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INFORMATION BRIEF ON THE REHIRING OF CORRECTIONAL OFFICERS WITHIN THE DEPARTMENT OF CORRECTIONS

REPORT

ABSTRACT

The Department of Corrections has procedures in place that should identify any applicant who has previously been terminated or resigned while under investigation. However, the determination of whether a former officer is a suitable candidate for rehiring can be hindered by incomplete documentation and incomplete review of the personnel file from the previous institution. Of approximately 10,000 entry-level correctional officers employed as of January 1, 1996, Department records indicate that 38 officers had been rehired after termination or voluntary separation due to unsatisfactory job performance or misconduct.

PURPOSE OF REVIEW

In January 1996, the House Committee on Corrections issued a report, "Correctional Officers: Turnover, Security and Safety," that indicated some Florida correctional institutions have rehired former correctional officers who were terminated for cause by the Department of Corrections or who resigned during an investigation. The Chairman of the House Committee on Corrections asked the Department to provide personnel information regarding the number of correctional officers employed as of January 1,

1996, who were in those categories. The Department provided preliminary information to the Committee and to OPPAGA on February 20, 1996. At the request of the Chairman of the House Corrections Committee, the Joint Legislative Auditing Committee directed OPPAGA to review correctional officer rehiring. We addressed the following two questions:

- What procedures have the Department established to identify and screen previously employed applicants to ensure that former officers are suitable candidates for rehiring?
- To what extent is the Department rehiring correctional officers who have been previously fired or who have resigned under investigation?

BACKGROUND

A correctional officer in Florida must meet the certification qualifications in Florida statutes. See Exhibit 1. Correctional officers are certified by the Criminal Justice Standards and Training Commission within the Florida Department of Law Enforcement (FDLE).

An individual who has not completed the basic training requirements for certification and passed the officer certification examination, but otherwise qualifies for certification, may be temporarily employed on trainee status for up to 180 days. Approximately 56% of the 7,682 correctional officers hired by the Department of Corrections between January 1, 1994 and January 1, 1996 were hired as trainees. If a trainee does not complete basic training within six months or fails the certification examination, state law requires the institution to terminate the trainee's employment.

Exhibit 1
Qualifications for Certification
as a Correctional Officer

- At least 19 years of age
- Citizen of the United States
- High school graduate or equivalent
- No conviction for felony or perjury, and no dishonorable discharge from military
- Copy of fingerprints on file
- Pass physical examination
- Good moral character
- Complete basic recruit training program
- Pass certification examination
- Comply with continuing education requirements

Source: Section 943.13, Florida Statutes.

Correctional officers may achieve permanent status after one year of employment. When an officer separates from the Department, whether during the one-year probationary period or after the officer has achieved permanent status, the Department is required to notify the Commission of the date and reason for the separation. Separations based on unsatisfactory job performance or officer misconduct fall into one of three categories of unfavorable separations:

- Administrative reasons - unfavorable circumstances;
- Undesirable separation - misconduct; or
- Voluntary separation while being investigated for alleged misconduct.

An officer may remain certified despite an unfavorable separation. Only the Criminal Justice Standards and Training Commission may revoke or suspend the officer's certification based upon an investigation initiated by the employing agency. As long as an individual's correctional officer certification is not revoked or suspended, state law does not prohibit the individual from reapplying and obtaining employment as a correctional officer.

Rehiring certified officers often provides a more immediate resolution to staffing shortages than hiring new recruits.¹ When a new officer who has not completed basic training is hired, these officers are not available to fill vacant officer posts during the four-month basic recruit training course. Rehiring a certified officer, even if the officer's previous performance was unsatisfactory, offers the institution the advantage of having an officer available to immediately fill vacant officer posts.

OBSERVATIONS

The Department has procedures for hiring that should ensure those applicants who were previously employed are identified during the hiring process. However, the Department may incorrectly evaluate the suitability of former officers for rehire because adverse information from their prior employment is not always made known to the hiring institution.

The Department's procedures for hiring correctional officers include several steps to ensure that former correctional officers who separated under unfavorable circumstances or who otherwise may not be suitable candidates for employment are identified during the application review process. These steps include the following: a search of state and national criminal history databases, inquiries to local law enforcement officials in the applicant's counties of residence for the previous 10 years, written requests for references from former employers, and a check with both the state personnel database (COPEs) and FDLE's officer separations database to verify any past employment and reason(s) for separation. These steps are consistent with the Florida Department of Law Enforcement Criminal Justice Standards and Training Commission's recommended procedures for background checks for law enforcement and correctional officers. Officials at the four institutions we visited were generally following these basic procedures to ensure that previously employed applicants were identified during the hiring process.

Procedures to determine whether former employees are suitable candidates need to be improved. Although the Department's procedures should ensure that past employment experiences with the Department are identified, its procedures do not ensure that complete information about former employees is available to the rehiring institutions. We identified two deficiencies in the Department's personnel practices that could result in institutions rehiring former employees who are not good candidates for employment:

- Two of the four institutions we visited did not obtain and review the personnel files of previously fired employees prior to the decision to rehire. Rather, the institutions relied upon references from the prior institutions. In one instance, the written reference did not mention

¹ In our review of Correctional Officer Staffing, we discussed how the number of officers on duty within an institution at any given time is below the levels authorized by the Legislature. One of the primary causes of this shortage was identified as correctional officer turnover (a 22% rate in 1994).

that the officer's termination was partially based upon questions about the officer's honesty. This information was included within the personnel file from the previous institution that was not obtained by the hiring institution until after the officer had been rehired.

- Institutions do not always thoroughly document problems with, or actions taken against, employees in their personnel files. For example, at three of the four institutions we visited, we reviewed files that contained no explanation of why officers had been dismissed while on probationary status.²

Procedures for regional approval of rehires need to be followed. When individuals who were previously separated under unfavorable conditions reapply for employment as correctional officers, Department policy requires the records and applications of those individuals be considered on a case-by-case basis, and approval to rehire be obtained from the Regional Director or Assistant Secretary. In June 1995, the Secretary of the Department identified five criteria that should be considered in deciding to rehire such individuals:

- The reason the employee terminated employment;
- The length of time since termination;
- The class for which the individual has applied;
- The applicant's current licensure or certification status; and
- The former employee's work history since termination.

The Department has not specified any guidelines for the application of these criteria, such as the appropriate length of time since the previous termination or behaviors that would exclude an individual from consideration.

Although the Department has established procedures to regulate the rehiring of previously fired officers, the Department has not established a process to ensure these procedures are followed. The Department could not provide documentation of the regional director's approval of the rehiring in 6 (38%) of the 16 cases of officers previously fired who were rehired between July 1995 and January 1996.

Florida's procedure of doing case-by-case reviews of individuals previously separated under unfavorable conditions is common among other jurisdictions. Officials who we contacted in other state, county, and federal jurisdictions indicated that,

like Florida, decisions to rehire previously fired correctional officers are generally made on a case by case basis. Other jurisdictions have established guidelines that are more specific than Florida. For example, a Federal Bureau of Prisons official stated that previously fired officers cannot be considered for rehiring for a period of three years.

Several other jurisdictions we contacted rely on a more centralized hiring process than the one used by the state of Florida. For example, California's Department of Corrections runs its own academy to train new officers. All applicants go through a central academy and are hired at the state level before being assigned to individual institutions. By contrast, correctional officer training in Florida is primarily provided at community colleges and vocational schools, interviewing is conducted at the regional level, and hiring decisions are made by the officials of the institution where the officer will be placed. Decentralized decision-making increases the likelihood that procedures to identify unsuitable candidates will not be followed in every case. However, Florida's centralized employment information about past employment in the state personnel system and the FDLE separations database, and following the requirement for regional office approval of rehiring previously terminated officers should provide Florida with adequate control over these rehiring decisions.

Of its approximately 10,000 entry-level correctional officers, the Department of Corrections identified 38 correctional officers who, as of January 1, 1996, had been rehired after having been fired for unsatisfactory job performance or misconduct, or having resigned from the Department while under investigation.³

To identify the number of correctional officers who had been rehired after having previously been fired or had voluntarily resigned from the Department while under investigation for misconduct, the Secretary of the Department directed institution personnel officers to review institution personnel files. In addition, the Department of Law Enforcement provided the Department of Corrections with a listing from the separations database of all of the officers terminated for cause during 1994 and 1995 and subsequently rehired. From these two sources, the Department reported to the Corrections Committee that a total of 267 officers who had been rehired after having been terminated or resigned.

² When an employee on probationary status is terminated, Department staff do not cite reasons for the employee's dismissal in the letter of separation, and do not always document reasons for dismissal in the personnel file. The terminated employee who was on probationary status cannot appeal the decision under the career service system.

³ Department records indicate that these 38 officers were rehired between 1990 and 1995.

The 267 officers identified by the Department included many officers who had failed to pass the certification examination at the completion of basic training, and had been terminated until they had retaken and passed the exam. In addition, the Department identified 9 officers who had been reinstated by the Public Employees Relations Commission after termination for unsatisfactory job performance or misconduct. We reviewed the lists of terminated officers provided by the Department of Corrections and the Department of Law Enforcement. We identified 38 officers who had been terminated for unsatisfactory job performance or misconduct, were rehired by the Department of Corrections, and were still employed as of January 1, 1996. (See Exhibit 2.)

Exhibit 2
38 Correctional Officers Rehired
After Previous Firing or Termination
and Still Employed as of January 1, 1996¹

<u>Reason</u>	<u>Number</u>
Administrative unfavorable	26
Absenteeism	10
Violation of Rules	2
Abandonment of Post/Failure to report	4
Sleeping/Failure to Remain alert	4
Unfavorable Background Checks	3
False Workers' Compensation Claim	1
Not Available	2
Misconduct	7
False Report/Testimony/Application	3
Did Not Cooperate with Investigation	2
Unprofessional Relationship w/ Inmate	1
Malicious Use of Profane Language	1
Voluntary Separation While Being Investigated	5
Unbecoming Conduct	3
Insubordination	1
Falsified Application	1
Total	<u>38</u>

¹ In addition, the Department identified 9 officers who had been reinstated by the Florida Public Employees Relations Commission after having been fired by the Department for the following reasons: excessive use of force (3), sexual harassment (2), failure to report rule violation, unable to perform due to workers' compensation injury, and conduct unbecoming an officer.

Source: Office of Program Policy Analysis and Government Accountability summary of Department of Corrections data.

CONCLUSIONS

According to information provided by the Department, less than one half of one percent of the correctional officer workforce has been rehired after having been terminated for unsatisfactory job performance or misconduct. Although the prior performance of some of these officers raises questions as to their suitability as good correctional officers, the Department's policy for case review of these applications seems appropriate.

Based on our review of the Department of Corrections' hiring and rehiring procedures, guidelines, and practices, the Department's procedures for checking the backgrounds of applicants are adequate to ensure that correctional officer applicants who have been previously employed by the Department are identified. In some cases, however, the lack of documentation as to the reason(s) for personnel actions prohibits a thorough review of past work performance. As such we recommend that the Department revise its procedures for documenting the reasons for officers separating from the Department to ensure that institutional officials document in the personnel files those deficiencies in the officer's performance or character that were observed during the period of employment and could be pertinent to determining the officer's suitability for rehiring. We also recommend that prior to making a hiring recommendation to the Superintendent, institution personnel staff obtain and review the personnel file from the previous employing institution for any applicant who was previously employed by the Department. Finally, we recommend that the Department establish a process to ensure that its hiring procedures are followed by the institutions, including ensuring that documentation of Regional Directors' approval of rehiring decisions is maintained.

AGENCY RESPONSE

The Deputy Secretary of the Department of Corrections concurred with the findings of our report. He stated that the Department would review existing procedures to determine if changes in existing policies or more comprehensive approaches would be appropriate.

This project was conducted in accordance with applicable evaluation standards. Copies of this report may be obtained by telephone (904/488-1023), by FAX (904/487-3804), in person (Claude Pepper Building, Room 312, 111 W. Madison St.), or by mail (OPPAGA Report Production, P.O. Box 1735, Tallahassee, FL 32302).

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