

AMENDED IN SENATE MAY 20, 1998
AMENDED IN SENATE APRIL 28, 1998
AMENDED IN SENATE MARCH 30, 1998

SENATE BILL

No. 1913

**Introduced by Senator Ayala
(Coauthors: Senators Polanco and Vasconcellos)**

February 19, 1998

An act to amend Sections 6125, 6127, 6128, and 6129 of, to add Sections 6126.1 and 6126.2 to, and to repeal and add Section 6126 of, the Penal Code, relating to the office of the Inspector General.

LEGISLATIVE COUNSEL'S DIGEST

SB 1913, as amended, Ayala. Office of the Inspector General.

Existing law establishes the office of the Inspector General and prescribes the responsibilities of that office. Existing law authorizes the office of the Inspector General to receive communications from any individual employed by any department, board, or authority who believes he or she may have information that may describe a variance from departmental investigatory policies and procedures.

This bill would revise and recast these provisions by specifying that the office of the Inspector General shall be independent and nonpartisan, and requiring the Inspector General to be accountable and report directly to the Governor. The bill would provide that the office of the Inspector General shall serve as the lead state agency

responsible for the quality and timeliness of all investigations of state public safety departments, boards, authorities, and agencies, provide for appropriate investigatory and support personnel to be placed under the authority of the Inspector General, and specify the duties and jurisdiction of the Inspector General.

The bill would require the Inspector General to establish a certification program for investigators of the office of the Inspector General, and to refer to the Bureau of Investigation of the Department of Justice for the investigation of all cases in which the Inspector General determines that there is reasonable cause to believe a public safety employee has been involved in specified criminal activity. The bill also would require the Inspector General to establish a toll-free public telephone number to be posted at specified locations for the purpose of identifying any alleged wrongdoing by any public safety employee.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6125 of the Penal Code is
2 amended to read:

3 6125. There is hereby created the independent and
4 nonpartisan office of the Inspector General, which shall
5 not be a subdivision of any other governmental entity.
6 The Inspector General shall be accountable and report
7 directly to the Governor. The Governor shall appoint the
8 Inspector General, subject to Senate confirmation of that
9 appointment.

10 SEC. 2. Section 6126 of the Penal Code is repealed.

11 SEC. 3. Section 6126 is added to the Penal Code, to
12 read:

13 6126. (a) The office of the Inspector General shall
14 serve as the lead state agency responsible for quality and
15 timeliness of all investigations of state public safety
16 departments, boards, authorities, and agencies, including
17 the Department of Corrections, the Department of the
18 Youth Authority, the Board of Prison Terms, the Youthful



1 Offender Parole Board, the Board of Corrections, the
2 Narcotic Addict Evaluation Authority, the Prison
3 Industry Authority, and the Youth and Adult
4 Correctional Agency. The Inspector General shall have
5 jurisdiction over the investigation of any private or public
6 correctional facility operated under contract with the
7 state. The Inspector General shall do all of the following:

8 (1) Establish and oversee the policies and procedures
9 for conducting investigations and audits of investigatory
10 practices for all state public safety departments, boards,
11 and authorities.

12 (2) Conduct and have complete responsibility and
13 control of the internal affairs investigations of all
14 personnel of the Department of Corrections, the
15 Department of the Youth Authority, the Board of Prison
16 Terms, the Youthful Offender Parole Board, the Board of
17 Corrections, the Narcotic Addict Evaluation Authority,
18 the Prison Industry Authority, and the Youth and Adult
19 Correctional Agency. Appropriate investigatory and
20 support personnel from the departments, boards, and
21 authorities shall be placed under the authority of the
22 Inspector General, effective January 1, 1999, and shall no
23 longer report to the directors or chairs of their respective
24 departments, boards, or authorities. Personnel under the
25 authority of the Inspector General may be located on the
26 grounds of the Department of Corrections or the
27 Department of the Youth Authority, if necessary, to
28 effectively and efficiently perform their investigative and
29 audit responsibilities.

30 (3) Conduct any investigation requested by either the
31 Governor or a Member of the Legislature.

32 (b) Upon completion of any investigation or audit, the
33 Inspector General shall provide a timely written response
34 to the requester and the Governor. Every investigative
35 audit shall be kept confidential, except that the Inspector
36 General may issue any report or release any findings
37 resulting from an investigation conducted pursuant to
38 this chapter that the Inspector General deems necessary
39 to serve the interests of the state.



1 (c) In the accomplishment of investigatory audits, the
2 Inspector General shall identify areas of full and partial
3 compliance, and noncompliance, with departmental
4 policies and procedures, and recommend corrective
5 actions. However, it shall ultimately be the responsibility
6 of the Secretary for the Youth and Adult Correctional
7 Agency to ensure that the departments, boards, and
8 authorities take the necessary corrective action to come
9 into compliance with the proper departmental policies
10 and procedures.

11 SEC. 4. Section 6126.1 is added to the Penal Code, to
12 read:

13 6126.1. (a) In ~~conjunction~~ *consultation* with the
14 Commission on ~~Peace Officers~~ *Correctional Peace*
15 *Officers'* Standards and Training, the Inspector General
16 shall establish a certification program for investigators
17 under the jurisdiction of the Inspector General. The
18 investigators training course shall be consistent with the
19 standard courses utilized by other major investigative
20 offices, such as county sheriff and city police departments
21 and the California Highway Patrol.

22 (b) Beginning January 1, 2000, all investigators
23 conducting investigations for the office of the Inspector
24 General shall complete the investigation training and be
25 certified within one year of employment.

26 (c) Beginning January 1, 1999, all investigators shall
27 successfully pass a psychological screening exam before
28 becoming employed with the office of the Inspector
29 General.

30 SEC. 5. Section 6126.2 is added to the Penal Code, to
31 read:

32 6126.2. (a) The Inspector General shall refer to the
33 Bureau of Investigation of the Department of Justice for
34 investigation of all cases in which the Inspector General,
35 in his or her judgment, determines that there is
36 reasonable cause to believe that an employee of the
37 Department of Corrections, the Department of the
38 Youth Authority, the Board of Prison Terms, the Youthful
39 Offender Parole Board, the Board of Corrections, the
40 Narcotic Addict Evaluation Authority, the Prison



1 Industry Authority, or the Youth and Adult Correctional
2 Agency has done any of the following:

3 (1) Committed a violent felony, as defined in
4 subdivision (c) of Section 667.5, or a serious felony, as
5 defined in subdivision (c) of Section 1192.7.

6 (2) Engaged in a criminal conspiracy, as defined in
7 Section 182.

8 (3) Engaged in the sale, possession for sale, purchase
9 for sale, or transportation of any controlled substance or
10 marijuana in violation of Section 11351, 11351.5, 11352,
11 11359, or 11360 of the Health and Safety Code.

12 If appropriate, the Inspector General shall report this
13 information to the Senate and Assembly committees
14 having jurisdiction over the subject involved, and to any
15 other authority that the committees determine
16 appropriate.

17 (b) The Bureau of Investigation of the Department of
18 Justice shall be reimbursed for the reasonable costs of the
19 investigations from the funding provided for this purpose
20 in the budget allocation of the office of the Inspector
21 General. It is the intent of the Legislature that the
22 Department of Justice avoid any conflict of interest in
23 representing the State of California in any civil litigation
24 that may arise in a case in which an investigation has been
25 or is currently being conducted by the Bureau of
26 Investigation by contracting when necessary for private
27 counsel.

28 (c) The Inspector General shall not have any
29 enforcement power. In any case in which the Inspector
30 General submits a report of alleged improper activity to
31 the head of the employing agency or appropriate
32 appointing authority, the head of that employing agency
33 or appropriate appointing authority shall report to the
34 Inspector General with respect to any action he or she has
35 taken regarding the alleged improper activity. The first
36 report shall be transmitted no later than 30 days after the
37 date of the final report of the Inspector General, and
38 monthly thereafter until the final action has been taken.

39 SEC. 6. Section 6127 of the Penal Code is amended to
40 read:



1 6127. (a) The Department of Corrections, the
2 Department of the Youth Authority, the Board of Prison
3 Terms, the Youthful Offender Parole Board, the Board of
4 Corrections, the Narcotic Addict Evaluation Authority,
5 the Prison Industry Authority, and the Youth and Adult
6 Correctional Agency shall comply with all requests of the
7 Inspector General for any document or record contained
8 on any medium. The Inspector General shall be deemed
9 to be a department head for the purpose of Section 11189
10 of the Government Code in connection with any
11 investigation or audit conducted pursuant to this chapter.

12 (b) The Inspector General may require any employee
13 of either department to be interviewed on a confidential
14 basis. Any employee so requested shall comply and shall
15 have time afforded by the appointing authority for the
16 purpose of an interview with the Inspector General or his
17 or her designee. Any record created by an interview shall
18 be deemed confidential for use by the Inspector General
19 only. It is not the purpose of these communications to
20 address disciplinary action or grievance procedures that
21 may routinely occur.

22 SEC. 7. Section 6128 of the Penal Code is amended to
23 read:

24 6128. (a) The office of the Inspector General may
25 receive communications from any individual employed
26 by any department, board, or authority who believes he
27 or she may have information that may describe a variance
28 from departmental investigatory policies and
29 procedures. The identity of the person providing the
30 information shall be held as confidential by the Inspector
31 General and may be disclosed only to the secretary or the
32 Governor, or the appropriate director or chair, in
33 confidence or a law enforcement agency in the
34 furtherance of their duties. It is not the purpose of these
35 communications to redress any single disciplinary action
36 or grievance that may routinely occur.

37 (b) In order to properly respond to any allegation of
38 improper governmental activity, the Inspector General
39 shall establish a toll-free public telephone number for the
40 purpose of identifying any alleged wrongdoing by an



1 employee of any public safety department, board, or
2 authority. This telephone number shall be posted
3 throughout all state public safety departments, boards,
4 and authorities in clear view of all employees and the
5 public. When appropriate, the Inspector General shall
6 initiate an investigation or audit of any alleged
7 wrongdoing. However, any request to conduct an
8 investigation shall be in writing. The request shall be
9 confidential and is not subject to disclosure under the
10 Public Records Act (Chapter 3.5 (commencing with
11 Section 6250) of Division 7 of Title 1 of the Government
12 Code).

13 (c) The identity of the person providing the
14 information that initiated the investigation shall not be
15 disclosed without the person's written permission, except
16 to a law enforcement agency in the furtherance of its
17 duties.

18 SEC. 8. Section 6129 of the Penal Code is amended to
19 read:

20 6129. (a) Any state employee at any rank and file,
21 supervisory, or managerial level who intentionally
22 engages in acts of reprisal, retaliation, threats, coercion,
23 or similar acts against an employee of either department
24 for having disclosed what the employee, in good faith,
25 believed to be improper activities shall be disciplined by
26 adverse action as provided in Section 19572 of the
27 Government Code. If no adverse action is instituted by
28 the appointing power, the State Personnel Board shall
29 invoke adverse action as provided in Section 19583.5 of
30 the Government Code.

31 (b) In addition to all other penalties provided by law,
32 any state employee at any rank and file, supervisory, or
33 managerial level who intentionally engages in acts of
34 reprisal, retaliation, threats, coercion, or similar acts
35 against an employee of either department for having
36 disclosed what the employee, in good faith, believed to be
37 improper activities shall be liable in an action for damages
38 brought against him or her by the injured party. Punitive
39 damages may be awarded by the court if the acts of the
40 offending party are proven to be malicious. If reliability



1 has been established, the injured party also shall be
2 entitled to reasonable attorney's fees as provided by law.

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