

Office of the Inspector General

James V. Martin



Investigation of Alleged Waste and Mismanagement

Report prepared by:

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Prepared for:

Governor Nikki R. Haley

**Mr. Robert E. Ward
Interim Director,
Department of Corrections**

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Case 2011-30

Background

On August 11, 2011, this office received an anonymous complaint from an employee at the Tyger River Correctional Institution (TRCI). The complainant made several allegations and identified multiple areas of concern regarding the management and operation of TRCI.

The TRCI is located in Enoree, South Carolina and was originally opened in 1980. A second facility was opened at the same location in 1983. The two facilities were combined to form the present TRCI. The facility is a medium level security institution housing male inmates. The TRCI has one Warden and two Deputy Wardens that oversee the security and operations of the facility.

Statewide the Department of Corrections (DOC) has responsibility for management and security at 28 correctional institutions. The Department of Corrections has approximately 6,000 employees and house 23,000 inmates.

Allegations/Complaints

The complainant indentified seventeen (17) areas of allegations/complaints regarding the operation and management of the TRCI facility. During the investigation, an additional seven (7) allegations/complaints surfaced and are included in this Report, bringing the total allegations/complaints to twenty-four (24). The specific allegations and complaints are as follows:

1. The Warden's use of an assigned state owned vehicle to commute daily from his home in Irmo, S.C. to TRCI, Enoree, S.C.
2. The two Deputy Wardens and a Major ride to and from work (also between Irmo, S.C. and Enoree, S.C.) with the Warden and realize a benefit for such advantage.
3. When the Warden is on leave or not working in some other status, one of the two Deputy Wardens or the Major drives the Warden's assigned state vehicle to work.
4. The Investigator at TRCI has an assigned state vehicle and the primary use is to commute from his residence to TRCI where he is observed to spend most of his time.

5. The Warden and Deputy Wardens are allowed to bring their cell phones into the restricted area of the TRCI facility. However, other employees working in the restricted area are not allowed to bring their personal cell phones.
6. Excessive spending regarding medical costs as a result of transporting inmates long distances for specialized treatment.
7. Excessive costs and manpower commitment to transport TRCI inmates to parole hearings.
8. Selective and unfair hiring practices result in lack of promotion at TRCI.
9. The TRCI Warden's wife is employed in the recruiting and employment process with the Columbia Department of Corrections – Human Resources Department (DOCHR) and is too involved in the hiring process at TRCI. The Warden transports hiring packages back and forth from TRCI to Columbia.
10. The Warden implemented a verbal policy wherein employees are told they will receive corrective action if they use more than seventy (70) hours of sick leave.
11. The Major at TRCI has made inappropriate comments to employees regarding their weight and projects a rude persona when speaking to employees that he supervises.
12. The TRCI Cafeteria's Food Service Supervisor provides free condiments and coffee to TRCI employees.
13. Inappropriate relationships between employees.
14. Excessive TRCI medical staff.
15. As a result of TRCI being overstaffed with medical support personnel, these individuals prepare meals during the day in their assigned area, watch TV; invite the Wardens, the Major and the Investigator to visit and eat with them.
16. The TRCI Medical Physician is overpaid and could be replaced with a Nurse Practitioner.
17. Inmates are not charged enough for psychiatric medication.
18. Unfair practices of written reprimands for taking leave, harassing behavior and reprisal.

19. Improper behavior by management during interview regarding a written reprimand.
20. Unjust practice of corrective action for not returning a phone call to supervisor after being contacted while on leave.
21. Receiving written corrective action even though a doctor's statement was provided.
22. Receiving corrective action for taking a regular day off (RDO) and approved leave.
23. Threat by a management level employee to "write-up" an employee up until he quit.
24. Review increase in the use of psychiatric medication and counseling per nursing supervisor at TRCI.

Facts Determined

This office initially contacted the Department of Corrections (DOC) Headquarters to discuss the allegations and complaints with the Interim Director Mr. Robert Ward. During this briefing the staff of the OIG revealed a plan of action in order to adequately address each of the allegations/complaints and explained the report process to Mr. Ward.

Mr. Roger Myers was the lead investigator on this endeavor and was assisted by Investigator George Davis in conducting some of the employee interviews. The investigation included numerous interviews, reviewing official files and correspondence, and a review of applicable state rules and regulations in regards to each of the allegations and complaints. The OIG also reviewed applicable policies and procedures governing the security, operation, and management of the TRCI.

DOC Wardens are responsible for the management, operation, and security of state correctional institutions. The Warden at TRCI has served in his position for the past five years. Two Deputy Wardens report to the Warden and assist in the operation and management of the institution.

During the course of interviewing management staff at TRCI, this office found that TRCI currently has approximately 23-25 security positions that are vacant and several employees that are on extended leave. During the past budget year the DOC has also experienced budget constraints that required employees to take several furlough days.

These factors resulted in management having to be extremely cognizant of employee absences from work, as it relates to providing adequate manpower and security coverage for the facility.

Specifically, the OIG found that management at TRCI implemented a leave review process to identify and curtail any excessive amount of leave taken by the employees. The procedures instituted by TRCI management focused on the excessive amount of call-in leave requests and sick leave requested by employees. The leave procedures implemented included the use of corrective action, written and verbal reprimands.

The OIG interviewed numerous employees and management staff during the course of this investigation. As a result of various documents provided by DOC and information attained during the interview process, this office identified several other areas of concern not included in the original allegations and complaints submitted to the OIG.

Investigative Findings – Allegations/Complaints

1. The Warden's use of the assigned state owned vehicle to commute daily from his home in Irmo, S.C. to TRCI, Enoree, S.C.

This office found that Wardens at each of the 28 institutions are assigned a state owned vehicle. The assigned vehicles are equipped for law enforcement use and Wardens are considered to be first responders during emergency situations. DOC policy authorizes the use of emergency/law enforcement vehicles and the assignment of such vehicles to a certified law enforcement officer.

The Warden at TRCI uses his assigned vehicle to commute daily from his home in Irmo, S.C. to his work station in Enoree, S.C. The Warden also performs reviews at the facility twice a quarter. The mileage from Irmo, S.C. to TRCI is approximately 71 miles. The Warden's total daily round trip commuting mileage from Irmo, S.C. to TRCI is estimated to be 142 miles. DOC policy requires that employees pay for the use of a state vehicle for commuting. However, according DOC policy vehicles that are permanently assigned to law enforcement officers are exempt from commuting reimbursement charges. Because Wardens are certified law enforcement officers and first responders for emergencies they are exempt from paying the commuting mileage reimbursement charges to DOC.

Federal IRS Income Tax Regulations may apply to any DOC employee that uses a state vehicle for commuting and does not reimburse the Department of Corrections for

commuting miles. DOC employees may be required by IRS regulations to report the cost benefit associated with commuting mileage as taxable income. Under the Federal IRS taxable fringe benefit rule the use of a vehicle for personal reasons is considered a fringe benefit. The Federal IRS regulation regarding taxable fringe benefits is found in IRS Publication 15-B. Federal IRS regulation does allow an exemption for unmarked law enforcement vehicles used by law enforcement officers, when the personal use, including commuting is authorized by the State. However, the use of the vehicle must be incident to law enforcement function, such as reporting from home to a stakeout, surveillance site or an emergency situation.

For a government employee to qualify for the IRS exemption they must meet the IRS definition of a “law enforcement officer”. The IRS defines law enforcement officers as: 1) a full-time employee of a governmental unit that is responsible for preventing or investigating crimes involving injury to person or property, to include the apprehension or detention of persons for such crimes, 2) is authorized to carry firearms, execute warrants, and make arrests, and 3) regularly carries firearms.

South Carolina State Government has three classifications of certified law enforcement officers. The classifications are Class I, Class II and Class III Officers. The officers are classified by function, training requirements and scope of authority. State government “Class I Officers” are full-time employees of a governmental unit responsible for preventing or investigating crimes involving injury to person or property, to include the apprehension or detention of persons for such crimes on a regular basis. Class I Officers regularly make arrests, carry firearms, execute warrants and have full law enforcement powers.

State government “Class II Officers” are full-time governmental employees that are responsible for a specific law enforcement function on a daily basis. The duties of class II Law Enforcement Officers are limited in scope and their authority is defined by a special function. The Class II Law Enforcement Officer has limited enforcement powers, may not carry firearms on a regular basis and does not make arrests on a regular basis.

State government “Class III Officers” are full-time governmental employees with less authority than a Class I or Class II Officer and generally have a basic law enforcement certification. The duties of Class III Law Enforcement Officers are limited in scope and their authority is defined by special function. A Class III Law Enforcement Officer may or may not have arrest powers or authority to carry firearms.

DOC Wardens are Class II Law Enforcement Officers and first responders for emergencies pertaining to correctional institutions. Based on a review and interpretation by the OIG, of the Federal IRS definition of “law enforcement officer”

and available discussion of this subject offered by the IRS, it appears that only the Class I Officers would qualify for the IRS exemption. The Federal IRS exemption includes clearly marked police, fire and public safety or unmarked law enforcement vehicle use by a law enforcement officer who regularly make arrests, carries firearms, execute warrants and have full law enforcement powers. The cost benefit associated with the Warden's commuting mileage may be considered taxable income under the Federal IRS fringe benefit rules.

2. The two Deputy Wardens and a Major ride to and from work (also between Irmo, S.C. and Enoree, S.C.) with the Warden.

The OIG found that DOC policy does not prohibit other state employees from being passengers in a state vehicle, if operated by an approved individual.

3. When the Warden is on leave or not working in some other status, one of the two Deputy Wardens or the Major drives the Warden's assigned state vehicle to work.

In normal situations when the Warden is not at TRCI, the Deputy Wardens are responsible for operating and overseeing the facility. In the absence of the Warden, the state vehicle is driven from Columbia to TRCI by one of the Deputy Wardens. The DOC policy does not prohibit other state employees from being a passenger or driving a vehicle assigned to an approved employee of DOC. According to DOC policy the Deputy Wardens are certified law enforcement officers and would also be exempt from commuting reimbursement charges.

Deputy Wardens as drivers of the law enforcement vehicle would also be subject to the Federal IRS fringe benefits rules for commuting as discussed previously. The Federal IRS regulation exemption includes clearly marked police, fire and public safety or unmarked law enforcement vehicle use by law enforcement officers that regularly make arrests, carry firearms, execute warrants and have full law enforcement powers. Again it is the OIG's position that possibly the Deputy Wardens as Class II Law Enforcement Officers would not qualify for the IRS fringe benefits rules for commuting exemption. The cost benefit associated with Deputy Wardens commuting mileage may be considered taxable income under the Federal IRS fringe benefit rules.

4. The Investigator at TRCI has an assigned state vehicle and its primary use is to facilitate commuting from his residence to TRCI where he is observed spending most of his time.

Information provided during this investigation revealed the Investigator occasionally works out of TRCI. However, he is not assigned to the TRCI facility. The Investigator is a law enforcement officer that is organizationally assigned the DOC - Division of Investigations. The responsibility of the Investigator is to investigate internal complaints and reviews in the upper state region of the DOC. The upper region includes several correctional institutions as well as TRCI. The investigator may leave from home and travel to other authorized duty stations. The duties of an investigator may require travel to multiple locations while performing law enforcement duties on a more regular basis. The DOC policy authorizes the use of emergency vehicles assigned to law enforcement officers.

5. The Warden and Deputy Wardens are allowed to bring their cell phones into the restricted area of the TRCI facility. However, other employees working in the restricted area are not allowed to bring their personal cell phones.

The DOC has a policy that governs the use of cell phones in each of the 28 institutions. This policy authorizes the Warden and Deputy Wardens to have cell phones in the facility to maintain constant communication with management staff. The OIG found TRCI cell phone procedures to be compliant with DOC cell phone policy. The OIG believes such a policy is reasonable for management and security purposes.

6. Excessive spending regarding medical costs as a result of transporting inmates long distances for certain treatment.

The DOC and subsequently, TRCI have a responsibility to provide medical services for a wide range of medical issues for housed inmates. Some of the medical conditions require the services of outside providers for specific treatment. Medical emergencies are handled at local medical treatment centers or hospitals. However, certain scheduled medical procedures are handled by providers that are approved under state contract. The physical location of the providers will vary depending on the services being provided and the medical procedure. TRCI appears to have a significant number of chronically ill inmates that require treatment within contracted providers located a significant distance from TRCI. The staff of this office does not have expertise in the area of medical treatment and medical cost analysis; time constraint and complexity

would not allow further investigation at this time. The OIG cannot take a position on this matter.

7. Excessive costs and manpower commitment to transport TRCI inmates to parole hearings.

While conducting parole hearings at TRCI would be cost effective and lessen the manpower burden created when correctional officers are used for this purpose, TRCI does not have the ability to conduct parole hearings via satellite at this time. It was determined that there are some correctional institutions that are conducting parole hearings via satellite. TRCI is currently utilizing the satellite capability of other institutions to conduct some of their parole hearings. It appears that TRCI is managing the parole hearings according to DOC policy.

8. Selective and Unfair Hiring Practices Resulted in Lack of Promotion at TRCI.

It was determined that TRCI has experienced significant changes in their management staff within the past five years. The new management has promoted several TRCI employees internally. Some of the top level management positions have been filled outside of the TRCI workforce in order to hire qualified applicants. The OIG was not able to identify information to substantiate that the hiring and promotion process has not been done according to the agency's policy.

9. The TRCI Warden's spouse is employed in the recruiting and employment area with the Columbia Department of Corrections - Human Resources Department (DOCHR) and is too involved in the hiring process at TRCI. The Warden transports hiring packages back and forth from TRCI to Columbia.

The Warden's wife does work with the DOC in the Human Resources Department. The transporting of hiring packages is done as a means of expediting the hiring process. This office found no information that indicates that the Warden's wife has been directly involved in or influenced in any way the hiring practices at TRCI. The current transporting of personnel actions from the DOC in Columbia to TRCI is an effective and efficient mechanism to provide the timely exchange of such information. The OIG found no reason why this practice should not continue.

10. The Warden implemented a verbal policy wherein employees are told they will receive corrective action if they use more than seventy (70) hours of sick leave.

The Warden at TRCI implemented procedures to review employees' use of sick leave on an annual basis. The policy was implemented to curtail the excessive amount of call-in leave request and sick leave being taken by employees. The procedures outline that any employee who uses sick leave in excess of seventy hours per year could be subject to corrective action. Employees that exceed the seventy (70) hours were subject to be reviewed by the Warden to determine if they were abusing their sick leave.

DOC management or supervisor must have reason to suspect an employee is abusing sick leave before issuing corrective actions. TRCI managers must be authorized to institute more restrictive policies in this area. Even if authorized to modify policy, managers and supervisors must follow steps set forth in DOC policies and procedures related to employee corrective action. The Warden at TRCI was given a directive from the Director of DOC to discontinue his practice of employee corrective action for the use of sick leave taken above a certain level. It appears that there have been instances when employees have received written reprimand and corrective action prematurely and without justification.

11. The Major at TRCI has made inappropriate comments to employees regarding their weight and projects a rude persona when speaking to individuals he supervises.

This office interviewed several employees at TRCI and could not substantiate that the Major at the facility made the comment that an employee was fat, obese or made any statement similar in nature to an employee. However, it was determined that the Major did distribute an internal memo to his supervisors informing them that they were responsible for their staff and accountable for their uniform/grooming standards. The Major's memo extended personal appearance to include being out of shape and overweight. Management also expressed concern regarding the officers' physical condition as it related to their ability to perform their duty in case of an emergency.

12. The TRCI Cafeteria's Food Service Supervisor provides free condiments and coffee to TRCI employees.

TRCI employees are allowed to purchase lunch prepared by the TRCI cafeteria. In some cases employees who buy lunch request condiments with their food as one would

expect. It was determined there are instances when employees are given a single serving of coffee and on occasions limited condiments are provided to use with food brought from home. This office was unable to substantiate that the occasional providing of condiments and coffee to TRCI employees attained a level of excess or abuse.

13. Inappropriate relationship between employees.

The DOC has conduct policy and procedures that governs employees as it relates to their employment with the agency. Romantic relationships between employees at the same institution are prohibited. It was determined through interviews there were inappropriate relationships between certain employees that violated the aforementioned policies at TRCI. In the cases, inappropriate relationships between employees were handled in accordance with DOC policy and procedures applicable to this matter.

14. Excessive TRCI medical staff.

TRCI was originally two correctional facilities that were combined to form the present TRCI. The number of inmates housed at the two facilities did not change. Therefore, management explained the same number of employees is necessary to manage the number of inmates housed at the combined facility. This having been stated, there were some management positions that were consolidated. This office found no evidence to support a reduction in the number of nurses assigned to TRCI. The staff of the OIG does not have expertise in the area of medical staffing and medical staff cost analysis; time constraint and complexity would not allow further investigation at this time. The OIG cannot take a position on TRCI medical staffing need.

15. As a result of TRCI being overstaffed with medical support personnel, these individuals prepare meals during the day in their assigned area, watch TV; invite the Wardens, the Major and the Investigator to visit and eat with them.

Interviews confirmed the nursing staff does occasionally cook utilizing the microwave in their designated area. The microwave is utilized by nursing staff during breaks and lunch period. Their food is generally prepared at home and warmed by microwave. The OIG found that there have been occasions when other employees have been invited to lunch; generally on special occasions when guests visit the facility. The extent of cooking in the nurse's area is by the use of a microwave. During the course of this

investigation this office found no evidence to support the allegation that medical staff watch TV and cook for significant periods during work hours.

16. The TRCI Medical Physician is overpaid and could be replaced with a Nurse Practitioner.

TRCI has one Doctor that works both the upper yard and the lower yard. OIG staff does not have the expertise to comment on whether it would be appropriate and/or advantageous to replace the Doctor with a Nurse Practitioner.

17. Inmates are not charged enough for medication.

Inmates at TRCI pay the amount of five dollars (\$5.00) for prescription medication up to a total of fifteen dollars (\$15.00) a month. This office found that psychiatric medication is exempted from the five dollar (\$5.00) charges normally paid by inmates at TRCI for medication. The OIG found that the exemption for the psychiatric medication is in accordance with DOC policy.

18. Unfair practice of written reprimand for taking leave, harassing behavior and reprisal.

Supervisors must follow steps included in DOC policies and procedures related to employee corrective action or written reprimands. This office found that Officer Jacqueline Cothran filed a grievance with DOC. Officer Cothran felt that she was given an unjust written reprimand and her leave denial was unfair. The grievance was reviewed by the DOC- Office of Administration, Human Resources Employee Relations. The DOC Human Resources, Employee Relations determined that receiving a written warning is not a grievable issue, as stated in DOC policy. The OIG found no information to substantiate the allegation of unfair practice of written reprimand or leave denial. Nor did this office find information to substantiate that this was an act of reprisal based on previous issues with TRCI management staff.

19. Improper behavior of management during interview regarding a written reprimand.

An employee of TRCI produced correspondence to officials at DOC Office of Administration in which she stated “*she was yelled at and told to shut up*” by management staff at TRCI. This incident took place during a written reprimand meeting. OIG interviewed the management staff that was present during the meeting in question. The statements from each of the staff members present during the meeting were consistent.

It was stated that Officer Cothran, the subject of the written reprimand refused to allow everyone to speak without interruption. The staff members present stated that Officer Cothran was upset and unprofessional. Officer Cothran’s anger began to escalate and the Deputy Warden advised Officer Cothran to calm down and be quiet so that everyone present would have an opportunity to speak. As a result of the continuous interruptions and the emotion displayed by Officer Cothran the meeting was terminated.

After interviewing the three management members present at the meeting, this office concludes that the management staff at TRCI acted appropriately in instructing Officer Cothran to calm down and be quiet in order to maintain control of the meeting. The three managers denied using the verbiage “sit down and shut up”. The OIG found no information to substantiate any wrong doing on the behalf of the management staff present at this particular meeting.

20. Unjust practice of corrective action for not returning a phone call to supervisor after being contacted while on leave and using excessive leave.

The OIG received a complaint from Sergeant James Uzzell who is currently employed at TRCI. The complainant alleges that he unjustly received a written reprimand for abuse of leave.

This allegation is the result of an incident that took place on June 14, 2010. Documentation provided by Uzzell showed he received a written reprimand for not returning a telephone call to his supervisors while on leave. Uzzell’s supervisor made a statement that this was a pattern for Sergeant Uzzell.

This office reviewed Sergeant Uzzell’s leave document provided by the DOC Office of Administration. The leave documents show that Uzzell used a total of fourteen (14) hours of leave from May 26, 2009 until June 14, 2010. In the June 14, 2010 incident Uzzell failed to contact his supervisor as required by policy. However, this office was provided no information to confirm that there was a pattern of excessive use of leave or failure to return a supervisor’s call prior to June 14, 2010. This office found no

information to substantiate that there was a pattern of failing to return calls to TRCI or abuse of leave prior to the June 15, 2010 corrective action. It appears that DOC records indicate that Uzzell was unjustly cited for excessive instances of not calling his supervisor when on leave or excessive use of leave.

21. Receiving written corrective action even though a Doctor's statement was provided.

On October 22, 2010, Sergeant Uzzell called his work station at TRCI and requested sick leave for October 22, 2010. Sergeant Uzzell had oral surgery during the week prior to October 22, 2010. The call-in request for sick leave was the result of the surgical procedure from the prior week. Sergeant Uzzell's supervisor called him and left a message that stated Sergeant Uzzell needed to call him. Sergeant Uzzell subsequently returned his supervisor's phone call as required by policy.

Sergeant Uzzell called his work station at TRCI and requested sick leave for October 24, 2010 and October 25, 2010. Sergeant Uzzell provided a written statement from his doctor for sick leave taken on October 24 and the 25th.

During the interview with Sergeant Uzzell, he produced documentation that showed he received a written reprimand for October 22, 2010 for taking unauthorized leave. For October 24, and 25th Uzzell received a written reprimand for not returning a phone call to his supervisors as required by policy. Uzzell did fail to return phone calls from his supervisor's regarding his leave on October 24, 2010 and October 25, 2011 as required by TRCI policy.

TRCI management requested that Sergeant Uzzell bring a medical excuse for the use of leave on October 24, 2010 and October 25, 2011. Management's request for the medical excuse did not relieve Sergeant Uzzell's obligation to return phone calls from his supervisors. DOC policy only authorizes the use of employee corrective action when there is reason to suspect an employee is abusing leave or the employee demonstrates a pattern in the use of unscheduled leave. Supervisors must accurately document leave patterns and follow the steps included in policies and procedures related to corrective action in order to insure that written and verbal reprimand are within the DOC guidelines. It appears that corrective action on June 15, 2010 was unjustified. Therefore, June 15, 2010 leave incident and corrective action should not be taken into consideration when attempting to establish a pattern of excessive leave or written reprimand. TRCI should review the leave pattern of Sergeant Uzzell to accurately

document leave patterns to insure that written and verbal reprimand are within the DOC guidelines.

22. Receiving corrective action Regular Day Off (RDO) and approved leave day off.

Documentation provided by Sergeant Uzzell show he received a written reprimand for not reporting to his duty station on an approved leave day off and a Regular Day Off (RDO).

According to Sergeant Uzzell his supervisor told him on the 17th of August that he needed him to come in to work on August 20, 2011, which was Uzzell's scheduled day off. The supervisor requested that he report to work on August 20, 2011 because they were short of staff. Sergeant Uzzell advised his supervisor on August 17th that he would not be able to report to work on his scheduled off days. Uzzell received prior-approval for a regular leave for August 21, 2010 and August 20, 2011 was his RDO. Uzzell texted his supervisor on the morning of August 20, 2011 to advised that he did not plan to come in on the evening of August 20, 2011.

Upon returning to work Sergeant Uzzell was given a written reprimand for unauthorized leave and not returning his supervisor's phone call. This office did not find any departmental policy that authorizes employee corrective action for not reporting to their work station on scheduled day off or pre-approved leave days unless there is an emergency situation. TRCI should review this matter to insure that written and verbal reprimands are within the DOC guidelines. It would appear that there may not be justification for the use of corrective action.

23. Sergeant Uzzell alleges that Major Parrish made a comment that he was going to continue to write him (Sergeant Uzzell) up until he quit.

This investigator discussed this allegation with Major Parrish. Major Parrish denies that this comment was made to Sergeant Uzzell. Major Parrish indicated that Sergeant Uzzell has received several corrective actions regarding his use of leave and refusal to comply with TRCI policy that requires him (Uzzell) to return phone calls to his supervisor while on call-leave. This office found that Major Parrish did discuss Sergeant Uzzell's leave and failure to return telephone calls with his supervisor. Major Parrish advised that he and Sergeant Uzzell's supervisor have discussed the use of corrective actions in regards Uzzell's use of leave and refusal to returns telephone calls.

Major Parrish denied making the statement to Sergeant Uzzell that he was going to “write him up until he quit”.

24. Review increase in the use of psychiatric medication and counseling per nursing supervisor at TRCI.

During the interview process it was alleged by a member of the nursing staff that there has been a significant increase in the amount of psychiatric counseling and medication being dispensed to inmates at TRCI and DOC in general.

Inmates at TRCI pay the amount of five dollars (\$5.00) for prescription medication up to a total of fifteen dollars (\$15.00) a month. This office found that psychiatric medication is exempt from the five dollar (\$5.00) medical charge.

Three possible reasons have been suggested as possible reasons for the increase in the amount of psychiatric counseling and medication being dispensed at TRCI.

a) Because psychiatric particular medication is free to inmates and exempt from the five dollar medical charge. Therefore, inmate usage has increased.

b) If the inmate can smuggle the psychiatric medication into the facility it can be sold to other inmates.

c) It was suggested that the increase of psychiatric counseling maybe a result of the male inmates at TRCI using their counseling sessions as an opportunity to visit with a female counselor.

The DOC does have an obligation to provide medical treatment for legitimate medical issues for all inmates. The OIG was not able to identify or substantiate the reason for the increase use of psychiatric medication and counseling at DOC and TRCI. The OIG did not investigate this matter in depth to determine the quantity of medication being dispensed by DOC and TRCI.

Conclusion

The OIG conducted numerous interviews, reviewed official files, documents, policies, procedures, correspondence and applicable state policy, rules and regulations in regard to the twenty four (24) allegations investigated. The OIG has four (4) areas of general concern as a result of this investigation. The areas of concern are as follows:

- Use of state assigned vehicle by Warden at TRCI

DOC policy authorizes the permanent assignment of a law enforcement vehicle to each Warden in DOC. The vehicle assigned to the Warden at TRCI is used daily for commuting. The total daily round trip commuting mileage for the Warden at TRCI is approximately 142 miles. Although, each of the DOC employees that car pool with the Warden realizes a personal cost saving, this is within the procedural guidelines of DOC. DOC justifies the assignment of the vehicles to Wardens due to the requirement that they be available for emergency response. Although DOC's policy requires certain employees to reimburse the agency for commuting mileage, the Wardens are exempt from commuting reimbursement charges because they are sworn law enforcement officers.

When the Warden at TRCI is not on duty the Deputy Wardens have the responsibility of overseeing that correctional facility. The Deputy Wardens at TRCI are also certified law enforcement officers and first responders. Therefore, Deputy Wardens would be exempt from commuting mileage charges as well according to DOC policy.

DOC policy requires each employee that requests a permanent assignment of a vehicle to submit a Form 980-R. This form provides general information about the vehicle and driver which includes commuting mileage. The justification as mentioned above is based on the on call basis of the Warden. While it was not officially confirmed during the investigation, it was stated during the interview process the TRCI Warden has had two (2) occasions in the previous five (5) years when he had to return to TRCI for emergencies.

During the course of this investigation it was determined that there are other Wardens within DOC that travel similar distances from home to their duty station. Their commuting mileage would be similar to the Warden at TRCI.

Although some DOC employees are not required to pay reimburse fees to the agency for commuting miles, this does not necessarily exempt these individuals from the Federal IRS regulations governing this type benefit. The Federal IRS regulations state any use of a vehicle for personal reasons is taxable as a fringe benefit.

Federal IRS regulation does allow an exemption for law enforcement vehicles used by law enforcement officers, if the use is officially authorized. Governmental employees must qualify for the IRS exemption: they must meet the IRS definition of a law enforcement officer.

The IRS defines law enforcement officers as: 1) a full-time employee of a governmental unit that is responsible for preventing or investigating crimes involving injury to person

or property, to include the apprehension or detention of persons for such crimes, 2) is authorized to carry firearms, execute warrants, and make arrests, and 3) regularly carries firearms.

- Medical spending

DOC has a responsibility to provide medical services for a wide range of medical issues for inmates housed at TRCI. Some of the medical conditions require services of outside providers for specific treatment. The physical location of the providers will vary depending on the services being provided and the medical procedure.

The DOC has policies to address the general categories of illness and treatment. Specific treatment is based on the individual need of the inmate. This office found that DOC does monitor medical spending and evaluate legitimate medical issues.

The Tyger River Institution was originally two facilities that were combined to form the present TRCI. The number of inmates housed at the two facilities did not change. Therefore, the same number of employees is required to adequately manage the number of inmates housed at both facilities. TRCI management staff advised this office that the ratio of inmates to medical staff at TRCI is approximately the same as the other correctional institutions in the state.

- Leave requests and use of correction action

The DOC has policies and procedures in place to assist the Wardens in their daily decisions regarding staffing requirements and security at each institution.

The OIG found that several factors affected the daily staffing decisions being made at TRCI. During the past budget 2010-2011 budget year, the DOC experienced budget constraints that required employees to be furloughed for several days. Moreover, according to information provided by management staff at TRCI, currently there are approximately 23-25 vacant security positions and several employees on extended leave at TRCI. In addition to management staffing concern the institution was experiencing a large number of call-in leave requests.

The Warden at TRCI implemented procedures to closely monitor employees' use of sick leave on an annual basis. The intent of the policy was to curtail the excessive amount of call-in leave requests and sick leave taken by employees. It appears that the circumstances that affect staffing at TRCI, required management to closely monitor employee leave requests. The management of employee leave request was primarily due

to management's concern about adequately staffing the institution as required to maintain an acceptable level of security.

The leave procedures implemented by TRCI included written and verbal reprimands and corrective action. Although, this policy was implemented to curtail the use of excessive leave; the use of the corrective action has created concerns about the accuracy and fairness of information being used to determine the use of verbal and written reprimands. The use and implementation of corrective action at TRCI should be in an even handed manner. DOC policy authorizes employee corrective action when there is reason to suspect an employee is abusing leave or the employee demonstrates a pattern in the use of unscheduled leave. Supervisors must accurately document leave patterns and follow the steps included in policies and procedures related to corrective action in order to insure that written and verbal reprimands are within the DOC guidelines. It appears that there may have been instances when the use of corrective action was not justified.

TRCI management is required by policy to insure that the institution maintain the proper number of security officers. The safe operation of the facility is a priority for DOC. TRCI management has the responsibility for considering leave requests, employee furlough days and call-in leave requests; while ensuring the institution maintains the minimum staffing requirements to operate on a daily basis. It was determined that TRCI implemented institutional policy to address the abuse of sick and call-in leave requests.

- Employee relations

TRCI policy implemented by the management staff has had an adverse affect on the employee relations at Tyger River. In addition the lack of training for recently promoted supervisory level employees has impacted the management/employee relationship.

Recommendations

1. Consider options in lieu of assigning a state vehicle to a Warden

DOC policy authorizes the permanent assignment of the vehicles to the each Warden in the agency. The OIG is of the opinion that the current situation, wherein the Warden

for TRCI resides in Irmo, S.C. and his place of work is approximately 71 miles away in Enoree, S.C.; which is extremely concerning, considering the cost to taxpayers.

A DOC official stated to representatives of the OIG that such an arrangement was necessary in order to secure qualified personnel to manage and operate TRCI. In other words, it is felt that qualified applicants cannot be drawn from the area in close proximity of the TRCI facility. It is recognized that a facility such as TRCI must be managed and operated by highly qualified, experienced personnel. However, it is recommended that DOC place special emphasis on eliminating this arrangement, possibly through attrition and/or retirement if not through other near term action.

Conservatively figuring, this cost taxpayers approximately \$6,409 per year just for gasoline ($142\text{mi} \times 5 \text{ days/wk} \times 50/\text{yr} = 35,500 \text{ mi per year}/18 \text{ mpg} = 1,972 \text{ gallons gas} \times \$3.25/\text{gal} = \$6,409$). As mentioned earlier, this seems to be an excessive cost to taxpayers for very limited returns to TRCI to handle emergencies. In addition, it appears the justification for the assignment of a vehicle due to the Warden being a Class II Law Enforcement Officer and/or first responder is somewhat concerning as a result of the Warden's assigned duties are within the property of the TRCI, not like a class I law enforcement officer with field responsibilities and traveling in the presence of public on a routine basis.

The fact that the TRCI warden has only had to function in a first responder capacity twice in five (5) years brings into question the expense outlined above. DOC might also consider revising this policy of providing the Warden of TRCI a state vehicle and consider alternatives to satisfy his need of transportation in an emergency. Some of these alternatives are set forth below:

- It may be possible that since the TRCI Warden resides in Irmo, S.C. in close proximity of DOC Headquarters, he could utilize a pool vehicle during times of an emergency fairly quickly. It appears there is little justification that the Warden be provided a state vehicle to drive to and from work from his residence because he might have to respond to an emergency at TRCI. The emergency requirement for a vehicle would only be invoked when the warden was not on site during his normal work hours. The Warden could use a pool car as described earlier in those instances when the Warden is at his residence and needs to respond. The pool vehicle could also be used in those instances when he has to visit TRCI for mandated unscheduled audits.
- It may be possible to establish a network with law enforcement agencies such as SLED and/or the Department of Public Safety, State Troopers and/or Transport Police that would allow the Warden, if called regarding a TRCI emergency during

non Business hours, a SLED agent in the Irmo/Columbia area or a State Trooper would be responsible to expeditiously transport the Warden to TRCI. In situations where there is unrest or even a riot at TRCI, the Warden could possibly even be transported by helicopter. This type arrangement may work effectively throughout the state for Wardens at other correctional institutions. Contact should be made with these agencies to further discuss this option.

- It may be possible to address this situation by DOC changing its policy to allow the Warden, even though he is classified as a Class II Law Enforcement Officer and/or first responder, to drive the state vehicle, but reimburse the state except when the vehicle is used to respond to an emergency at TRCI or when conducting the audits as discussed previously.

Added note: While this Report is prepared to address the use of a state owned vehicle by both the Warden at TRCI and the Investigator that works in area surrounding TRCI, the above recommendations extend to the same situations at all DOC correctional facilities.

The OIG recommends that DOC review the assignment of all law enforcement vehicles that are permanently assigned to law enforcement officers to ensure that such assignments qualify for the IRS fringe benefit exemption. Federal IRS regulations allow an exemption for law enforcement vehicles used by law enforcement officers, if the use is officially authorized. In accordance with the IRS definition, the law enforcement officer must be a full time employee of a governmental unit that is responsible for preventing or investigating crimes involving injury to person or property, to include the apprehension or detention of persons for such crimes.

Although DOC Wardens are classified or certified as law enforcement officers, their duties and responsibilities largely are in the administration of a correctional facility. This results in the performance of limited law enforcement functions as one generally equates to an individual in this position.

State Proviso 89.108, taken from the State budget for fiscal year 2011-2012 provides guidance on use of a permanently assigned agency vehicle or state owned vehicle to commute from their permanently assigned work location to and from the employee's home. The OIG is not taking issue as it relates to either the Class I Officers or the application of this proviso in regard to the DOC's Class II Officers. It is understood that the Class II Officers do in fact have the powers as expressed in the proviso below.

However, the OIG remains concerned whether the Class II Officers given the daily responsibilities of these individuals would qualify for the Federal IRS exemption in regard to commuting mileage.

Note: State Proviso 89.108 as taken from the general provisos in the State Budget for Fiscal Year 2011-2012

89.108. (GP: Commuting Costs) State government employees who use a permanently assigned agency or state owned vehicle to commute from their permanently assigned work location to and from the employee's home must reimburse the agency in which they are employed for commuting use in accordance with IRS regulations based on guidance from the Office of Comptroller General which must use the Cents per mile Rule, unless they are exempted from such reimbursement by applicable IRS regulations. These permanently assigned vehicles must be clearly marked as a state or agency vehicle through the use of permanent state-government license plates and either state or agency seal decals unless the vehicle is used primarily in undercover operations. This requirement does not apply to a vehicle used by an employee for the purpose of a special travel assignment, for active certified law enforcement officers authorized to carry firearms, execute warrants, and make arrests, for Constitutional Officers, or for Department of Transportation employees on call for emergency maintenance.

2. Increase attention to medical issues

The OIG recommends that DOC continue to monitor medical spending and evaluate legitimate medical issues. The agency spending review should include monitoring the cost of psychiatric medication and psychiatric counseling provided by DOC in order to determine:

- Are increases in psychiatric counseling justified?
- Should inmates be charged for Psychiatric medication?
- Should TRCI institute tighter security regarding the possibility inmates are obtaining prescribed psychiatric medication as a result of visits to the medical area and distributing/selling it within TRCI?

3. Leave requests and use of corrective action

- DOC – Office of Administration should continue to assist TRCI with implementation of institutional policies. The Office of Administration should review TRCI's policies that address employee use of call-in leave, use of sick leave and staffing concerns.
- DOC - Office of Administration should evaluate TRCI's policies regarding the use of corrective action to ensure that written and verbal reprimands are within the departmental guidelines.

4. Employee relations

DOC should continue to provide refresher management training for current employees in supervisory positions. It is specifically recommended that DOC provide supervisory training for newly hired employees and TRCI staff recently promoted to management positions.