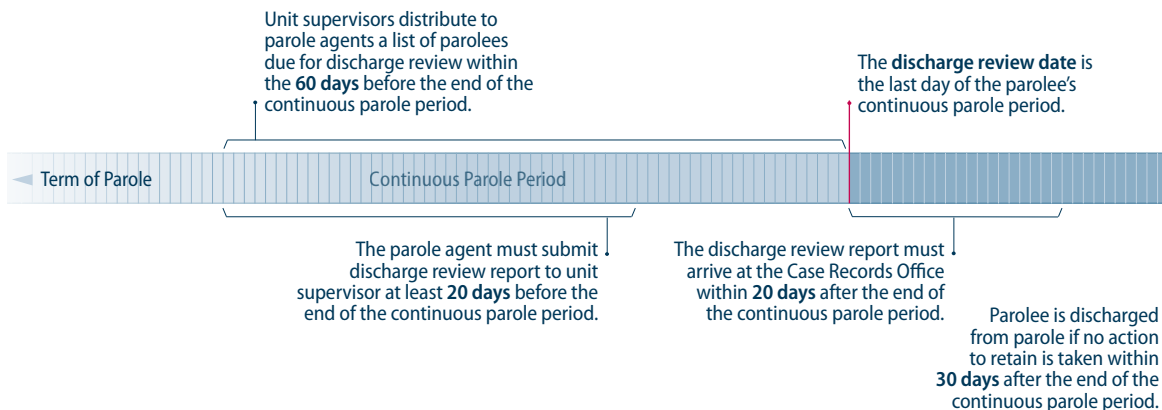
Corrections Did Not Prepare Discharge Review Reports for All Discharged Parolees

As we discuss in the Introduction, state law requires that Corrections discharge all eligible parolees unless the board takes action to retain a parolee for good cause. Any parolee who completes the required period of continuous parole dictated by his or her parole period is eligible for discharge. For example, an individual who was sentenced to state prison for a violent felony and who received three years of parole would be eligible for discharge after completing two years of continuous parole. Corrections discharges parolees 30 days after their continuous parole period ends, as required by law, unless the board takes action to retain the parolees. The board must make the final decision to retain a parolee, and in some cases it must consider

recommendations from Corrections' staff. Because staff from the Division of Adult Parole Operations (adult parole) make their recommendations to the board through the discharge review report, the board may not retain a parolee unless staff members complete such a report for that individual.

Corrections' current policies require parole agents to initiate discharge reviews for all eligible parolees, except deported parolees, and to submit discharge review reports to their unit supervisors. According to the parole administrator of Corrections' Parole Operations Section, each month unit supervisors prompt parole agents to complete discharge reviews by giving them a list of parolees who are due for discharge reviews during the next 60 days. As Figure 2 shows, a parole agent must submit a discharge review report to the unit supervisor at least 20 days before a parolee completes the continuous parole period. The unit supervisor reviews the report and forwards it to Corrections' Case Records Office if he or she recommends discharge and has final decision-making authority. If the unit supervisor does not have the authority to make the final decision, he or she forwards the report to a district administrator. Discharge reviews should arrive at the Case Records Office within 20 days after continuous parole ends. Nonetheless, the Case Records Office will process discharge reports received up to 30 days after continuous parole ends.

Figure 2
The Department of Corrections and Rehabilitation's Timeline for Preparing and Submitting Discharge Review Reports



Source: Department of Corrections and Rehabilitation's (Corrections) policies.

Note: Corrections' current policies do not require parole staff to prepare discharge review reports for deported parolees, unless they want to recommend retaining the parolees.

Despite these policies, we found that Corrections' central files contained no record that parole units had completed discharge reviews for seven of the 509 parolees who were discharged between January 1, 2007, and March 31, 2008, and whose files we reviewed.

Administrators in the Case Records Office stated initially that these parolees did not receive discharge reviews. Consequently, as required by law, the parolees would have been automatically discharged 30 days after becoming eligible for discharge. The administrators also noted that one of the seven was paroled to the custody of the United States Immigration and Customs Enforcement (ICE) and was later discharged without a discharge review report. Corrections' current policies do not require staff to complete reports when discharging deported parolees.⁴ However, Corrections' policy states that staff can submit a discharge review report recommending that a deported parolee be retained on parole if case factors could significantly affect community safety should the parolee reenter the United States. Corrections' policies did require staff to complete discharge review reports for the remaining six parolees.

Upon further investigation, Corrections provided us with a completed discharge review report for one of the remaining six parolees from its Case Records Office's archives. Corrections also supplied copies of reports for three of the other discharged parolees. However, one of the three documents was simply an activity report noting that adult parole was closing all interest in the case. Corrections was unable to provide any evidence that a discharge review report was prepared for this parolee prior to discharge. The other two report copies were incomplete because a parole agent had not signed them and because no evidence showed that a unit supervisor or district administrator had reviewed them. According to a staff specialist in adult parole's Quality Control Program Unit, these two discharge review reports were electronic copies retrieved through the parole agent's computer and thus would not show signatures. This official stated that staff normally places a completed copy of each discharge review report in the field file and that the original would go to the Case Records Office. However, she also stated that because staff members have purged the respective field files, no evidence exists that these two discharge reviews were completed. As noted previously, these two discharge review reports were also missing from the central files maintained by the Case Records Office. Finally, Corrections did not provide any evidence that appropriate personnel had initiated or completed the discharge review reports

Corrections' current policies do not require staff to complete reports when discharging deported parolees.

⁴ According to a parole agent III in Corrections' Policies and Procedures Unit, the ICE may place a hold on all confirmed illegal immigrants in Corrections' custody. Upon release to parole, these state parolees, referred to in this report as *deported parolees*, will transfer to federal custody pending deportation to their country of origin. Corrections will monitor the parolees' status through the deportation process. Corrections' current policies require staff to run a record check one month before a deported parolee's discharge review date. If there is no indication that the parolee has reentered the United States and committed a crime, the parolee will discharge by operation of law, when eligible. In this situation, Corrections currently does not require staff to prepare a discharge review report.

for the remaining two parolees. The commitment offenses of these five parolees included committing fraud for monetary gain and possession of narcotics for sale.

As Table 1 shows, Corrections' database indicates that 4,981 out of the 56,329 parolees who were discharged during the 15-month period we reviewed were discharged because Corrections lost jurisdiction to retain them after the responsible parole units did not submit discharge review reports. However, 2,458 of these cases were deported parolees for whom Corrections' current policies do not necessarily require discharge review reports. Its policies do require that before relinquishing jurisdiction over the parolees, parole units must run criminal history reports one month before the deported parolees' discharge review dates to ensure that the deported parolee has not reentered the United States. However, these criminal history reports have limited value because they would only reveal that deported parolees had reentered the United States if they had committed crimes since their deportation. Otherwise, parole staff are required to complete a formal discharge review report only if they wish to retain a deported parolee based on individual case factors. Specifically, Corrections' policy states that parole staff may recommend that a deported parolee be retained due to a history of violence, a sex offender registration requirement, or other case factors that would significantly affect community safety should the parolee reenter the United States. Because Corrections does not require parole staff to document their reviews of deported parolees' criminal history reports or other factors found in their case files, we could not determine whether staff reviewed these criminal history reports and other case factors for deported parolees before relinquishing jurisdiction. However, Corrections' current policies do require discharge review reports for the remaining 2,523 parolees for whom it lost jurisdiction.

Because Corrections does not require parole staff to document their reviews of deported parolees' criminal history reports or other factors found in their case files, we could not determine whether staff reviewed these criminal history reports and other case factors before relinquishing jurisdiction over deported parolees.

Corrections' unaudited data show that the vast majority of the 2,458 deported parolees and the 2,523 other parolees for whom Corrections lost jurisdiction after staff failed to complete discharge review reports had been committed to prison for nonviolent and nonserious offenses. Discharge review reports are required for parolees who have not been deported, and discharge review reports for parolees convicted of violent or serious offenses must be reviewed by district administrators. However, as the data in Table 2 on page 18 indicate, 74 parolees who had not been deported but who had been convicted of violent offenses were discharged without receiving discharge review reports. The parolees' violent offenses included second-degree murder, assault with a firearm, and

Table 1
Types of Parole Discharges That Occurred Between January 1, 2007, and March 31, 2008

DISCHARGE REASON	REGION 1	REGION 2	REGION 3	REGION 4	OTHER*	TOTAL	PERCENTAGE OF ALL DISCHARGES	
Court decisions	6	12	9	8	4	39	0%	
Other jurisdiction [†]	135	151	178	268	88	820	1	
Death	203	219	251	222	44	939	2	
Board of Parole Hearings discharges	680	595	641	645	101	2,662	5	
Lost jurisdiction	Discharged deported parolees [‡]	1,227	372	591	268	-	2,458	4
	All other discharged parolees [§]	248	203	1,334	694	44	2,523	5
	Subtotals	1,475	575	1,925	962	44	4,981	9
Parole unit supervisor/district administrator discharges	3,695	2,539	5,959	6,172	106	18,471	33	
Statutory maximum	5,797	5,982	7,548	5,713	2,746	27,786	49	
Other discharge reason [#]	149	76	170	236	-	631	1	
Totals	12,140	10,149	16,681	14,226	3,133	56,329	100%	

Source: Offender Based Information System of the California Department of Corrections and Rehabilitation (Corrections). A representative from Corrections' Policies and Procedures Unit provided the footnoted descriptions of the various discharge reasons.

Note: This table does not include Civil Addict parolees dismissed from the Civil Addict program.

As described in the scope and methodology, we identified errors in the data relating to the discharge reason. Although we are aware that the categories presented in the table above are misstated to some degree, we do not believe the degree of error is sufficient to lead to an incorrect or unintentional message.

* *Other* includes regions covered by the Interstate Parole Unit, which is a centralized unit responsible for overseeing all California parolees supervised out of state. Parole units from all four regions forward cases to this unit upon approval from the receiving state.

† This category includes parolees who have been discharged into the custody of another jurisdiction, such as a federal prison or an institution in another state.

‡ Corrections' current policy does not require staff to complete discharge review reports for deported parolees that are discharged. However, Corrections does require staff to run a record check one month before a parolee's discharge review date. If there is no indication that the parolee has reentered the United States and committed a crime, the parolee will discharge by operation of law, when eligible.

§ *Lost jurisdiction (all other discharged parolees)* includes parolees who have been discharged without the benefit of properly processed discharge reviews, parolees discharged after parole agents or unit supervisors failed to prepare discharge review reports, and parolees who have been discharged as a result of a misplaced discharge review report.

|| *Statutory maximum* includes parolees who have reached their maximum parole period and must be discharged from Corrections' jurisdiction.

Other discharge reason includes discharges of parolees who have successfully completed 150 days of residential aftercare treatment (California Penal Code, Section 2933.4).

a lewd or lascivious act with a child under the age of 14. In addition, 289 parolees who had not been deported but who had been committed to prison for various serious offenses were also discharged without receiving discharge review reports. The parolees' serious offenses included burglary, assault with a deadly weapon, and second-degree robbery, as Table 2 shows.

Corrections' data, listed in Table 2, indicate that it discharged 4,981 parolees during the 15-month period we reviewed without completing discharge review reports. However, the figure in Corrections' database may understate the true number of parolees that Corrections discharged without discharge review reports

Table 2
Prison Commitment Offenses for Parolees Discharged Without Receiving Discharge Review Reports Between January 1, 2007, and March 31, 2008

DESCRIPTION OF OFFENSES	DISCHARGED DEPORTED PAROLEES*	ALL OTHER DISCHARGED PAROLEES
	NUMBER OF PAROLEES	NUMBER OF PAROLEES
Violent Offenses†		
Second-degree robbery	27	42
Carjacking	1	5
Assault with firearm	6	4
Lewd or lascivious act with a child under the age of 14	33	4
Assault with deadly weapon	12	3
Second-degree murder	10	2
Other	47	14
Subtotals	136	74
Serious Offenses†		
Burglary	80	92
Assault with deadly weapon	70	72
Making threats	23	32
Second-degree robbery	8	21
Assault with firearm	3	10
Possession of non-narcotic controlled substance for sale	8	1
Other	84	61
Subtotals	276	289
Nonviolent and Nonserious Offenses†		
Possession of non-narcotic controlled substance	193	229
Possession of controlled substance	86	221
Second-degree burglary	90	180
Petty theft with prior convictions	44	152
Possession of non-narcotic controlled substance for sale	166	115
Transportation of controlled substance	107	97
Vehicle theft	141	93
Illegal possession of firearm	28	69
Receiving stolen property	55	67
Grand theft	33	66
Transportation of non-narcotic controlled substance	127	55
Possession of controlled substance for sale	123	51
Corporal injury to a spouse	89	47
Driving under the influence of alcohol or drugs	68	32
Other	682	657
Subtotals	2,032	2,131
Other		
Unspecified offenses	14	29
Totals	2,458	2,523

Source: The Offender Based Information System (unaudited) of the Department of Corrections and Rehabilitation (Corrections).

* Corrections' current policies do not require discharge review reports to be completed for these parolees, unless retention is recommended.

† Corrections' Offender Based Information System indicates whether offenses were *violent*, *serious*, or *other*. We did not review the offenses to determine whether Corrections correctly identified them based on legal criteria.

because staff may have improperly coded some of these discharges. For example, if staff did not submit completed discharge review reports for five of the 509 discharges that we reviewed and discussed previously, Corrections should have coded the cases as *lost jurisdiction*. Further, when we used the number of errors found in our sample to extrapolate the number of errors possible in the other 18,471 parolee cases that Corrections' database indicates were discharged by parole unit supervisors or district administrators during the 15-month period, we found that Corrections may have understated the number of parolees discharged without discharge reviews. We estimate that the figure of 2,523 parolees who were not deported and for whom discharge review reports were not completed is understated by approximately 180 such parolees.

Although we cannot identify the exact number of parolees that Corrections discharged without formal reviews, we can safely state that staff from its Case Records Office made entries into its database recording that adult parole did not submit required discharge review reports for 2,523 of the discharges that it processed for parolees who were not deported. A parole agent II in adult parole's quality control program unit explained that the Case Records Office is a huge operation that receives and reviews between 1,800 and 2,000 reports a month and that errors may occur from time to time. The parole agent also acknowledged that completed discharge review reports might not arrive at the Case Records Office on time or at all and that received reports could be misplaced.

A potential cause for past failures to complete and submit discharge review reports also exists at the parole unit level. According to the parole administrator of Corrections' Parole Operations Section, each month unit supervisors provide parole agents with a list of parolees who are due for discharge reviews in the upcoming 60 days. However, Corrections' current policies do not require unit supervisors to verify that parole agents actually complete and submit discharge review reports for all parolees on the list. Parole agents may fail to initiate the discharge review process without Corrections holding them accountable. Therefore, Corrections' internal controls have not been sufficient to ensure that its parole units complete and submit discharge review reports for all parolees eligible for discharge.

In response to these issues, Corrections reported that it is implementing an immediate measure that it asserts will significantly reduce the number of parolees discharged because it lost jurisdiction over them. Specifically, in a letter dated August 4, 2008, Corrections' chief deputy secretary of Adult Operations, asserted that as an immediate corrective measure, Corrections has stationed an assistant regional administrator at

Corrections lost jurisdiction to retain 2,523 parolees, who were not deported, after adult parole did not submit required discharge review reports.

Corrections reported that as an immediate corrective measure, it has stationed an assistant regional administrator at each of the two Case Records offices to prevent any further lost jurisdiction cases.

each of the two Case Records offices to prevent any further lost jurisdiction cases. According to the chief deputy secretary, these two assistant regional administrators must review the case of every parolee who is about to be discharged to ensure that a discharge review was completed. If either of the two assistant administrators identifies a case in which Corrections is about to lose jurisdiction due to the absence of a discharge review report, the administrator will have a review completed immediately so that the parolee may be properly discharged. If time constraints prevent the completion of a discharge review report, the assistant administrator is to make an immediate recommendation to the board to retain the parolee so that jurisdiction is not lost. The chief deputy secretary asserted that this practice will continue until Corrections is certain that long-term system fixes are operational and effective.

For example, according to the chief deputy secretary, Corrections plans to implement an automated computer system that will track discharge review dates in order to lower significantly the number of lost jurisdiction cases. The system will monitor parole cases electronically and identify for each of the four regional administrators those cases that are within 20 days of discharge but for which appropriate personnel have not conducted discharge reviews. Thus, the system will allow each of the regional administrators to learn about any cases that are approaching the point of lost jurisdiction with enough time for staff to complete the requisite reviews. The chief deputy secretary stated that the regional administrators have already been notified that they will be held accountable for ensuring that necessary discharge reviews have been completed before that 20-day window closes. In addition, the system will generate electronically for the deputy director of adult parole a second report that will identify any cases that are within 10 days of discharge and for which appropriate staff have not completed discharge reviews. This report will give the deputy director an opportunity to ensure that each of the four regional administrators prevents any lost jurisdiction cases. Finally, the chief deputy secretary expects that this system of automated electronic management reports will be fully operational by August 15, 2008.

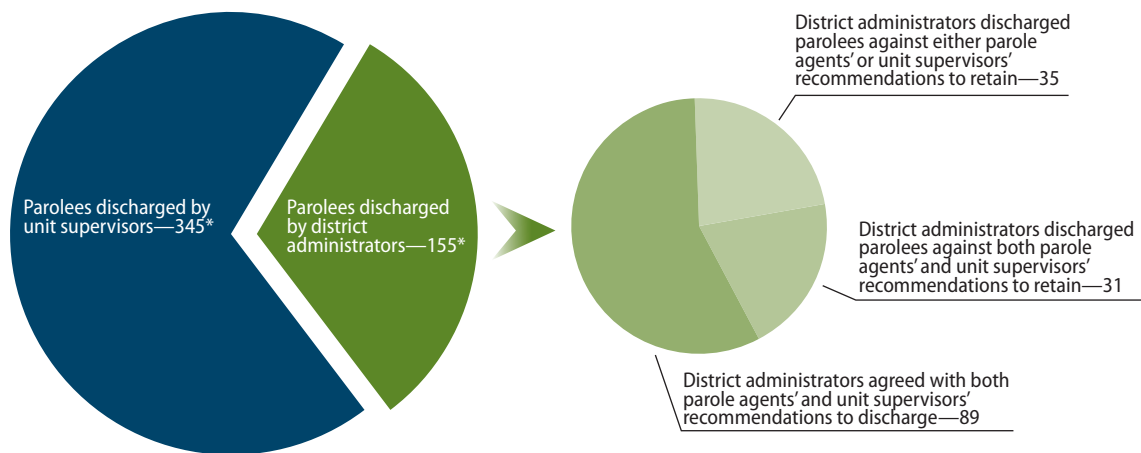
District Administrators Often Did Not Provide Written Justification When Discharging Parolees Contrary to Staff Recommendations

Corrections' policy generally requires parole agents to recommend discharging or retaining each parolee for whom he or she is responsible based on factors such as the parolee's parole adjustment; residence and employment status; and any arrests, violations, or special conditions. The parole agent should document these factors in the discharge review report, make a recommendation to retain or discharge the parolee, and submit

the report to the appropriate unit supervisor. As the Introduction explains, depending on the nature of the parolee’s commitment offenses and other factors, the unit supervisor may have the authority to discharge the parolee, or the supervisor may be required to forward his or her recommendation to a district administrator. The district administrator reviews forwarded recommendations and has the authority in many cases to make the final decision to discharge a parolee. Nonetheless, we found that district administrators, without documenting the basis for their decisions, frequently discharged parolees whom staff had recommended for retention.

Our review of 503 central files containing discharge review reports found that district administrators participated in only 156 discharge reviews. The district administrator recommended retaining one of these parolees but discharged the remaining 155. As Figure 3 shows, the district administrators agreed with the discharge recommendations made by both the parole agents and the unit supervisors in 89 of the 155 discharges. The district administrators discharged parolees in agreement with either the parole agents or the unit supervisors in another 35 cases. However, in 31 instances the district administrator discharged the parolees despite the parole agents’ and the unit supervisors’ recommendations to retain them.

Figure 3
Frequency With Which District Administrators’ Decisions to Discharge Parolees Matched the Recommendations of Parole Agents, Unit Supervisors, or Both



Source: Bureau of State Audits’ review of 503 parolees discharged between January 1, 2007, and March 31, 2008.

* These numbers do not include one discharged parolee for whom a district administrator recommended retention on parole and two other discharged parolees for whom unit supervisors recommended retention. As described on pages 24 through 25, analysts in the Case Records Office discharged these three parolees without further review.

In 15 cases, district administrators did not provide any written explanations for their decisions when they discharged parolees against both the parole agents' and unit supervisors' recommendations to retain these individuals on parole.

In 16 of the 31 cases in which district administrators exercised authority provided in Corrections' policy and overruled the recommendations of both the parole agent and the unit supervisor to retain the parolee, the district administrators documented the reasons for discharging the parolees. For example, the parole agent noted in one discharge review report that the parolee has a history of selling drugs and should be retained on parole. The unit supervisor agreed with the parole agent. However, the district administrator discharged the parolee, noting on the report that the parolee had no parole violations or new arrests during the past year of parole and that the parolee was employed. In another case, the parole agent and unit supervisor recommended that a parolee be retained because the parolee had a drug violation, had failed to complete a drug treatment program, and had demonstrated sporadic employment. The district administrator justified discharging the parolee in this instance because the individual had not returned to documented drug use in the past six months and because the board had not interrupted this individual's parole supervision.

However, in the remaining 15 cases, district administrators did not provide any written explanations for their decisions when they discharged parolees against both the parole agents' and unit supervisors' recommendations to retain these individuals on parole. As Table 3 shows, 12 of these discharged parolees had been deported and thus did not require discharge review reports according to Corrections' current policies, and another parolee was in federal custody. Nevertheless, in each of these 13 cases, parole staff considered various case factors and prepared discharge review reports to recommend retaining these parolees. For example, in one instance, the parole agent recommended that a parolee deported to Mexico should be retained on parole because the individual posed a substantial threat to the community. The parole agent noted in the discharge review report that the deported parolee's criminal history included arrests or convictions for assault with a firearm, hit and run, grand theft, and possession of a controlled substance. Although the unit supervisor agreed that this deported parolee should be retained on parole, the district administrator discharged the parolee without providing any written justification on the discharge review report. Once Corrections discharges deported parolees and releases jurisdiction over them, it loses the ability to monitor them if they return to the State.

In another case that did not involve a deported parolee, the parole agent and unit supervisor both noted that a high-risk sex offender parolee should be retained for the safety of the community. In fact, Corrections had been monitoring this parolee using a global positioning system for six months. Nevertheless, the district administrator discharged this parolee without providing any written justification.

Table 3
Criminal Histories of Parolees Discharged by District Administrators Without Written Justification

PAROLEE	TYPE OF PAROLEE	CRIMINAL HISTORY
1	Deported	Theft by invalid access card, willful discharge of a firearm in a negligent manner, forgery of handwriting, possession of a driver's license to commit forgery, grand theft of access cards, burglary, and forgery of an official seal.
2	Deported	Burglary, grand theft, possession of burglary tools, receiving stolen property, false identification to a peace officer, hit and run, reckless driving, assault with a firearm, threatening a crime with the intent to terrorize, possession of a controlled substance, driving under the influence, driving without a license, having false proof of financial responsibility, robbery, and petty theft.
3	Deported	Possession of a controlled substance for sale and possession of a controlled substance while armed.
4	Deported	Grand theft of an automobile, receiving stolen property, tampering with a vehicle, theft of personal property, second degree burglary, theft, possession of a hypodermic needle, under the influence of a controlled substance, possession of a narcotic, disorderly conduct, rape by force or fear, transporting/selling a narcotic, possession/purchase of a controlled substance for the purpose of sale, and false identification to a peace officer.
5	Deported	Inflicting corporal injury, mayhem, assault with a deadly weapon, and threatening a crime with the intent to terrorize.
6	Deported	Petty theft, taking a vehicle without consent, receiving stolen property, possession of a narcotic, false identification to a peace officer, under the influence of a controlled substance, possession of burglary tools, grand theft with a firearm, burglary, attempted grand theft of an automobile, carrying a concealed weapon, driving without a license, evading a peace officer, and disregard for safety.
7	Deported	Robbery, assault with a deadly weapon, assault with a firearm on a person, grand theft from a person, disorderly conduct, prostitution, transporting/selling a controlled substance, and possession of controlled substance for sale.
8	Deported	Possession of a weapon at school, possession of a controlled substance, grand theft, transporting/selling a narcotic, and taking a vehicle without consent.
9	Deported	Prostitution, assault with a firearm on a person, force/assault with a deadly weapon, possession/purchase of a narcotic for sale, and using a minor to violate a controlled substance act.
10	Deported	Possession/purchase of a narcotic for sale, forging an official seal, and driving without a license.
11	Deported	Driving under the influence, driving without a license, and burglary.
12	Deported	Receiving stolen property, taking a vehicle without the owner's consent, possession of a stolen vehicle/vessel, driving without a license, possession of a controlled substance, obstructing a public officer, and failure to appear in court for a felony charge.
13	In federal custody	Possession of a controlled substance, driving under the influence, hit and run causing property damage, and driving without a license.
14	Not deported	Possession of a firearm, validated gang membership, and a drug-related parole violation.
15	Not deported	Committing a sexual offense.

Source: Discharge review reports completed for the parolees by parole agents and unit supervisors of the Department of Corrections and Rehabilitation.

Although district administrators may have valid reasons for overruling staff recommendations to retain parolees, the rationale for these decisions is unclear without written explanations. Corrections' current discharge policies do not require district administrators to document the reasons that they discharged parolees contrary to the recommendations of parole agents or unit supervisors. On the other hand, when we brought this issue to Corrections' attention, it agreed that the adoption of such a requirement in future cases would represent a better practice. In a letter dated August 4, 2008, the chief deputy secretary of Adult Operations stated that a forthcoming policy will require district administrators to document a statement of reasons in support of their discharge decisions. According to Corrections' letter, this requirement will apply—but will not be

The board is not always involved in the discharge process when it should be.

limited to—any recommendation by a district administrator that is contrary to the recommendation of the parole agent or unit supervisor. As this report later explains, Corrections expects to implement this new policy and has drafted new regulations that will also be designed to ensure that parole cases are thoroughly reviewed before discharge.

Corrections Did Not Always Ensure That the Appropriate Authority Participated in Discharge Decisions

Under state law, only the board has the authority to retain a parolee. Corrections' discharge policy requires that the board must review each case in which it previously took action to retain a parolee or to revoke or suspend an individual's parole. However, the board is not always involved in the discharge process when it should be. Before processing a discharge decision, a Case Records Office analyst verifies that the parolee is eligible for a discharge. In addition, the analyst verifies that the appropriate entity approved the parolee's discharge or retention. If followed, this procedure acts as a final control to ensure that the parolee is not discharged prematurely and that the proper authority made the decision to discharge or retain.

However, we found that analysts do not always perform these procedures effectively, and consequently they do not make sure that Corrections follows its own discharge policies. Analysts did not ensure compliance with discharge policies in six of the 83 discharge reviews that we evaluated. Table 4 shows that in three of these cases, the final reviewing authority recommended that the parolee be retained on parole.

These three parolees had histories of multiple offenses. In one case, the parole agent, the unit supervisor, and the district administrator all recommended that the parolee be retained. This parolee's commitment offense was vehicle theft, which ended in a high-speed police chase. The parole agent rated the offender's parole adjustment as marginal, and the unit supervisor commented that the parolee had not participated in drug testing and may still have a substance abuse problem that might further jeopardize public safety. Because the analyst failed to forward this case to the board, the parolee was discharged. In the other two cases, the unit supervisors recommended to retain the parolees and forwarded the cases directly to the Case Records Office rather than to appropriate district administrators as required. In these two cases, analysts should have returned the reports to the appropriate district administrator, but they did not do so; instead, the analysts

Table 4
Parole Cases in Which the Appropriate Authority Did Not Make Discharge Decisions

PAROLEE	PAROLE AGENT'S RECOMMENDATION	UNIT SUPERVISOR'S RECOMMENDATION	DISTRICT ADMINISTRATOR'S RECOMMENDATION
1	Retain	Retain	Retain
2	Retain	Retain	NA
3	Discharge	Retain	NA
4	Discharge	Discharge	Discharge*
5	Discharge	Discharge	Discharge*
6	Retain	Discharge	Discharge*

Source: The Bureau of State Audits' review of 83 parole discharges for their compliance with the Department of Corrections and Rehabilitation's discharge policies.

NA = Not Applicable

* The Board of Parole Hearings had previously taken action to revoke or retain on parole and is therefore required to make the final decision to discharge or retain these parolees.

processed the cases as discharges. These examples illustrate that Case Records Office staff play an integral role in the discharge review process.

In the remaining three cases, the board had final authority to discharge; however, Case Records Office staff did not forward the cases to the board. In these instances, the district administrators recommended discharging the parolees and forwarded the reports to the Case Records Office. Because the board had previously taken action to revoke these offenders' paroles or to retain the parolees, the reports should have gone to the board for review and final disposition as required by Corrections' policy. In fact, in two of the three cases, the reviewing district administrators had indicated in the discharge reports that staff should refer the cases to the board for final disposition. However, the analysts in the Case Records Office did not forward these discharge review reports to the board; instead, they processed these discharges in violation of Corrections' policy.

Corrections maintains data on actions taken by the board against offenders' paroles and on the entity that discharged each parolee, and Corrections could use this data to verify that the board was involved in discharge decisions when required. However, we identified 12 instances in which Corrections' database indicated that a unit supervisor or district administrator made the final decision to discharge a parolee when in fact the board made the final decision. Corrections' database does not have a field dedicated to identifying which entity made the final discharge decision. Instead, when a unit supervisor or district administrator makes the final decision, staff insert a code in a comment field that typically also contains the

Failure to accurately maintain data related to discharges deprives Corrections of an effective resource for identifying those parolees whose paroles were revoked or suspended or who were previously retained by the board but were subsequently not discharged by the board, as required.

location information of the parolee's central file. By searching for the code in this comment field, we were able to separate records for those parolees discharged by the board from those discharged by unit supervisors or district administrators. However, errors we encountered limit the usefulness of this information. Although Corrections stated that the comment field is not intended to provide statistical data, failure to accurately maintain data related to discharges deprives Corrections of an effective resource for identifying those parolees whose paroles were revoked or suspended or who were previously retained by the board but were subsequently not discharged by the board, as required.

In August 2007 Corrections began requiring its regional administrators, or designees, to audit 10 percent of all discharge review reports submitted each month to district administrators under their supervision. It also began requiring its district administrators to audit 10 percent of the monthly discharge decisions reached by each parole unit under their jurisdiction, excluding those discharge reviews that the parole units initially submitted to the district administrators for disposition. These audits have a limited scope, and Corrections does not intend them to cover all aspects of the discharge process. During their respective audits, regional administrators and district administrators are required to document parole agents' and unit supervisors' recommendations as well as district administrators' decisions, as applicable; to record any reasons for differences of opinion; and to determine compliance with certain aspects of Corrections' discharge policies. However, these audits occur after staff have already processed the parole discharges and retentions, and therefore the audits would not be effective in preventing inappropriate discharges from occurring.

According to a parole agent III in Corrections' policy and procedures unit, if these audits reveal instances in which discharge policies are not being followed, Corrections will take appropriate corrective action. Corrections provided information that indicated that between August 2007 and May 2008, it conducted 6,380 discharge audits and noted instances of noncompliance. However, Corrections was unable to provide us with accurate data on the number of these instances of noncompliance identified through such audits. In addition, the nature of the types of noncompliance are unknown because regional and district administrators did not record this information during their reviews. The official in Corrections' policy and procedures unit indicated that when instances of noncompliance were suspected, the appropriate administrator discussed the issue with affected staff. However, because the administrators are not recording the nature of the problems identified through each of their audits, Corrections is unable to identify any common areas of noncompliance that

may be occurring throughout the parole districts. Consequently, Corrections is limited in its ability to identify the need for additional training for all parole staff.

Corrections Is Taking Actions to Address Discharge Review Reports That Were Altered Inappropriately

In December 2007 Corrections reported that an internal investigation determined that one of its district administrators discharged parolees after altering discharge review reports prepared by parole agents and unit supervisors who recommended retaining parolees. Corrections subsequently referred the investigation to the State's Office of the Inspector General (Inspector General), which launched an investigation and determined that the district administrator may have used poor judgment but it found no evidence of criminal or administrative misconduct. In addition, Corrections initiated an ongoing internal audit to determine whether a sample of parolee discharge decisions comply with state laws and its internal policies. Corrections is also developing a policy memorandum to prohibit unit supervisors and district administrators from altering discharge review reports.

On December 19, 2007, Corrections issued a press release noting that an internal investigation found that a district administrator inappropriately altered discharge review reports prepared by parole agents and unit supervisors recommending retention. Corrections noted that a preliminary audit revealed a number of instances in which the district administrator altered with corrective liquid the unit supervisors' decision boxes on discharge review reports. In some of these cases, a parole agent and unit supervisor recommended to "retain" the parolee, but the district administrator changed their recommendations to "discharge" on the discharge review report. According to Corrections, although district administrators have the authority to make decisions to discharge or recommendations to retain parolees that may be different from staff recommendations, altering recommendations of subordinate staff is inconsistent with Corrections' protocols.

Corrections noted that upon discovering the altered reports, Corrections reassigned the district administrator and removed his authority to make discharge decisions. Further, its office of internal affairs opened an investigation and the following day referred the investigation to the Inspector General. In March 2008 the Inspector General completed its investigation and reported that it found no evidence of criminal or administrative misconduct by the district administrator. According to the deputy regional administrator, the district administrator has regained his previous responsibilities.

In March 2008 the Inspector General completed its investigation and reported that it found no evidence of criminal or administrative misconduct by the district administrator.

Corrections also initiated an ongoing internal audit to determine whether its parole discharge practices comply with its own policies and with state laws; it expects to issue the results of this internal audit in August 2008. In addition, the director of adult parole indicated that he held a meeting in early 2008 with all regional and district administrators and verbally instructed them not to alter discharge review reports prepared by their subordinates. Further, Corrections has drafted a policy memorandum that formally prohibits district administrators and unit supervisors from altering the recommendations of subordinate staff on discharge review reports.

We interviewed the district administrator in question to obtain his perspective on why he altered the reports. He stated that in some instances in the past, Case Records Office analysts had inadvertently forwarded to the board cases to retain parolees despite his decision to discharge the parolees. According to the district administrator, Case Records Office staff sometimes confused a unit supervisor's recommendation to retain as the final decision and failed to note the district administrator's overriding decision to discharge the parolee. To avoid this potential confusion, he used corrective liquid to cover the box that his unit supervisors had checked to indicate that the discharge review should be forwarded to the board to take action to retain the parolee. He stated that he also checked the discharge box in the unit supervisor's section of the discharge review report as well as the box in his own section of the report. During our review, we noted two such instances in which he had done this. The district administrator also stated that he did not remove any of the unit supervisors' comments, which often include the explanations for their recommendations. Asserting that this practice did not have an adverse impact on the discharge process, the district administrator further stated that he was not aware of any policies at the time that prohibited the use of corrective liquid for such purposes. Moreover, he said that he had been using corrective liquid in this fashion for five years and that he had never before been told that this was an inappropriate practice. Finally, the district administrator asserted that when Corrections recently told him that this practice was not appropriate, he immediately stopped doing it.

The district administrator said that he had been using corrective liquid for five years to cover the box that his unit supervisors had checked to indicate a recommendation to retain the parolee and had never before been told that this was an inappropriate practice.

Pending Changes Could Expand the District Administrator's Role and Authority in the Discharge Process

Changes to state law and proposed revisions to Corrections' policies could increase the district administrator's role and authority in the discharge review process, if implemented. Changes in state law authorize Corrections to implement a program that would allow district administrators the authority to discharge

certain parole violators who, under the laws and policies in effect during the period we reviewed, were to be discharged by the board. However, under this law, the program may not be implemented unless funding is appropriated for its purpose. Additionally, Corrections reported that it has also drafted new regulations and a new policy memorandum that, if implemented, will govern its parole discharge process. The draft policy memorandum will also purportedly expand the role and authority of district administrators by increasing their involvement in the discharge process when a parole agent and unit supervisor have a difference of opinion.

As the Introduction discusses, under state law and Corrections' policies, only the board may discharge parolees whose parole periods the board adversely affected. Chapter 645, Statutes of 2007, which became effective January 1, 2008, authorizes Corrections to create the Parole Violation Intermediate Sanctions (PVIS) program, if funding is appropriated for this purpose in the Budget Act of 2008 and subsequent budget acts. Eligible parole violators, if admitted to the PVIS program, receive a specific treatment and rehabilitative plan. These parole violators' pending revocation proceedings with the board are suspended contingent upon the successful completion of the program, at which point they are able to continue on parole without any adverse board action on their record for that parole violation. Therefore, the PVIS program would ultimately allow district administrators or unit supervisors to discharge certain parolees who would otherwise require the board to make final discharge decisions.

Under the new law, the purpose of the program is to improve the rehabilitation of parolees, reduce recidivism, reduce prison overcrowding, and improve public safety. Should the PVIS program be funded and implemented, the law requires Corrections to conduct an evaluation of it and report to the Legislature. The law also requires Corrections, if the PVIS program is funded and implemented, to report annually to the Legislature, beginning January 1, 2009, regarding the status of the PVIS program and the number of participants. According to Corrections, it has not implemented the PVIS program because the governor's proposed fiscal year 2008–09 budget does not include any funding for the program.

In addition to statutory changes, Corrections reported that it has drafted new regulations and a new policy memorandum that, if implemented, will govern its parole discharge process. Specifically, in a letter dated August 4, 2008, the chief deputy secretary of Adult Operations stated that Corrections has drafted regulations to better ensure that appropriate personnel thoroughly review parole cases before parolees are discharged. The proposed regulations would clarify, codify, and standardize Corrections' best practices,

Corrections asserts that it has not implemented the Parole Violation Intermediate Sanctions program because the governor's proposed fiscal year 2008-09 budget does not include any funding for the program.

ensure their consistent application, and mandate the completion of discharge reviews. The chief deputy secretary asserts that these regulations are currently in the stakeholder review phase, and he expects that they will be forwarded to Corrections' Regulations Policy and Management Branch in September 2008.

Moreover, the chief deputy secretary stated that Corrections has also drafted an omnibus memorandum that will detail the policy and procedures governing parole discharges. The memorandum purportedly will align Corrections' best practices with state law and the proposed revisions to the California Code of Regulations. He asserts that the draft policy memorandum will set forth discharge criteria; applicable timelines; the process for documenting the review; the necessary supervisory levels of review; and special considerations for violent offenders, sex offenders, second strikers, participants in enhanced outpatient programs, global positioning system participants, parole violators with new terms, ICE cases, and civil addicts. As discussed previously, the new draft policy will also specifically require district administrators to document the reasons for their discharge decisions. In addition, the chief deputy secretary asserts that the draft policy will also specifically require Corrections to prepare discharge review reports for deported parolees. The draft memorandum will also purportedly expand the district administrator's role and authority. Specifically, it would require staff to forward to the district administrator for review any discharge review report in which a parole agent and unit supervisor disagree about whether to retain or discharge a parolee. Under its current policy, a unit supervisor can often discharge without a district administrator's review a parolee who has not been convicted of a serious or violent offense within the last 10 years and who is not a registered sex offender or validated gang member.

Recommendations

To prevent the automatic discharge of parolees, Corrections should ensure that staff promptly prepare discharge review reports for all eligible parolees.

Corrections should finalize and implement the draft regulations and policy memorandum that will detail the policy and procedures governing its parole discharge process. The new policy should prohibit unit supervisors and district administrators from altering discharge review reports prepared by others. In addition, the new policy should require district administrators to document their justifications for discharging parolees against the recommendations of both parole agents and unit supervisors. Finally, the new policy should require that discharge review reports be prepared for deported parolees.

To ensure that parolees are discharged in accordance with its policies and with state laws, Corrections should make certain that the appropriate authority makes decisions to discharge or retain parolees.

To document more accurately whether its staff completed discharge reports, Corrections should ensure that staff members properly code in its database the reasons for parolees' discharges. Further, to better identify the entities that make final discharge decisions for given cases, Corrections should establish a more precise method for maintaining information about which entity made the final discharge decisions, such as a new discharge reason code or a new data field that will track this information.

Because we found some discharges that did not comply with Corrections' policies even after Corrections had implemented its protocol requiring that regional and district administrators review 10 percent of the discharge decisions made by subordinates, Corrections should consider providing to parole staff and analysts from the Case Records Office additional training on its discharge policies. If, after providing this training, regional and district administrators find that staff are still not following discharge policies, Corrections should consider requiring that the respective administrators perform these reviews before discharge decisions are finalized.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of the report.

Respectfully submitted,



ELAINE M. HOWLE
State Auditor

Date: August 26, 2008

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For questions regarding the contents of this report, please contact Margarita Fernández, Chief of Public Affairs, at (916) 445-0255.

(Agency response provided as text only.)

Department of Corrections and Rehabilitation
Office of the Secretary
P.O. Box 942883
Sacramento, CA 94283-0001

August 14, 2008

Elaine M. Howle, State Auditor*
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Ms. Howle:

This letter in response to the Bureau of State Audits' (BSA) report entitled ***California Department of Corrections and Rehabilitation: It Does Not Always Follow Its Policies When Discharging Parolees***. As you are aware, the California Department of Corrections and Rehabilitation (CDCR) initiated an internal audit regarding the same subject prior to your effort and identified several areas needing improvement. We are pleased that you confirmed our findings and recognize our proactive approach. Not only did we take corrective action where it was indicated, but we have implemented policy changes to correct areas identified as needing improvement.

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The Department recognizes the relationship between our case records and parole offices is an integral association in the parole discharge process. As a result of both CDCR's and BSA's audit reports; the Department has aggressively employed a number of changes to improve the overall process. As noted in your report, our Department has fully implemented an immediate measure that will significantly reduce the number of "lost jurisdiction" cases including stationing assistant regional administrators at both case records locations to guarantee that every parolee file pending discharge based on lost jurisdiction is reviewed. As a long-term measure, CDCR already has implemented an automated computer system that will track discharge review dates and produce management reports to key Division of Adult Parole Operations officials who monitor upcoming discharges to ensure proper discharge reviews are completed before jurisdiction is lost. Additionally, the Department is in the process of amending the California Code of Regulations to better ensure the completion of proper parole discharge reviews and will be training staff to apply these new procedures once the proposed regulations are enacted. We appreciate that your report has recognized our remedial efforts in this regard.

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We welcome your input and look forward to your future efforts to further our mission of public safety through improved and effective parole practices. Should you have any questions or concerns, please contact me at (916) 323-6001.

Sincerely,

(Signed by: Scott Kernan)

SCOTT KERNAN
Chief Deputy Secretary
Adult Operations

* California State Auditor's comments begin on page 35.

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Comments

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE DEPARTMENT OF CORRECTIONS AND REHABILITATION

To provide clarity and perspective, we are commenting on the Department of Corrections and Rehabilitation's (Corrections) response to our audit. The numbers below correspond to the numbers we have placed in its response.

On August 1, 2008, we held an exit conference with Corrections and shared the results of our audit. At that time, we asked Corrections if it was prepared to share the results of its internal audit that began before our audit but were told that its draft report was not sufficiently complete to provide anything meaningful to us. As a result, we do not know the results of Corrections' internal audit and thus did not confirm its findings in our report.

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As noted on pages 29 and 30 of our report, on August 4, 2008, Corrections reported to us that it had drafted a new policy memorandum that would govern its parole discharge process and address the concerns noted in our report. At that time, Corrections had not yet implemented the draft policy memorandum. Consequently, our report only describes what Corrections told us it planned to do in response to our findings, it does not affirm that Corrections actually implemented any of these changes because Corrections has not provided any evidence to demonstrate that it has implemented a new policy.

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Our report does not validate Corrections' assertion that it has aggressively employed a number of changes to improve its discharge process. Specifically, on pages 19 and 20 of our report, we describe Corrections' August 4, 2008, statement to us that it is implementing an immediate measure that it asserts would significantly reduce the number of lost jurisdiction cases by stationing assistant regional administrators at each of its Case Records offices to ensure that discharge reviews are completed for all parolees prior to discharge. We do not have any evidence that Corrections has actually implemented this measure. Similarly, on page 20 of our report, we describe Corrections' assertion that it plans to implement an automated computer system that would track discharge review dates and produce certain management reports. On August 4, 2008, Corrections reported to us that it expected that this new system would be fully operational by August 15, 2008. Again, we do not have any evidence that this system is now operational and we have not seen or evaluated these management reports. However, we look forward to receiving this new system's management reports as part of Corrections' 60-day response to our audit.

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- ④ By stating that our report recognized Corrections' remedial efforts regarding its regulations, we assume Corrections is referring to an assertion its chief deputy secretary of Adult Operations made on page 30 that the draft regulations were in the stakeholder review phase and he expects that they will be forwarded to Corrections' Regulations Policy and Management Branch in September 2008. What the chief deputy failed to mention is that, if approved in September by Corrections, the draft regulations must still meet the procedural requirements of the Administrative Procedure Act, which requires a public comment period and approval by the Office of Administrative Law. This process can take anywhere from 30 days up to six months to complete. However, we are not aware of anything that precludes Corrections from implementing its new draft procedures and providing related training to its staff before its proposed regulations are enacted. Also, if the proposed regulations would govern only Corrections' internal procedures for discharging parolees, state law does not require Corrections to enact regulations prior to implementing such procedures.

cc: Members of the Legislature
Office of the Lieutenant Governor
Milton Marks Commission on California State
Government Organization and Economy
Department of Finance
Attorney General
State Controller
State Treasurer
Legislative Analyst
Senate Office of Research
California Research Bureau
Capitol Press