

# CALIFORNIA STATE PRISON, SAN QUENTIN

---

## ***Investigations of Improper Activities by State Employees, Report I2000-2***

### ALLEGATIONS I990090, AUGUST 2000

**W**hile employed at the California State Prison, San Quentin (prison), an employee improperly established a museum on prison grounds and, as an officer of a nonprofit organization (association), used more than \$1,300 of the association's funds for personal benefit, and paid wages to the association's employees without withholding required taxes.

---

#### ***Audit Highlights . . .***

*An employee engaged in the following improper governmental activities:*

- Made improper representations to other governmental entities when establishing a nonprofit organization (association) affiliated with California State Prison, San Quentin.*
  - Used more than \$1,300 of the association's funds for personal purposes and made other questionable expenditures from the association's account.*
  - Failed to withhold payroll taxes and make payments to tax authorities for employees of the association's museum.*
- 

#### **Finding #1: An employee misrepresented the prison's role in the management of the association.**

Specifically, the employee led the secretary of state, the Internal Revenue Service, and the Franchise Tax Board to believe that the prison's warden would oversee the association and its museum. He made these representations when filing documents with those entities to establish the association as a nonprofit public benefit corporation, thereby implying that the State and the prison accepted responsibility for the association. However, the employee never told the wardens that they were named as having responsibilities related to the association. Instead, through casual remarks to them, he led them to believe they had no such responsibilities.

#### **Finding #2: Contrary to state law and the association's articles of incorporation, the employee spent \$1,338 of the association's cash for his own benefit from April 1998 through January 1999.**

In addition, the employee inappropriately wrote at least three checks totaling \$1,300 on the association's account for parties. The employee claimed that he inadvertently used the association's funds for his personal benefit and, in mitigation, he made donations to the association that total more than the amount of funds he used. Although the employee made approximately \$3,265 in donations to the association, it was improper for him to use the association's funds as he did.

**Finding #3: The employee paid association wages to at least five employees of the museum from 1995 through 1998, but did not withhold required taxes or remit them to the Employment Development Department as required.**

The employee told us he considered the employees to be independent contractors rather than employees. The wardens in charge at the time told us they thought the individuals were volunteers, not paid employees.

***Department Action: Corrective action completed.***

The Department of Corrections (Corrections) reported that neither its administration nor the prison's warden at the time was aware of the representations made by the employee to establish the association as a nonprofit organization. The current warden and Corrections' regional administrator have determined that it is in Corrections' best interest to reopen the museum due to its historical importance. As a result, Corrections is currently considering reopening the museum as a nonprofit entity, under the direction of an outside independent board of directors. However, before it reopens the museum, Corrections will insure that its tax status is properly established and that adequate accounting procedures are established. Corrections has referred the issue of tax withholding to the Franchise Tax Board for its review.