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2  
3 **IN THE UNITED STATES DISTRICT COURT**  
4 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

5 ALEJANDRO MADRID, et al., )

6 Plaintiffs )

7 v. )

8 )  
9 )  
10 JIM TILTON et al., )

11 Defendants, )  
12 )  
13 )  
14 )

NO. C90-3094-T.E.H..

SPECIAL MASTER'S FINAL REPORT  
RE STATUS OF POST POWERS  
REMEDIAL PLAN MONITORING

15 **I.**

**INTRODUCTION**

16 On November 11, 2006 the Court ordered the Special Master to continue to monitor the  
17 California Department of Corrections and Rehabilitation's ("CDCR") investigations and  
18 disciplinary process. In that same Order the Court instructed the Special Master to continue to  
19 monitor the Bureau of Independent Review ("BIR"). *See* Order filed November 11, 2006 at  
20 pages 18-19.

21 **II.**

22 **THE SPECIAL MASTER'S POST POWERS MONITORING**

23 Pursuant to the Order of November 11, 2006, and working with the parties and the BIR,  
24 the Special Master established and implemented a "45-day" meeting process. *See* Exhibit 1.  
25 Meetings have been held on schedule with good participation by CDCR and BIR officials. The  
26 Office of the Governor has also filed quarterly reports, as previously requested and as approved  
27 by the Court. *See* Exhibits 2 and 3. Because of involvement in other matters, however, the

1 Special Master did not file his first quarterly monitoring report. This report summarizes the  
2 Special Master's findings concerning the status of Post Powers remedial progress from January  
3 2007 through the July 2007 45-day meeting.

4 **III.**  
5 **FINDINGS**

6 A. Staffing.

7 While staffing presented challenges to the Office of Internal Affairs ("IA"), the  
8 Employment Law Advocacy Team ("EAPT") and the BIR during the first half of 2007, each  
9 organization took steps to ensure that vacancy rates were appropriately managed. For example,  
10 by July 2007 IA was functioning with a vacancy rate of approximately ten percent, despite  
11 adding additional positions to the organization during 2007.<sup>1</sup> Likewise, while EAPT functioned  
12 during much of early 2007 with an unacceptably high vacancy rate, following the implementation  
13 of the Court ordered salary differential and because of EAPT's continuous effort to improve  
14 recruitment techniques in Southern California, EAPT entered the Summer of 2007 with a  
15 significantly improved vacancy rate.<sup>2</sup>

16 At the same time EAPT has been re-organized, a major improvement in operations which  
17 provided for a higher level of overall management and the addition of four regional managers.  
18 See Exhibit 5. The State's decision to enhance the EAPT's organization, including the addition  
19 of several lawyer/managers, represents one of several examples of an on-going commitment to  
20 the Post Powers remedial process.

21 BIR has likewise taken steps to improve its recruitment and retention of lawyers who  
22 have the skills and experience necessary to fulfill the mission of BIR oversight. For example,  
23 BIR made the decision to transfer its attorneys into civil service positions during 2007, a change

24 \_\_\_\_\_  
25 <sup>1</sup> By mid-2007, after prodding by the Special Master, the State finally implemented the processes  
26 necessary to bring the salaries and benefits of IA agents in line with salary increases and benefits  
which had been granted months earlier to CDCR rank and file and management personnel.

27 <sup>2</sup> The differential was implemented in January 2007. See Exhibit 4.

1 that involved a series of complicated modifications to duty statements, benefits, etc. Not only  
2 BIR but also the Department of Personnel Administration was involved in this process.  
3 Although the negotiation and implementation of these changes has had its difficulties, the final  
4 result to date has been positive, presenting another example of the State's commitment to  
5 effective BIR oversight of CDCR investigations and discipline.

6 To summarize, as of the date of this report, defendants are in compliance with the staffing  
7 related requirements of the State's Post Powers remedial plan.

8 B. Management and Control of Investigations and Discipline.

9 Defendants have implemented a number of measures during 2007, and have announced  
10 plans to continue with important revisions throughout 2007 and into 2008, which provide for  
11 improved management of investigations and discipline. For example, slow but steady progress  
12 continues with the development of CDCR disciplinary system performance measures. *See*  
13 Exhibits 6 & 7. Likewise, extensive work has been done to improve the performance and  
14 capabilities of the Case Management System ("CMS"), with an anticipated late 2007 roll out of  
15 CMS v3.0 (with a re-engineered platform designed to create a faster, more stable and complete  
16 record keeping and tracking environment that includes the ability to provide additional and more  
17 detailed reports). *See* Exhibit 8.

18 To summarize, as of the date of this report, defendants are in compliance with the  
19 management and control of investigation and discipline related requirements of the State's Post  
20 Powers remedial plan.

21 C. Working Together, Coordination and Communication.

22 The essence of the State's Post Powers remedial plan calls for IA, EAPT, and the BIR to  
23 work together, including coordinating and communicating concerning pending investigations and  
24 discipline cases. Overall, the three organizations have endeavored in good faith to meet this  
25 objective. The road has not been perfect; however, what appear to be occasional and interim  
26 problems should be evaluated in consideration of the following factors:

- 27 1. The Post Powers remedial program is relatively new. It calls for a wide scope of  
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1 changes in State practices. Furthermore, IA, EAPT, and BIR have different, although inter-  
2 related missions. Tensions should be anticipated during the start-up process, including when  
3 each of the organizations expand (for example, the tensions which have arisen around IA's  
4 decision to utilize "satellite" offices, and the tensions which have arisen concerning EAPT co-  
5 locating with IA and BIR in Southern California). What remains critical is that the leadership of  
6 each organization recognize this, and endeavor to work cooperatively with their peers to manage  
7 these tensions.<sup>3</sup> All in all, this has been accomplished effectively.

8         2. Due to staffing shortages and other issues, EAPT has not progressed as fast as IA and  
9 BIR. To their credit, as mentioned above, defendants recognized this and engaged in a number  
10 of important corrective actions, including re-structuring the unit and adding necessary staff to  
11 improve case coverage problems.

12         3. As discussed below, serious problems within the CDCR continue to delay the  
13 implementation of an adequate investigation and discipline system at the institutional level,  
14 within the Parole Division, and inside several of the juvenile facilities. These systemic problems,  
15 aggravated by overcrowding, add to the daily tensions which arise between IA, EAPT, and the  
16 BIR.

17         Despite occasional problems, the Special Master finds that, as of the date of this report,  
18 defendants are in compliance with the "working together" requirements of the State's Post  
19 Powers remedial plan.

20         D. The Bottom Line - Quality of Investigations and Discipline.

21         Overall, the timeliness and quality of internal affairs investigations and the CDCR  
22 discipline process has improved dramatically as the State has implemented the Post Powers  
23

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24         <sup>3</sup> Court expert Michael Gennaco and his staff are currently engaged in a peer review of the BIR.  
25 Some initial findings concerning one region have been shared with counsel; however, these findings  
26 are both partial and tentative. After all regions are subject to review, Mr. Gennaco will prepare a  
27 draft report which the Special Master will distribute to the parties and the Inspector General for  
28 comments - identical to the procedure set forth in the Order of Reference filed January 23, 1995.  
After meetings and discussions with the parties and the Inspector General, a final peer review report  
will be submitted to the Court.

1 remedial plan. For example, prior to the reorganization of the IA, the creation of EAPT, and the  
2 formation of BIR, as reported by Inspector General Steve White, approximately 45% of all use of  
3 force investigation/discipline cases were not fully prosecuted because the State failed to meet  
4 statute of limitations requirements. Numerous other cases, as explained by the Special Master  
5 in his earlier reports, were lost due to the poor quality of IA investigations, poor discipline  
6 decisions, and the failure to adequately monitor the *Skelly* process. The most recent BIR  
7 statistics, however, present a dramatically different set of outcomes. See Exhibit 9 (January 2007  
8 to June 2007 summary of case dispositions); Exhibit 10 (January 2006 to June 2006 overview of  
9 case dispositions); Exhibit 11 (July 2006 to December 2006 overview of CDCR investigations);  
10 Exhibit 12 (January 2006 to December 2006 overview of CDCR advocacy); and Exhibit 14  
11 (January 2007 to June 2007 overview of CDCR hiring authorities). Overall 6.28% of the CDCR  
12 investigation/discipline cases tracked by BIR were not in compliance with the requirements of  
13 the Post Powers remedial plan, and approximately one-half of these cases were "saved" by BIR  
14 intervention so that the ultimate outcome of the case was adequate.

15 Therefore, while the system is not yet perfect, the Special Master finds that, as of the date  
16 of this report, defendants are in compliance in achieving the bottom line of the State's Post  
17 Powers remedial plan, an overall effective use of force/code of silence related investigation and  
18 discipline program.

#### 19 IV.

#### 20 THE SPECIAL MASTER'S CONCERNS RE 21 THE CESSATION OF MONITORING

22 As explained above, defendants and the State of California continue to make important  
23 progress implementing the Post Powers remedial plan. The monitoring of investigations and  
24 discipline by the BIR indicates that in actual practice, given the tight controls which currently  
25 exist, defendants have achieved substantial compliance with the Court approved remedial  
26 program. Assuming this progress continues, the Special Master may be in a position to present  
27 findings to the Court in January 2008 upon which to terminate the Post Powers element of the

1 *Madrid* remedial plan.

2           Nevertheless, the Special Master (and perhaps the parties) has concerns about the  
3 cessation of monitoring. Simply stated, underlying problems within the CDCR appear to have  
4 grown so severe that they threaten Post Powers progress. It would not be fair to the State if the  
5 Special Master did not share these concerns. Therefore, the Special Master mentioned them at  
6 prior 45 day meetings, and repeats them in writing below:

7           1. *Turnover*: The CDCR continues to experience high levels of turnover among Central  
8 Office officials, Wardens, Chief Deputy Wardens, Employment Relations Officers, and Health  
9 Care Managers. It has been reported to the Special Master far too often that well managed  
10 investigations have been referred to the appropriate hiring authority, only to have the discipline  
11 element of the action subsequently mis-managed (although, as reported above, in most cases  
12 serious problems have been averted by prompt EAPT or BIR intervention).

13           The Post Powers remedial plan was designed with the assumption that BIR will function  
14 as an oversight, watchdog organization monitoring the effectiveness of the overall CDCR  
15 investigation and discipline process. Given the existing levels of manager and executive  
16 turnover within the CDCR, however, the burden on IA, EAPT, and the BIR has increased.  
17 Oversight has mutated into a continuous process of use of force related "hand-holding." By mid-  
18 2007 IA, EAPT, and the BIR collectively face a new reality wherein they are expected to ensure  
19 adequate investigations and discipline in an environment where prison managers turnover so  
20 frequently that their replacements are unaware of, and lack experience concerning, the basic  
21 tenants of the State's investigation and discipline processes.

22           There are no signs that CDCR turnover is decreasing; indeed, the opposite appears to be  
23 true. The Special Master is not certain whether this increased burden can be maintained by these  
24 three critical organizations over a long period of time without significant re-structuring and  
25 increased staffing.

26           2. *The CDCR's Failure to Establish Effective and Consistent Executive Review of the*  
27 *Use of Force in its Prisons*: The Post Powers remedial plan was developed with the assumption

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1 that use of force and code of silence problems would come to light through prison-specific use of  
2 force reviews. However, the CDCR has failed to adequately provide the training, monitoring,  
3 staffing, and culture necessary to ensure an adequate review of the use of force at any prison –  
4 except for the Court mandated program at Pelican Bay State Prison. Various paper programs  
5 have been announced, but in reality nothing substantial has been achieved at other institutions  
6 that has lasted more than a short period of time. As a result, the Executive Review Committee  
7 (“ERC”) process, which should be well defined, participatory, and consistent between  
8 institutions has in reality none of these characteristics. In some prisons, the ERC does not  
9 function as an ERC at all.

10 It is apparent to the Special Master that CDCR officials have not developed a realistic or  
11 timely plan to remedy this problem. Without effective, consistent, appropriately staffed and  
12 appropriately monitored ERC’s, some use of force and code of silence cases may never come to  
13 light at the prison where they took place. As a result the cases do not reach Central Intake, that  
14 critical point where effective monitoring under the Post Powers remedial plan begins.

15 To its credit, BIR has recognized this problem and proposes to expand its use of force  
16 monitoring to include ERC processing, a decision the parties and the Special Master strongly  
17 endorse. Again to its credit, the BIR will commence this expansion immediately; however,  
18 additional “PY” positions and increased funding will be needed to continue the BIR’s monitoring  
19 of ERC processes into 2008. For a BIR workload analysis, *see* Exhibit 14.

20 Monitoring, however, will not solve the underlying problem, given the fact that many  
21 prisons have never been provided with the technical resources and staffing necessary to conduct  
22 an adequate executive review of the use of force. The BIR’s oversight will, however, help  
23 provide more objective information concerning the scope of the problem, and it should assist  
24 prison hiring authorities in rendering more complete and consistent force evaluations until real  
25 solutions are developed and implemented by the CDCR.

26 3. *The CDCR’s Failure to Correct Problems Except Pursuant to Court Order.* The  
27 Special Master’s final concern relates to years of experience working with the CDCR. A long  
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1 standing pattern is apparent. With the rare exceptions, the top level of the CDCR hierarchy has  
2 not demonstrated the commitment necessary to implementing necessary structural and cultural  
3 changes absent very specific direction from the Courts. Thus, even assuming good faith support  
4 by the Office of the Governor (which has been apparent throughout the first half of 2007),  
5 assuming the continued existence of the BIR, and assuming a continuation of the hard work and  
6 dedication from mid-level CDCR officials such as Martin Hoshino and Deborah Ashbrook, there  
7 is no guarantee that Post Powers reforms will continue if the Court ends monitoring. To the  
8 contrary, there are indications within the context of Post Powers that as soon as monitoring ends  
9 the CDCR may start to ignore all that has been achieved and within a matter of months, not  
10 years, the CDCR's management of investigations and discipline will begin to revert to pre-2000  
11 levels of disrepair.

12 To some degree this is a consequence of attempting to effectuate change in an  
13 organization so besieged by problems (from overcrowding to inadequate funding to the lack of  
14 effective leadership) that only the most serious "crisis of the day" gets addressed. The failure to  
15 act may also be related, however, to the continuation of a culture that does not care about  
16 excessive force or the code of silence. For example, the State's Post Powers remedial program  
17 has moved forward more effectively within the adult institutions (which are subject to direct  
18 monitoring by counsel and the Special Master) than it has in the juvenile institutions and Parole  
19 (which are not subject to direct monitoring by counsel or the Special Master). The problem in  
20 juvenile institutions appears to be a combination of a resistant culture and weak management,  
21 despite a desire on the part of high ranking officials to improve investigations and discipline.  
22 The problem in Parole; based on certain recent developments, appears to be a lack of concern  
23 about use of force and code of silence offenses on the part of high level officials.

24 The problem is not easily resolved, and at times it appears difficult for the parties to  
25 discuss the problem objectively. It also raises serious legal questions about the degree of  
26 remedial plan compliance necessary for an end of monitoring. For example, must the State  
27 demonstrate that it will never have future problems? Is the degree of success that has been



1 currently achieved at an adequate level to justify an end to monitoring?

2 The Special Master poses these issues in the context of this six-month progress report to  
3 allow for discussion among the parties. He is not taking a position at this time; indeed, the issue  
4 may need to be referred to the Court for resolution. It is appropriate, however, for plaintiffs, the  
5 CDCR, and the Inspector General to enter into a dialogue concerning this issue before the date  
6 for the possible end of monitoring, January 2008, is at hand.

7 **V.**

8 **COMPLIANCE WITH THE ORDER OF REFERENCE**

9 Pursuant to the Order of Reference filed January 23, 1995, the Special Master served  
10 counsel with a draft version of this report on August 27, 2007, and discussed the draft with  
11 counsel and the BIR at the Post Powers 45 day meeting of September 3, 2007. Thereafter, the  
12 Special Master established a briefing schedule for comments and objections from the parties.  
13 Plaintiffs responded with a letter from Steven Fama dated September 18, 2007 (Exhibit 15).  
14 Defendants responded with a formal Response by Deputy Attorney General Emily Brinkman  
15 dated September 18, 2007 (Exhibit 16). Thereafter, the Special Master conducted a face to face  
16 meeting with counsel concerning the draft report at the Office of the Inspector General in  
17 Sacramento, California on Tuesday October 2, 2007 to discuss the draft report.

18 Plaintiffs raise two issues: (1) expressing concern about the CDCR's possible adoption of  
19 a state wide use of force policy which may differ substantially from the PBSP policy upon which  
20 the Post Powers remedial plan was developed; and (2) requesting that this report be modified to  
21 address a minor but important use of force related issue, the manner by which prisoners are  
22 notified of the outcome of complaints about staff misconduct.

23 Concerning the first issue, after discussion, the parties agreed to meet and confer to  
24 explore a proposal for defendants to submit their proposed statewide use of force plan for Court  
25 approval (and subsequent implementation at PBSP) prior to January 1, 2008. If the parties agree  
26 to proceed in this direction, the Special Master will make Court experts Patrick Maher and  
27 Michael Gennaco available to assist and, if necessary, mediate this process.

1 Concerning plaintiffs' second issue, Court expert Michael Gennaco very recently  
2 completed a series of discussions with the parties that has resulted in a written procedure for  
3 prisoner notification which meets the needs of both plaintiffs and defendants. Given this, and  
4 given the fact that the new plan has not yet been implemented, the Special Master concludes that  
5 this issue will be more appropriately addressed in his next report, after the new program is  
6 implemented and evaluated.

7 Defendants' response begins with a summary of the positive factual findings of the  
8 Special Master, and concludes with a cautionary legal argument relative to the issue of  
9 prospective Federal Court relief. This argument, submitted in response to the concerns expressed  
10 by the Special Master in Section V., raise issues best addressed by the Court – when the Special  
11 Master formally recommends the cessation or continuation of monitoring. To their credit,  
12 however, defendants and plaintiffs commenced a discussion at the meeting of October 2nd  
13 concerning the possibility of stipulating to a termination of the use of force element of *Madrid*,  
14 subject to a limited period of continued monitoring by counsel for the plaintiff class. Again, if  
15 the parties believe it to be helpful, the Special Master and/or the Court's experts are available to  
16 assist with this proposal.

17 VI.

18 SUMMARY AND RECOMMENDATIONS

19 Based on all of the above, the Special Master has determined that his monitoring, and that  
20 of Court expert Michael Gennaco, should continue throughout the remainder of 2007 consistent  
21 with the Order of November 11, 2006. No additional Post Powers related Court orders are  
22 necessary at this time.

23  
24 Dated: October 12, 2007

25  
26   
27 John Hagar  
28 Special Master



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17  
18 I declare under penalty of perjury under the laws of the State of California that the foregoing  
is true and correct. Executed on October 16, 2007 at Sacramento, California.

19  
20   
21 Kristina Hector

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# EXHIBIT 1

JOHN HAGAR - SPECIAL MASTER  
Madrid v. Tilton et al., C-90-3094 T.E.H.

Federal District Courthouse  
Law Library 18<sup>th</sup> Floor  
450 Golden Gate Avenue  
San Francisco, CA 94102

November 20, 2006

BY E-MAIL (PDF) AND BY REGULAR MAIL

DAVID SHAW  
Bureau of Independent Review  
Office of the Inspector General  
P.O. Box 348780  
Sacramento, CA 348780

Re: Post Powers 45-day Meetings for Calendar Year 2007

Dear Mr. Shaw:

Pursuant to Judge Henderson's Order filed November 16, 2006 ("Order") Post Powers Remedial Program "45-day meetings" will take place throughout 2007. The dates for the 2007 meetings are set forth below:

January 15, 2007

March 5, 2007\*

April 16, 2007

May 28, 2007\*

July 16, 2007

September 3, 2007\*

October 15, 2007

December 3, 2007\*

All meetings are set for a Monday. In the event that a meeting date falls on a State Holiday, it will take place on the Tuesday immediately following the holiday. All meetings will be held at the Office of the Inspector General in Sacramento. Dates marked with an "\*" denote those 45-day meetings where the Governor may submit his quarterly report to the Special Master addressing the status of Post Powers remedial plans. The reports should be submitted to the Special Master, counsel, and the Inspector General 10 days prior to the scheduled meetings (*see* Order at 18:13-19).

The initial 2007 Post Powers meeting will take place at the Office of the Inspector General in Sacramento on Monday, January 15, 2007. The meeting will begin at 10:00 a.m. and will last all day. The preliminary agenda includes the following:

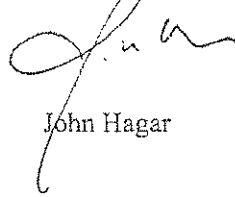
1. Status of Internal Affairs staffing. ✓
2. Status of Vertical Advocate staffing. ✓
3. Status of Internal Affairs performance measure implementation. ✓
4. Status of BIR staffing.
5. Status of BIR proposal to transfer BIR attorneys to civil service positions. ✓
6. Status of BIR protocol modifications. ✓
7. Status of CDCR response (including investigations) concerning the Inspector General's report of abuse, by labor union representatives, of release time bank and other union-time-off provisions of CDCR labor contracts.
8. Status of DPA action re 3% at age 50 for investigators. ✓
9. Status of CDCR/DPA review of investigator salary range. ✓
10. Status of proposed legislation re SPB reciprocal discovery. ✓
11. Status of the development and implementation of the training programs as proposed in Michael Jorgenson's letters of October 13, 2006 (MOU training); October 25, 2006 (follow-up training); and October 25, 2006 (Academy training). ✓

It will be helpful for the remedial process to hear from staff at the Office of Training and Professional Development ("OTPD") responsible for the development of the MOU and follow-up training programs. If documentation concerning the projects is available, please provide this material to the Special Master, counsel, and the Inspector General no less than five days prior to the January 15<sup>th</sup> meeting.

12. BIR case monitoring report (BIR presentation).
13. On-going status report re development of CDCR policies (Michael Gennaco).
14. Labor Relations Discussion (DPA/CDCR).
15. "Small Group" meetings re BIR selected specific investigations (a BIR initiated presentation).

This agenda will be subject to modification. All parties should feel free to contact either Mr. Shaw or the Special Master to add issues of importance.

Yours truly,

A handwritten signature in black ink, appearing to read "John Hagar", written over the typed name below.

John Hagar

cc. Andrea Lynn Hoch  
James Tilton  
Steven Fama  
Mike Jorgenson  
Bruce Slavin  
Kathleen Keeshen  
Debra Ashbrook  
Martin Hoshino  
Tim Virga/Brigid Hanson  
Mike Gennaco  
Warren C. (Curt) Stracener /Paul M. Starkey



# EXHIBIT 2



OFFICE OF THE GOVERNOR

March 2, 2007

*Via Electronic and U.S. Mail*

Mr. John Hagar  
Special Master  
United States District Court, Northern District  
450 Golden Gate Avenue  
San Francisco, California 94102

Re: Madrid v. Tilton

Dear Mr. Hagar:

Pursuant to the order of the court filed on November 16, 2006, Governor Schwarzenegger submits this report regarding his efforts to achieve further progress with the Post-Powers Remedial Plan.

The Special Master's Final Report re Status of State of California Corrective Action Plans for Administrative Investigations and Discipline ("Final Report"), filed on August 22, 2006, sets forth in great detail the substantial progress already achieved by the Administration in this regard. (Final Report, pp. 6-27.) This letter provides an update on these efforts. Contrary to the suggestion in the second half of the Final Report, the Governor and his administration have not wavered from their commitment to reform the California Department of Corrections and Rehabilitation (CDCR).

The Final Report addressed four major areas of reform: Labor Relations with the California Correctional Peace Officers' Association (CCPOA), the Office of Internal Affairs (OIA), the Employment Advocacy and Prosecution Team (EAPT), and the Bureau of Independent Review (BIR). In this letter, we update each area in turn.



Mr. John Hagar  
March 2, 2007  
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## I. LABOR RELATIONS

### A. Negotiations

The administration is committed to negotiating a fair Memorandum of Understanding (MOU) with CCPOA that reaffirms and maintains the state's ability to conduct effective investigations and to take immediate and appropriate corrective action. In that effort, the State has hired the law firm of Kronick, Moskovitz Tiedemann and Girard to assist in these negotiations. The negotiations of the MOU are continuing. The State and CCPOA have already met 22 times for almost 51 hours of negotiations and 21 hours of caucus time.

Although the most recent formal negotiation session was held in November, 2006, the Department of Personnel Administration (DPA), CDCR and CCPOA continue to exchange correspondence and discuss dates and locations for formal negotiations. There have also been informal meetings between DPA, CDCR and CCPOA in an attempt to narrow differences. Additionally, the parties have been trying to resolve arbitration proceedings that will impact the negotiations.

### B. Labor Litigation

The State continues to assert its management rights through litigation or administrative action. Several cases significant to the *Madrid* Remedial Plan are summarized below.

#### ***Snell, et al., v. California Department of Corrections and Rehabilitation (Pyramid Case)* 5th District Court of Appeal, Case No. F048806**

This case involves an appeal by four employees (2 peace officers, 2 non-peace officers) who were disciplined for lying during an investigatory interview. The employees argued that they could not be disciplined because the statute of limitations had expired for the underlying conduct of engaging in an illegal pyramid scheme. In February 2007, The Fifth District Court of Appeal affirmed the Superior Court's decision to reinstate the dishonesty charges against the four employees. The court ruled that the employees' dishonesty constitutes a separate offense under Government Code section 19635 and does not merge with the underlying misconduct. A petition for review with the California Supreme Court must be filed on or before April 2, 2007.

#### ***CCPOA v. State of California, Youth & Adult Correctional Agency, California Department of Corrections & Steve Westley, et al. (70/30 Post & Bid)* 1st District Court of Appeal, Case No. A113519**

CCPOA contends that it reached an oral agreement with DPA in 2004 to give supervisors a 70/30 post-& bid program. The state denied that such an oral agreement existed, and

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March 2, 2007  
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aggressively defended their position in Court. CDCR was successful in the trial court and CCPOA appealed. Oral argument was heard on February 28, 2007 in the First District Court of Appeal.

***DPA & California Department of Corrections and Rehabilitation v. CCPOA***  
**(Release Time Bank (RTB) Appeal of Order to Vacate)**  
**3rd District Court of Appeal, Case No. C0551636**

In this case, an arbitrator struck a provision of the MOU that provided for a cap on union member's release time. DPA prevailed on its petition to vacate the arbitrator's award on the basis that the arbitrator exceeded her jurisdiction. CCPOA appealed the Court's decision to grant the DPA petition. Both parties have completed briefing in the Third Circuit Court of Appeal and are awaiting notice of oral argument.

***CCPOA v. DPA /California Department of Corrections and Rehabilitation***  
**(RTB Reformation Action)**  
**Sacramento Superior Court, Case No. 05AS05470**

In this lawsuit, CCPOA seeks to reform the Unit 6 MOU in order to remove the cap on a union member's release time. The court denied the state's motion for judgment on the pleadings. Discovery is currently underway. A status conference is set for March 19, 2007.

***CCPOA, et al. v. DPA, California Department of Corrections and Rehabilitation, et al.***  
**(Union Free Speech)**  
**San Francisco Superior Court, Case No. 06-450906**

In a Section 1983 action, CCPOA claims defendants (CDCR, DPA, Hickman, Hanson, and Virga) interfered with the union's free speech and association rights in connection with union leave. CCPOA seeks an unspecified amount of compensatory damages, including emotional distress, punitive damages and attorney fees. The state defendants in this lawsuit are represented by the law firm of Littler Mendelson. Trial is set for September 10, 2007.

C. Arbitrations

***CCPOA v. California Department of Corrections and Rehabilitation***  
**(Freeze on Lateral Transfer)**  
**Department of Personnel Administration, Case No. 06-06-0299-IA**

CCPOA challenges CDCR's policy on freezing lateral transfers to ease the vacancy rates at remote institutions. The State has aggressively defended this policy because its removal

Mr. John Hagar  
March 2, 2007  
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would impede CDCR's ability to safely staff its institutions. The first day of arbitration was held on February 14, 2007, and the next date is set for April 3, 2007.

***CCPOA v. California Department of Corrections and Rehabilitation***  
**("Acting" Correctional Officer Arbitration)**  
**Department of Personnel Administration, Case No. 05-06-0348**

CCPOA filed a challenge to CDCR's policy of allowing sergeants and other correctional supervisory personnel to fill vacant correctional officer positions. A removal of this policy would impede CDCR's ability to efficiently staff its institutions. Arbitration is set for June 14, 2007.

***CCPOA v. State of California, et al. (Supervisors at Rank-&-File Bargaining Table)***  
**Department of Personnel Administration, Case No. 05-06-0981 IA**

In this action, CCPOA seeks to compel arbitration on whether supervisors should be allowed at the rank-and-file bargaining table. The State refused to arbitrate because the Excluded Employees Bill of Rights prohibits supervisors from representing rank-and-file employees in bargaining. (Gov't Code, § 3529, subd. (c).) The State aggressively defended its position and prevailed in the trial court. CCPOA appealed to the First District Court of Appeal. The Court of Appeal overturned the superior court's ruling and ordered DPA to arbitrate the issue. Arbitration is scheduled for June 11, 2007.

***CCPOA (Newton) v. CDCR (CCPOA Representation on Management Initiated Committees)***  
**Department of Personnel Administration, Case No. 05-06-0175, 06-06-0182**

CCPOA sought to enforce section 2.10 of the MOU concerning union representation on management-initiated committees at Pelican Bay State Prison. Over the State's objection, the arbitrator ruled in January 2007, that section 2.10 entitles CCPOA representation on specified committees.

## **II. OFFICE OF INTERNAL AFFAIRS (OIA)**

The Governor's 2006/07 Budget added significant new staffing to the OIA. Specifically, the Budget added 9.5 special agents, 9.0 senior special agents, 2.0 staff service analyst/associate government program analysts and an office technician. In addition to these 21.5 positions, 16.5 positions were redirected from the Division of Adult Institutions to the OIA. These new and transferred positions show the Governor's commitment to reform and to the Post-Powers Remedial Plan. 7

In addition to the new staff positions, on September 27, 2006, the Governor appointed the Chief of Headquarters Operations and the Chief of Field Operations for the OIA. Moreover, the administration approved pay letters authorizing the 3.0% at age 50 retirement formula for special agents as well as a 3.5% general salary increase for them. These changes, approved by the administration, will no doubt benefit CDCR's recruitment and retention efforts at OIA. This, in turn, will advance our progress in furthering the Post Powers Remedial Plan.

### **III. EMPLOYMENT ADVOCACY AND PROSECUTION TEAM**

The Governor has encouraged and supported expansion of the EAPT. Specifically, the Governor's 2006/07 Budget authorized an additional 9.6 staff counsel positions, 10.0 staff counsel III specialist positions, 1.4 staff counsel III-supervisor positions, 4.4 legal assistant positions and 3.4 legal secretary positions for the EAPT. This expansion of the vertical advocacy program will be instrumental in making sure that investigations are properly initiated and that the discipline process proceeds in a timely and effective manner.

In addition, the Governor's administration is continuing to effectuate a reorganization of the EAPT to ensure greater reform. Initially the EAPT was overseen by a single assistant general counsel. Recognizing the growth of the team as well as the importance and difficulty of the work, the EAPT was reorganized into four teams, each supervised by its own assistant general counsel. The entire EAPT is now managed by a chief counsel. Appointments have already been made to the chief counsel position as well as three of the assistant general counsel positions. Finally, the administration supported the creation of the first staff counsel IV position in CDCR's Office of Legal Affairs.

On November 16, 2006, the Court ordered all EAPT attorneys, including management, receive a \$900 per month recruitment and retention differential effective November 1, 2006. In January 2007, the administration approved the differentials approved and payments began retroactively to November 1, 2006. The additional differentials for 41 positions required an annual budget augmentation of \$535,000.

### **IV. BUREAU OF INDEPENDENT REVIEW (BIR)**

As noted in the Special Master's August 22, 2006 report, "Governor Schwarzenegger displayed the courage to reverse an earlier decision to eliminate the Office of the Inspector General...In addition, the Governor took an additional step; he added...the Bureau of Independent Review." The Governor has not wavered in his support for the OIG and the BIR. Notably, the Governor's Budget for Fiscal Year 2006/2007 includes \$15.2 million and 95 positions for the Office of the Inspector General, of which \$5.2 million and 27 positions are slated for the Bureau of Independent Review. In order to ensure the long-term stability of the

Mr. John Hagar  
March 2, 2007  
Page 6

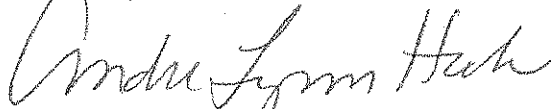
BIR, the Governor approved the Inspector General's plan to convert the BIR attorneys from gubernatorial appointees to civil servants. This plan was also recently approved by both the State Personnel Board and Department of Personnel Administration.

The BIR issued its Semi-Annual Report in December 2006 in which it details its case monitoring and oversight activities from January 1, 2006, through June 30, 2006. The Report also describes the progress the Bureau made in hiring additional professional and support staff during that reporting period, and its efforts to regionally locate staff to offices adjacent to the offices of the OIA. The BIR intends to focus in the next reporting period on improving communications with the hiring authorities in the Divisions of Correctional Health Care, Juvenile Justice, and Adult Parole Operations.

#### CONCLUSION

The Governor thanks you for the opportunity to report on our progress in achieving real reform. The administration's continued support of the BIR, the OIA and the EAPT will continue to advance reform and ensure the integrity of the prison system.

Sincerely,



ANDREA LYNN HOCH  
Legal Affairs Secretary

cc: via U.S. & Electronic Mail to: Service List

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DECLARATION OF SERVICE

I, Cristi Caspers, declare as follows:

I am employed in the County of Sacramento, State of California; I am over the age of eighteen years and am not a party to this action; my business address is State Capitol, Sacramento, California 95814, in said County and State. On March 2, 2007, I served the within document:

**Governor Schwarzenegger's Report Regarding His Efforts to Achieve Further Progress with the Post-Powers Remedial Plan**

by placing a true copy thereof in an envelope addressed to each of the persons named below at the address shown and in the following manner:

**SEE ATTACHED SERVICE LIST**

- BY MAIL:** On March 2, 2007, I placed a true copy in a sealed envelope addressed to each person specifying service by U.S. Mail at the address shown. I am familiar with the office's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
  
- BY ELECTRONIC MAIL:** On March 2, 2007, I sent true copy PDF versions to each of the persons named in the attached Service List at the e-mail addresses specified.

I certify under the laws of the State of California that the foregoing is true and correct and that this Declaration of Service was executed by me on March 2, 2007, at Sacramento, California.

  
Cristi Caspers

# EXHIBIT 3



## OFFICE OF THE GOVERNOR

May 23, 2007

Mr. John Hagar, Special Master  
United States District Court, Northern District  
450 Golden Gate Avenue  
San Francisco, California 94102

Re: Madrid v. Tilton

Dear Mr. Hagar:

Pursuant to the order of the court filed on November 16, 2006, Governor Schwarzenegger submits his second quarterly report regarding his progress with respect to the Post-Powers Remedial Plan.

The Special Master's Final Report re Status of State of California Corrective Action Plans for Administrative Investigations and Discipline ("Final Report"), filed on August 22, 2006, set forth in great detail the substantial progress achieved by the State in these areas. (Final Report, p. 6-27.) This letter updates the gains the State has made in addressing these issues since last quarterly report submitted on March 2, 2007. The State has continued to make significant progress in filling key positions pertinent to implementing the Post Powers Remedial Plan. In order to advance negotiations on a new Memorandum of Understanding (MOU) with the California Correctional Peace Officers' Association (CCPOA), the State has requested and obtained the appointment of a mediator. The State has also continued to assert important management rights in arbitration and litigation actions.

### LABOR RELATIONS

#### Negotiations

On May 10, 2007, the State filed a request with the Public Employment Relations Board (PERB) for the appointment of a mediator to assist the parties in reaching a contract. The State asked that PERB, based on the ineffectiveness of negotiations, determine that the parties are at an



Mr. John Hagar, Special Master  
May 23, 2007  
Page 2

impasse. The State believed a mediator was necessary to reach an agreement because the parties had met only once in the past six months and the contract negotiations have been unsuccessful for almost a year. On May 17, 2007, PERB issued its decision to send the parties to a mediator.

#### Release Time Bank

On March 29, 2007, a settlement agreement was reached between the CDCR and the CCPOA regarding the annual donation and usage of the Release Time Bank (RTB). At dispute was the annual maximum allowed. The 2001/2006 Bargaining Unit 6 (BU 6) MOU lists an annual cap of 10,000 hours. The CCPOA asserted that the cap number had been deemed negated through the negotiation process that led to the 2001/2006 BU 6 MOU, but that an alleged scrivener's error left the 10,000 hour figure in the language. The recent RTB settlement provides for an annual donation and usage cap of 35,000 hours. The pending litigation is described later in this report.

#### Labor Litigation

*Snell, et al., v. California Department of Corrections & Rehabilitation*  
(Pyramid Case)  
**Fifth District Court of Appeal, Case No. F048806.**

This case involves an appeal by four employees (2 peace officers, 2 non-peace officers) who were disciplined for lying during an investigatory interview. The employees argued that they could not be disciplined because the statute of limitations had expired for the underlying conduct of engaging in an illegal pyramid scheme. In February 2007, the Fifth District Court of Appeal affirmed the Superior Court's decision to reinstate the dishonesty charges against the four employees. The Court ruled in a published decision that the employees' dishonesty constitutes a separate offense under Government Code section 19635 and does not merge with the underlying misconduct. The employees have filed a request in the California Supreme Court to have the case de-published, which the State has opposed.

*CCPOA v. State of California, Youth & Adult Correctional Agency, California Department of Corrections & Steve Westley, et al.*  
(70/30 Post & Bid)  
**First District Court of Appeal, Case No. A113519.**

CCPOA contends that it reached an oral agreement with DPA in 2004 to give supervisors a 70/30 post & bid program. The State denied that such an oral agreement existed, and aggressively defended its position in court. The State was successful in the trial court and CCPOA appealed. Oral argument was heard on February 28, 2007, in the First District Court of

Mr. John Hagar, Special Master  
May 23, 2007  
Page 3

Appeal. On April 5, 2007, the appellate court issued an unpublished decision affirming the lower court ruling in favor of the State. CCPOA has filed a petition for review in the California Supreme Court.

***Department of Personnel Administration, California Department of Corrections & Rehabilitation v. CCPOA***  
**(Release Time Bank (RTB) Appeal of Order to Vacate)**  
**Third District Court of Appeal, Case No. C0551636**

In this case, an arbitrator struck a provision of the MOU that provided for a cap on union members' release time. DPA prevailed on its petition in the superior court to vacate the arbitrator's award on the basis that the arbitrator exceeded her jurisdiction. CCPOA appealed to the Third District Court of Appeal. Oral argument was heard on May 14, 2007.

***CCPOA v. Department of Personnel Administration, California Department of Corrections & Rehabilitation***  
**(RTB Reformation Action)**  
**Sacramento Superior Court, Case No. 05AS05470**

In this lawsuit, CCPOA seeks to reform the Unit 6 MOU in order to remove the cap on union member's release time. The court denied defendants' motion for judgment on the pleadings. The State and CCPOA reached a settlement (already referenced above), which establishes a cap on the number of hours that CCPOA may accumulate and use annually. Specifically, the settlement establishes a 35,000 hour annual cap on donations and use and discusses the prospect of excess or deficit hours for the 2006/2007 fiscal year only. For example, for this fiscal year only (ending June 30, 2007), CCPOA may accumulate and use up to 37,500 hours in the RTB. The settlement also makes allowances for the RTB process in the event there is a successor agreement. On May 10, 2007, DPA Labor Relations sent a letter to CCPOA requesting that the union resume reconciliation discussions with CDCR Labor Relations to establish the current balances of the existing RTB.

***CCPOA, et al., v. Department of Personnel Administration, California Department of Corrections & Rehabilitation, et al.,***  
**(Union Free Speech)**  
**San Francisco Superior Court, Case No. 06-450906**

In this Section 1983 action, CCPOA claims defendants (CDCR, DPA, Hickman, Hanson, and Virga) interfered with the union's free speech and association rights in connection with union leave. CCPOA seeks an unspecified amount of compensatory damages, including emotional distress, punitive damages and attorney fees. The State defendants in this lawsuit are represented by the law firm of Littler Mendelson. Trial is set for September 10, 2007.

Mr. John Hagar, Special Master  
May 23, 2007  
Page 4

***CCPOA v. State of California, et al.,***  
**(Inmate Transfer--Bargaining)**  
**San Francisco Superior Court, Case No. CPF-07-507236**

In this litigation, filed on May 11, 2007, CCPOA seeks to compel arbitration on whether the State failed to bargain before implementing the out-of-state transfer of inmates to alleviate prison overcrowding. A related case, in which CCPOA challenged the Governor's emergency proclamation regarding overcrowding and the out-of-state contracts is pending in the Third District Court of Appeal. On May 17, 2007, the Third District Court of Appeal issued a further stay of the superior court's Order that had found the involuntary transfers unlawful.

Arbitrations

***CCPOA v. California Department of Corrections & Rehabilitation***  
**(Freeze on Lateral Transfer)**  
**Department of Personnel Administration, Case No. 06-06-0299-IA**

CCPOA challenges CDCR's policy on freezing lateral transfers to ease the vacancy rates at remote institutions. The State has aggressively defended this policy because its removal would impede CDCR's ability to safely staff its institutions. Arbitration was held on February 14, 2007, and April 3, 2007. The parties are attempting to settle this action.

***CCPOA v. California Department of Corrections & Rehabilitation***  
**("Acting" Correctional Officer Arbitration)**  
**Department of Personnel Administration, Case No. 05-06-0348**

CCPOA filed a challenge to CDCR's policy of allowing sergeants and other correctional supervisory personnel to fill vacant correctional officer positions. A removal of this policy would impede CDCR's ability to efficiently staff its institutions. Arbitration is set for June 14, 2007.

***CCPOA v. State of California, et al.***  
**(Supervisors at Rank-&-File Bargaining Table)**  
**Department of Personnel Administration, Case No. 05-06-0981 IA**

CCPOA obtained an order compelling arbitration on the issue of whether supervisors should be allowed at the rank-and-file bargaining table. The State refused to arbitrate because the Excluded Employees Bill of Rights prohibits supervisors from representing rank-and-file employees in bargaining. (Gov. Code, § 3529, subd. (c).) CCPOA sued, and the State prevailed



Mr. John Hagar, Special Master  
May 23, 2007  
Page 5

in the trial court. CCPOA appealed to the First District Court of Appeal. The Court of Appeal overturned the superior court's ruling and ordered DPA to arbitrate the issue. Arbitration is tentatively scheduled for July 25, 2007.

***CCPOA (Newton) v. California Department of Corrections & Rehabilitation***  
**(CCPOA Representation on Management Initiated Committees)**  
**Department of Personnel Administration, Case Nos. 05-06-0175, 06-06-0182**

CCPOA sought to enforce section 2.10 of the MOU concerning union representation on management-initiated committees at Pelican Bay State Prison. Over the State's objection, the arbitrator ruled in January 2007 that section 2.10 entitles CCPOA representation on specified committees. CCPOA seeks compliance with the arbitrator's decision, and is seeking to file a motion to confirm the arbitration award with the *Madrid* court.

**OFFICE OF INTERNAL AFFAIRS**

The Governor's 2006/07 Budget added significant new staffing to the OIA. Specifically, the Budget added 9.5 special agents, 9.0 senior special agents, 2.0 staff service analyst/associate government program analysts and an office technician. These positions remain funded in the Governor's 2007/08 proposed budget. In addition to these 21.5 positions, 16.5 positions were redirected from the Division of Adult Institutions to the OIA. All of these positions are either filled or have been recruited and are undergoing background checks.

In addition to the new staff positions, on March 13, 2007 the Administration approved a pay letter authorizing a 1.7 % pay increase along with an additional 3.125% special salary increase for the special agent series. This will continue to benefit CDCR's recruitment and retention efforts at OIA, and in turn will advance our progress in furthering the Post-Powers Remedial Plan.

**EMPLOYMENT ADVOCACY AND PROSECUTION TEAM**

The Governor has been supportive of CDCR's expansion and reorganization of the EAPT. Specifically, the Governor's 2006/07 Budget authorized an additional 9.6 staff counsel positions, 10.0 staff counsel III specialist positions, 1.4 staff counsel III-supervisor positions, 4.4 legal assistant positions and 3.4 legal secretary positions for the EAPT. This expansion will be instrumental in making sure that investigations are properly initiated and proceed in a timely manner. These positions remain funded in the Governor's 2007/08 proposed budget.

A spot test was given for the vacant attorney positions in Bakersfield. Interviews occurred on May 17 and 18, and EAPT hopes to make offers to a number of attorneys sufficient to fill the vacancies in that office.

Mr. John Hagar, Special Master  
May 23, 2007  
Page 6

## BUREAU OF INDEPENDENT REVIEW

As noted in the Special Master's August 22, 2006 report, "Governor Schwarzenegger displayed the courage to reverse an earlier decision to eliminate the Office of the Inspector General. . . . In addition, the Governor took an additional step; he added. . . . the Bureau of Independent Review." The Governor has not wavered in his support for the BIR. Notably, the Governor's Budget for Fiscal Year 2006/2007 includes \$15.2 million and 95 positions for the Office of the Inspector General, of which \$4.7 million and 27.8 positions are slated for the BIR. These positions remain funded in the Governor's 2007/08 proposed budget. The OIG is also considering establishing additional positions in the BIR from existing funds within the OIG.

Moreover, the Administration supported the BIR proposal to change their attorney positions from appointment positions to civil service positions with peace officer status. This will help the BIR attract even more qualified candidates for its hiring pool. An open examination is currently posted for the positions of Special Assistant Inspector General, Senior Assistant Inspector General and Chief Assistant Inspector General. Applications for this examination are due on May 23, 2007.

The BIR issued its latest Semi-Annual Report on May 17, 2007, in which it detailed BIR's case monitoring and oversight activities from July through December 2006. The report stated that the OIA had improved dramatically in the two years since monitoring began and had made significant strides to comply with the Madrid Remedial Plan. Of significance, the BIR found that 96% of monitored cases reached at least a satisfactory outcome. The Administration will ensure that the BIR, the OIA and the EAPT will continue working together to ensure compliance with the remedial plan.

We look forward to the meeting on May 29, 2007, when we can answer any additional questions you may have regarding the Administration's efforts.

Sincerely,

  
ANDREA LYNN HOCH  
Legal Affairs Secretary

cc: Service List (Attached)

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**DECLARATION OF SERVICE**

I, Cristi Caspers, declare as follows:

I am employed in the County of Sacramento, State of California; I am over the age of eighteen years and am not a party to this action; my business address is State Capitol, Sacramento, California 95814, in said County and State. On May 23, 2007, I served the within document:

**Governor Schwarzenegger's Second Report Regarding His Efforts to Achieve  
Further Progress with the Post-Powers Remedial Plan**

by placing a true copy thereof in an envelope addressed to each of the persons named below at the address shown and in the following manner:

**SEE ATTACHED SERVICE LIST**

- BY MAIL:** On May 23, 2007, I placed a true copy in a sealed envelope addressed to each person specifying service by U.S. Mail at the address shown. I am familiar with the office's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
  
- BY ELECTRONIC MAIL:** On May 23, 2007, I sent true copy PDF versions to each of the persons named in the attached Service List at the e-mail addresses specified.

I certify under the laws of the State of California that the foregoing is true and correct and that this Declaration of Service was executed by me on May 23, 2007, at Sacramento, California.

  
Cristi Caspers

# EXHIBIT 4

**PAY DIFFERENTIAL 337  
EMPLOYMENT ADVOCACY AND PROSECUTION TEAM - UNIT 2 AND EXCLUDED**

Established: 11/01/06

Revised: 01/19/07

CLASS TITLE	CLASS CODE	CB/ID	RATE	EARNINGS ID	DEPARTMENT
<b>Rank and File:</b>			\$900 Per Pay Period	8EA	Department of Corrections and Rehabilitation, Office of Legal Affairs, Employment Advocacy and Prosecution Team
Staff Counsel	5778	R02			
Staff Counsel III (Specialist)	5795				
Staff Counsel IV	5780				
<b>Excluded:</b>					
Staff Counsel III (Supervisory)	5815	S02			
Assistant Chief Counsel	5871	M02			
Chief Counsel I, CEA *	5872				

CRITERIA	
•	Employees in the above classes employed in the Department of Corrections and Rehabilitation, Office of Legal Affairs, Employment Advocacy and Prosecution Team (EAPT), are eligible for this differential.
•	Employees in the above classes who transfer and/or promote to positions outside the EAPT Unit shall not be eligible for this differential
•	This differential is in accordance with Federal Court Order No. C90-3094 THE, Madrid Vs. Tilton, Filed on 11/01/06.
•	This differential shall not be subject to the grievance or arbitration processes.

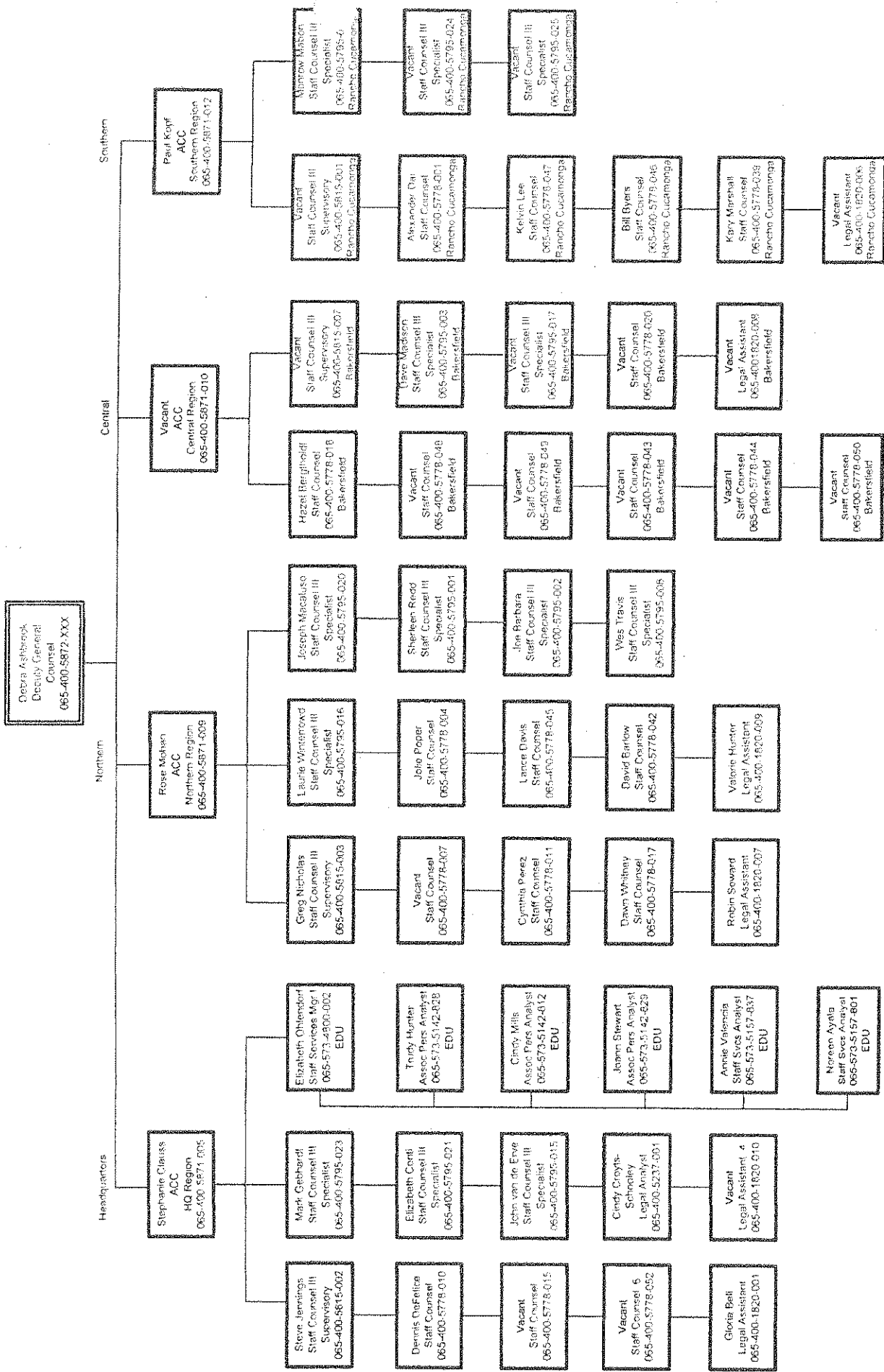
IF APPLICABLE, SHOULD PAY DIFFERENTIAL BE:	
PRO RATED	Yes
SUBJECT TO QUALIFYING PAY PERIOD	No
ALL TIME BASES AND TENURE ELIGIBLE	Yes
SUBJECT TO PERS DEDUCTION	No

INCLUSION IN RATE TO CALCULATE THE FOLLOWING BENEFIT PAY	
OVERTIME	No
IDL	Yes
EIDL	N/A
NDI	Yes
LUMP SUM VACATION	Yes
LUMP SUM SICK	Yes
LUMP SUM EXTRA	Yes

\* Effective 01/19/07

# EXHIBIT 5





# EXHIBIT 6

# **California Department of Corrections and Rehabilitation**

## **Disciplinary System Reforms**

### **Performance Measures 2006 Baseline**

**DRAFT**

**Updated 4/9/07**

# CDCR Operations

- ▶ OIA Central Intake (input)
- ▶ OIA Investigations (output)
- ▶ EAPT/HA/ERO Actions