

# **INSPECTING CALIFORNIA MEN'S COLONY: A FOCUS ON HEALTH AND SAFETY**

## **INTRODUCTION**

As required by state penal code, the Grand Jury annually inspects all public prisons, including state prisons, county jails, juvenile halls, and holding cells utilized by police departments and courthouses. In this year's inspection, the Grand Jury chose to take a detailed look at issues related to changes in population and programs, with a specific focus on safety and health at the California Men's Colony (CMC). It also took an in-depth look at some of the occupational health and safety issues related to the California Prison Industries Authority (CALPIA) facilities located at CMC.

## **AUTHORITY**

California Penal Code section 919(b) mandates "The grand jury shall inquire into the condition and management of the public prisons within the county."

## **METHOD/PROCEDURE**

The Grand Jury obtained information for this report by conducting inspections at both the East and West facilities of CMC and inspections at three of the five CMC CALPIA factories, interviewing CALPIA officials and reviewing the applicable documentation. This includes the following:

- Touring both the East and West Facilities at CMC, including these CALPIA facilities:
  - Shoe Factory
  - Knitting Mill
  - Print Plant
- Interviewing representative inmate workers at these CALPIA facilities
- Interviewing staff members of CMC and CALPIA

- Reviewing inspection reports of these CALPIA facilities
- Reviewing relevant CAL/OSHA regulations for workplace safety
- Reviewing CALPIA Hearing Conservation Program Requirements document, dated February 2, 2017
- Reviewing CALPIA Noise Survey report, dated November 18, 2008
- Reviewing CALPIA provided Summary Audiometric Testing for undisclosed period
- Reviewing CALPIA provided Sample Individual Audiometric History

During the site inspections, a survey was used to gather information. In addition, representatives of CMC provided written follow-up to questions prompted by the survey and inspections. The Grand Jury also pursued in writing follow-up with California Correctional Health Care Services (CC Healthcare) which is responsible for planning, organizing, coordinating and implementing a health care delivery system at CMC.

## **NARRATIVE**

This narrative is organized by first recapping general observations resulting from the 2016-2017 CMC inspection, followed by specific comments related to a more in-depth look at certain occupational safety procedures.

## **GENERAL OBSERVATIONS**

In 2011, California signed into law Assembly Bill 109 for Public Safety Realignment (AB 109), which moved responsibility for a number of offenders from state prison to county jails. In 2014, California passed Proposition 47 (Prop 47), which reduced a number of felonies to misdemeanors that again impacted jail populations. The Grand Jury sought to understand the impact of these laws on CMC, and it took particular interest in population, programs and management.

The Grand Jury made several general observations including the following:

- Overall, AB 109 has resulted in a clear reduction in average daily population (ADP) at CMC. Since the passage of the law, ADP has dropped from nearly 7000 to approximately 4100, which is now near design capacity. As a result of the smaller population, CMC has been able to reduce the need to double up inmates in cells originally designed for one, change staffing levels and manage both its population and programs more effectively.
- The Grand Jury sought significant information as it relates to inmate health and safety, including information related to injury, suicide and death rates, as well as data related to addiction treatment. Frequently, the Grand Jury found it challenging to obtain this information. In some cases we were told it was simply not available or could not be provided. But as a result of seeking this data, the Grand Jury came to understand that the CMC warden, the overall custodial head of the prison, does not have management control over the medical elements that report into CC Healthcare. Significant collaboration and goodwill is needed to ensure a cooperative working relationship among these separate supervisory structures. A weekly Health Care Executive Leadership team meeting involving CC Healthcare and CMC staff facilitates this process.
- New mental healthcare responsibility. CMC has recently become a “hub” facility for mentally ill inmates who require administrative segregation. CMC takes inmates from other institutions who are receiving enhanced outpatient treatment for their serious mental illnesses and require segregated housing due to an act of violence or serious rules violation committed while in custody. Typically, these inmates stay an average of 60 days before being transferred to another facility for permanent housing. Unlike CMC's resident population, these inmates are generally “maximum custody” with significant disciplinary records. With the addition of these highly assaultive inmate patients, the number of staff batteries and assaults is reported to have increased as well as the number of “uses of force.” Information on staff injuries related to managing these and other mentally ill inmates is not tracked and could not be provided when requested.
- Three escapes occurred from CMC during the time-period reviewed. Each of them involved inmates working in fire camps, but only one of them occurred on CMC-

managed grounds. In that case, as part of regular institutional security measures, the CMC Investigative Services Unit staff conducted an unannounced search of the grounds. The investigation identified items of contraband that suggested one or more of the inmates may have been leaving grounds at night to retrieve contraband. Through investigation, the inmate was identified and admitted to leaving the camp in the middle of the night to retrieve contraband that was being left by an accomplice at the edge of the institution in the creek bed. As a result, the inmate was removed from his assignment, rehoused in administrative segregation and charged with an escape.

The other two escapes involved non-CMC inmates who were assigned to fire crews operated by the California Department of Fire and housed in a staging area across Highway 1 from CMC. Because CMC was the nearest facility, it had responsibility to investigate these escapes. Neither inmate was gone for long. One had left and returned in the night before staff had learned of his escape; the other was found by 10:00 AM following an early morning departure.

- Suicides. During the two years reviewed, there were a total of five suicides (three in 2015 and two in 2016). Methods included two hangings, one overdose, one laceration, and one by asphyxiation. The number of suicides for both years exceeded the number reported in the most recent special master's report issued January 2013 in the "Coleman" case (this is the federal court case that found California's prison system did not meet the federal law for treatment of mentally ill prisoners). In 2012, there was only one suicide at CMC. The current two-year average of 2.5 suicides is higher than expected given the reported rate of 23.7 per 100,000 inmates.<sup>1</sup> For a population of a little more than 4000 at CMC, the expected number of suicides would be 1 per year.

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<sup>1</sup> Twenty-fifth round monitoring report of the special master on the defendants' compliance with provisionally approved plans, policies, and protocols, Mathew Lopes, Jr, Special Master, U.S. District Court for the Eastern District of California, Coleman v. Brown.

## **OCCUPATIONAL SAFETY**

During an initial inspection visit in September 2016, the Grand Jury noted a potential concern involving high noise levels in several CALPIA facilities at CMC. In a review of previous grand jury reports, this Grand Jury noted it is not the first time this concern has been mentioned, but it has not been previously reported upon in detail.

The Grand Jury observed over 200 inmates working as employees in CALPIA manufacturing programs at CMC that include a Shoe Factory, Knitting Mill and Print Plant. CALPIA work facilities pay inmate workers a wage and therefore must comply with California Division of Occupational Safety and Health (CAL/OSHA) regulations and requirements under Title 8 California Code of Regulations (CCR) §5095-5100.

The Grand Jury noted that in 2003 and 2008 CALPIA conducted noise surveys to determine if noise exposures exceeded CAL/OSHA threshold requirements. These noise surveys indicated that Permissible Noise Exposure Levels had been exceeded and that the implementation of a Hearing Conservation Program was required. The CALPIA Hearing Conservation Program has been implemented and is in use by CALPIA to insure inmate workers are protected from exposure to excessively high noise levels.

During the initial Grand Jury inspection of the CALPIA Shoe Factory in September 2016, it was observed that only three of the several dozen inmate workers were wearing hearing protection. Grand jurors were told at that time that hearing protection requirements were dependent upon the sound levels near specific machines. In contrast to the September 2016 inspection, it was noted during the second Grand Jury inspection of the Shoe Factory and first inspection of the Knitting Mill in March 2017 that every inmate worker was observed to be wearing one of several types of hearing protection. The CALPIA Noise Survey Report for CMC indicated that a hearing conservation program is required only in the Shoe Factory and Knitting Mill.

During these visits, all inmates interviewed stated that they had full access to the hearing protection either required or optional for their specific job task. They also stated that they were participating in a hearing testing program and felt adequately protected. The administrators,

managers, and superintendents interviewed stated that it was their mission to ensure that the CALPIA factories are a safe, productive, and valuable training opportunity for inmate workers.

The Grand Jury observed there were no consistent and specific perimeter markings or demarcations around high noise producing equipment that would indicate hearing protection should be worn by inmate workers. When asked about this, CALPIA staff informed the Grand Jury that those who did not spend at least 8 hours of their working day in the close vicinity of high noise producing equipment would not be expected to exceed the 8-hour time-weighted-average (TWA) sound level exposure limit and therefore would not require hearing protection. This response indicated that CALPIA felt that no demarcation lines were needed. Yet in the dense, extremely confined spaces around the high noise producing equipment in these factories, it is difficult to determine where demarcations should be located and where hearing protection might be most beneficial.

Records of inmate workers' 6-month hearing tests or summary data of these testings were not easily accessible to the Grand Jury during the initial inspection of the Shoe Factory and the Knitting Mill. Initially, the Grand Jury was told that CALPIA's documentation of hearing test results showed that no hearing loss to inmate workers had occurred. The Grand Jury was not provided with that documentation. During the initial inspection, the Grand Jury also received verbal assurances from CALPIA staff that there had been no occurrences of hearing loss by workers at these facilities.

However, after additional requests for data summaries, the Grand Jury received on May 25, 2017, a summary of audiometric testing (undated) from CALPIA. The data indicates 119 inmate workers were tested; 63 were being tested to establish a baseline and 56 were being retested. Of the 56 retests, 3 experienced significant hearing loss, identified as a Standard Threshold Shift from baseline.

## CONCLUSIONS

CALPIA at CMC appears to meet requirements imposed for workplace noise exposure levels as required by the Hearing Conservation Program and CAL/OSHA regulations. However, some questions did arise regarding the availability and easy access of audiometric testing data, and how such data is being used.

The Grand Jury noted the following areas of interest that future grand juries may wish to examine:

- Records of inmate worker hearing tests to determine if hearing loss has occurred
- Observation of inmate worker use of hearing protection devices when required to do so and interviews of randomly selected workers in the CALPIA factories to determine if they feel adequately protected
- Consistent implementation of the Hearing Conservation Program
- Appropriate use of audiometric testing results in the Hearing Conservation Program by local CALPIA staff

## FINDINGS

F1: The suicide rate over the past two years at CMC appears higher than expected based on available system-wide data on suicides.

F2: Records of inmate worker 6-month hearing tests or other individual hearing tests were not easily accessible to the Grand Jury.

F3: Audiometric Testing data received indicated that three inmate workers experienced a significant hearing loss.

F4: The Grand Jury noted that the wearing of hearing protection devices by inmate workers was inconsistent, and the procedures which required the wearing of hearing protection may not have been uniformly implemented.

## REQUIRED RESPONSES

While CMC as a state institution is not required by law to respond to findings and recommendations made by a county Grand Jury, it is encouraged to do so.

Responses can be submitted to the Presiding Judge of the San Luis Obispo County Superior Court. Please provide a paper copy and an electronic version of all responses to the Grand Jury.

Presiding Judge	Grand Jury
Presiding Judge Barry T. LaBarbera Superior Court of California 1035 Palm Street Room 355 San Luis Obispo, CA 93408	San Luis Obispo County Grand Jury P.O. Box 4910 San Luis Obispo, CA 93403 Email: <a href="mailto:grandjury@co.slo.ca.us">grandjury@co.slo.ca.us</a>