



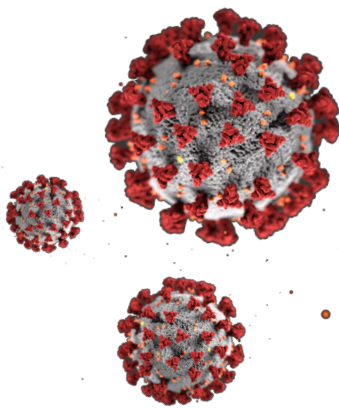
Roy W. Wesley, Inspector General

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OIG | OFFICE *of the* INSPECTOR GENERAL

Independent Prison Oversight

August 2020



COVID-19 REVIEW SERIES

Part One



Inconsistent Screening Practices May Have Increased the Risk of COVID-19 Within California's Prison System



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Regional Offices

Sacramento

Bakersfield

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August 17, 2020

Anthony Rendon
Speaker of the Assembly
State Capitol
Sacramento, California

Dear Mr. Speaker:

Enclosed is the Office of the Inspector General's report titled *COVID-19 Review Series, Part One: Inconsistent Screening Practices May Have Increased the Risk of COVID-19 Within California's Prison System*. In April 2020, you requested the Office of the Inspector General (the OIG) to assess the policies, guidance, and directives the California Department of Corrections and Rehabilitation (the department) had implemented since February 1, 2020, in response to the novel coronavirus disease (COVID-19). Specifically, you requested we focus on three concerns: 1) the department's screening process for all individuals entering a prison or facility in which incarcerated persons are housed or are present, 2) its distribution of personal protective equipment to departmental staff and incarcerated persons, and 3) how it treats incarcerated persons who are suspected to have either contracted or been exposed to COVID-19. This report focuses on the department's efforts to screen prison staff and visitors for signs and symptoms of COVID-19; our future reports will focus on your remaining concerns.

In this report, we conclude that despite establishing directives to screen all staff and visitors who entered prison grounds for signs and symptoms of COVID-19, we found the department's screening directives to be vague, which appear to have caused inconsistent implementation among the prisons. We believe these inconsistent practices likely contributed to some staff and visitors entering prisons without having been screened. In fact, prisons did not screen a number of our staff during multiple visits between May 19, 2020, and June 26, 2020. Our staff's experiences of not being screened were supported by departmental staff we surveyed at several prisons, as some of them reported that they, too, had not always been screened. Furthermore, staff who were responsible for screening staff and visitors for signs and symptoms of the disease reported to us that their thermometers, which were used to check the temperatures of each person during screening, did not always work properly; they reported their thermometers were not always accurate and, in some cases, lacked battery power. Those individuals also reported they had not been properly trained to carry out their screening duties; our review of their training records confirmed their statements.

Although this report focused on the department's March 2020 directives to screen all staff and visitors for signs and symptoms of COVID-19, the department subsequently began laboratory testing of all staff statewide. While this type of testing should significantly enhance the department's ability to detect staff who may be infected with the virus, the tests are only reflective of the point in time when the person provided a sample. A staff member could have become infected and exhibited signs and symptoms of the disease after being tested, but before results were received, or between laboratory tests. Therefore, we believe it is imperative for the department to not only continue screening for signs and symptoms of the disease, but also to provide additional guidance to prisons to improve the consistency and effectiveness of the screening process.

With this report, the OIG also brings to your attention a serious matter concerning the department's decision to withhold information with respect to this authorized review, which essentially limited our analysis for a




portion of this report. In your request letter, you specifically asked us, among other things, to include a time line that quantifies the outbreak over time. Naturally, that would require information related to both staff and incarcerated persons who tested positive for COVID-19. To address this specific request (and potentially other areas of your request), we asked the department for copies of all the underlying information and data the department used to populate its tracking report for staff who tested positive for COVID-19 (called the *CDCR/CCHCS COVID-19 Employee Status*). Presently, the department displays on its public-facing website a daily summary of staff who have tested positive for COVID-19. Unlike similar data for incarcerated persons who have tested positive, the data for staff only display the total positive counts each day; this summary does not display results over time. Nevertheless, the department's executives—after weighing the decision for nearly three months—chose to withhold this information, citing their belief that disclosure would violate the California Confidentiality of Medical Information Act. This Act generally forbids employers from disclosing their staff members' medical information unless the staff authorize the disclosure, in writing.

We believe, however, that the law is clear with respect to our right to have access to this type of protected information. Penal Code section 6126.5 (a) provides that “**notwithstanding any other law,**” the OIG “**shall have access to and authority to examine and reproduce any and all books, accounts, reports, vouchers, correspondence files, documents, and other records**” of the department in connection with its authorized duties. Of equal significance, Penal Code section 6126.5 (b) specifies that this access, examination, and reproduction “**shall not result in the waiver of any confidentiality or privilege**” regarding this type of information. When the Legislature placed the phrase “notwithstanding any other law” into our statute, it exempted the department from the California Confidentiality of Medical Information Act's general prohibition when we are the party seeking access to its staff members' medical information.

In response to our draft report, the Secretary of the department informed us that “after further review and consideration, the decision has been made to release the information.” The Secretary indicated that his staff are in the process of gathering the information we requested and would provide it to us as soon as possible. Nevertheless, the decision to initially withhold the information we requested remains a concern. The department's decision to change course at this point does not alleviate the adverse effect its initial decision had on our ability to fulfill our mission. We believe our statutory access to protected information highlights our independence from the department and ensures that departmental staff—including its highest-level executives—cannot interfere with our work or determine for themselves what we can or cannot view. Toward that end, the Legislature placed significant emphasis on this authority by making it a misdemeanor if anyone fails or refuses to permit us access to any type of information we are legally authorized to review. Without having been granted a complete, unfettered view of the department's information, we therefore cannot carry out our statutory responsibilities, including the authorized review you asked us to perform, as fully and effectively as we otherwise could.

Respectfully submitted,



Roy W. Wesley
Inspector General

Contents

Illustrations	iv
Foreword	v
Summary	1
Introduction	3
Background	3
Scope and Methodology	9
The Department Delayed Sending Us Information and Ultimately Limited Our Scope by Improperly Withholding Other Pertinent Information	11
Review Results	15
Not Everyone Who Entered Prison Facilities Was Properly Screened for Signs and Symptoms of COVID-19	16
Malfunctioning Equipment and Insufficient Training Likely Diminished the Effectiveness of Prisons' Screening for COVID-19	25
Recommendations	31
Response to the OIG's Report	33
Comments	35

Illustrations

Figures

- | | |
|---|----|
| 1. Time Line of the Department’s Pertinent Actions and the Number of Confirmed COVID-19 Cases Among Its Incarcerated Population | 7 |
| 2. Distribution of Prison Screener Sites During the OIG’s Review Period | 17 |
| 3. COVID-19 Screening Experiences of OIG Staff by Screening Site | 19 |
| 4. Percentage of OIG Employees Screened Upon Prison Entry During Our Review Period | 20 |
| 5. Prison Staff Survey Responses Related to the COVID-19 Screening Process | 24 |
| 6. Summary of Results of the OIG’s Review of Training Records for a Sample of Screeners | 27 |

Photographs

- | | |
|---|----|
| 1. Staff and Visitor Screening at Mule Creek State Prison Vehicle Entrance | 16 |
| 2. Staff and Visitor Screening at Salinas Valley State Prison Pedestrian Entrance | 18 |

Graphics

- | | |
|---|------|
| The OIG Mandate | vii |
| California Department of Corrections and Rehabilitation Institutions and Parole Regions | viii |

Iconography, page 17: flaticon.com

Coronavirus image, cover and throughout, courtesy of the U.S. Centers for Disease Control and Prevention: [Image Library](https://www.cdc.gov/media/releases/2020/s110520-coronavirus-new-cases.html)

Foreword

By their very nature, prisons operate as controlled environments in which everyone's movements and activities are closely monitored. The individuals who interact within these environments can be generally described as those who live there (the incarcerated population), those who work there (institutional staff), and those who visit there (family members, contractors, vendors, or other official visitors, for example, staff from the Office of the Inspector General (the OIG)). In 2020, the novel coronavirus disease, known as COVID-19, swept the world, growing to global pandemic proportions, and is now impacting congregate living situations, such as prisons, especially hard. We have learned that individuals are the primary vectors of the disease, and experts increasingly recognize that controlling individuals' actions by setting and enforcing policy will be the key to society's success or failure in mitigating the devastating effects of this modern plague. The lives of all those who interact within the system—hundreds of thousands—are literally at stake.

When faced with this monumental public health crisis, Governor Gavin Newsom and the leadership of the California Department of Corrections and Rehabilitation (the department) quickly made key decisions to prevent COVID-19 from spreading into and throughout the prison system. Those key decisions included taking immediate action to prevent newly arriving incarcerated persons from entering the system; stopping visits from family and friends; limiting movement of staff and incarcerated persons between prisons; implementing a new process to screen staff and official visitors for signs and symptoms of the disease; manufacturing and providing hand sanitizer and masks for all staff and incarcerated persons; isolating individuals who showed symptoms of COVID-19 or tested positive for the disease; and creating new policies for staff and incarcerated persons with respect to maintaining physical distancing measures and wearing masks. While I acknowledge those admirable efforts, through this report, and those that follow in the series, we will present a review of the department's execution concerning some of those key decisions and make recommendations to help the department further protect the health of prison staff and persons alike.

Furthermore, it is important to note that many of the department's decisions listed above were not made in a vacuum and had significant effects on other people far beyond the institutional setting. The department's decision to stop visiting, for example, had a tremendous—and negative—effect on incarcerated persons and their families, who have not had physical contact with each other in months. Another decision the department made, halting the arrival of new incarcerated persons into the State prison system, was also not without consequences: it shifted the burden and responsibility to the counties to safely house and care for thousands of individuals awaiting their prison terms. County jail facilities undoubtedly faced the same types of difficulties

and pressures as the State facilities did with respect to preventing or controlling the spread of the disease. Clearly, these could not have been easy decisions to make, but under the circumstances, they were necessary.

Moreover, I would be remiss if I failed to recognize the individual actions of countless staff and incarcerated persons who played roles in helping to control the spread of the disease. Some of these individuals risked their own safety—and, by extension, the safety of their loved ones—to help those who became infected. Such heroic efforts must not be lost amid this discussion.

Finally, it is important to acknowledge that it was far easier to be an observer throughout this process: to monitor and report instead of being responsible for making these types of life-impacting decisions. This aspect was not lost on us. And although we too experienced many operational challenges along the way—just as other State agencies did—our challenges paled when compared with those faced by the department. Against this significant, sobering backdrop, we present the results of our work.

—Roy W. Wesley
Inspector General

When requested by the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, **the Inspector General** shall initiate an audit or review of policies, practices, and procedures of the department. . . . Following a completed audit or review, the Inspector General may perform a followup audit or review to determine what measures the department implemented to address **the Inspector General's** findings and to assess the effectiveness of those measures.

Upon completion of an audit or review . . . , **the Inspector General** shall prepare a complete written report, which may be . . . disclosed in confidence . . . to the Department of Corrections and Rehabilitation and to the requesting entity.

The Inspector General shall also prepare a public report. . . . Copies of public reports shall be posted on the Office of **the Inspector General's** internet website.

The Inspector General shall . . . during the course of an audit or review, identify areas of full and partial compliance, or noncompliance, with departmental policies and procedures, specify deficiencies in the completion and documentation of processes, and recommend corrective actions . . . including, but not limited to, additional training, additional policies, or changes in policy . . . as well as any other findings or recommendations that **the Inspector General** deems appropriate.

— *State of California*
Excerpted from
Penal Code section 6126 (b), (c), and (d)



California Department of Corrections and Rehabilitation Institutions and Parole Regions



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Sacramento, CA 95811

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 Richard A. McGee Training Center
9850 Twin Cities Rd.
Galt, CA 95632

Parole Regions

North Parole Region South Parole Region

Adult Institutions

ABRV	FACILITY NAME	LOCATION
1	PBSP Pelican Bay State Prison	Crescent City
2	CCC California Correctional Center	Susarville
3	HDSP High Desert State Prison	Susarville
4	FSP Folsom State Prison	Represa
5	SAC California State Prison, Sacramento	Represa
6	CMF California Medical Facility	Vacaville
7	SOL California State Prison, Solano	Vacaville
8	MCSP Mule Creek State Prison	Ione
9	SCJ California State Prison, San Quentin	San Quentin
10	CHCF California Health Care Facility	Stockton
11	SCC Sierra Conservation Center	Jamestown
12	DVI Deuel Vocational Institution	Tracy
13	CCWF Central California Women's Facility	Chowchilla
14	VSP Valley State Prison	Chowchilla
15	CTF Correctional Training Facility	Soledad
16	SVSP Salinas Valley State Prison	Soledad
17	PVSP Pleasant Valley State Prison	Coalinga
18	CCR California State Prison, Corcoran	Corcoran
19	SATF Substance Abuse Treatment Facility	Corcoran
20	ASP Avenal State Prison	Avenal
21	NKSP North Kern State Prison	Delano
22	WSP Wasco State Prison	Wasco
23	KVSP Kern Valley State Prison	Delano
24	CMC California Men's Colony	San Luis Obispo
25	CCI California Correctional Institution	Tehachapi
26	LAC California State Prison, L.A. County	Lancaster
27	CIM California Institution for Men	Chino
28	CJW California Institution for Women	Corona
29	CRC California Rehabilitation Center	Norco
30	CVSP Chuckawalla Valley State Prison	Blythe
31	ISP Ironwood State Prison	Blythe
32	CAL Calipatria State Prison	Calipatria
33	CEN Centinela State Prison	Imperial
34	RJD RJ Donovan Correctional Facility	San Diego
*	CAC Cal City Correctional Center	California City

Juvenile Institutions

ABRV	FACILITY NAME	LOCATION
1	NAC N.A. Chaderjian Youth Correctional Facility	Stockton
2	OHC O.H. Close Youth Correctional Facility	Stockton
3	VYCF Ventura Youth Correctional Facility	Camarillo

Community Correctional Facilities

ABRV	FACILITY NAME	LOCATION
1	DCCF Delano CCF	Delano
2	GSMCCF Golden State Modified CCF	McFarland
3	CVMCCF Central Valley Modified CCF	McFarland
4	SMCCF Shafter Modified CCF	Shafter
5	TMCCF Taft Modified CCF	Taft
6	DVMCCF Desert View Modified CCF	Adelanto

Map provided courtesy of the California Department of Corrections and Rehabilitation.

Summary

In April 2020, the Speaker of the California Assembly requested the Office of the Inspector General (the OIG) to assess the policies, guidance, and directives that the California Department of Corrections and Rehabilitation (the department) had implemented since February 1, 2020, in response to the novel coronavirus disease (COVID-19). Specifically, the Speaker requested we focus on three concerns: 1) the department's screening process for all individuals entering a prison or facility in which incarcerated persons are housed or are present, 2) its distribution of personal protective equipment to departmental staff and incarcerated persons, and 3) how it treats incarcerated persons who are suspected to have either contracted or been exposed to COVID-19. In this report, we focused on the department's efforts to screen prison staff and visitors for signs and symptoms of COVID-19. Future reports will focus on the second and third concerns noted above on the Speaker's list.

Beginning in March 2020, the department took multiple steps to prevent staff and visitors from introducing COVID-19 into its prisons. According to the department, its first step was suspending the visiting process on March 11, 2020, a suspension which remains in effect as of the date of this publication. However, some essential visitors, including contracted workers, attorneys, and OIG staff, continued to enter prisons, in addition to thousands of the department's staff who did so each day. Effective on March 14, 2020, the department required its prisons to begin verbally screening all staff and visitors seeking entry into prisons' secure perimeters for signs and symptoms of COVID-19. According to that directive, staff and visitors would be denied entry until prison staff working at entry points had verbally queried them for signs and symptoms of COVID-19 and had cleared them. Later in March, the department expanded these verbal screenings to include temperature checks, with the temperature checks and the verbal queries required for all staff and visitors, not just those entering prisons' secure perimeters. Expanding screenings to all staff and visitors was important because prisons often included multiple work areas outside their secured entrance points, including administrative offices and warehouses. Moreover, some of the employees who worked in areas outside prisons' secure perimeters interacted regularly with incarcerated persons who provided various cleaning services at or in buildings outside the secure perimeter throughout the day, and staff who returned to living and work areas inside the secure perimeters.

Despite the department's statewide directives that staff and visitors be screened for signs and symptoms of COVID-19 upon entry to prisons, we found that the department's vague screening directives resulted in inconsistent implementation among the prisons, which left some staff and visitors entering prisons unscreened. Specifically, we found prisons took different approaches to implementing the same departmentwide directive. Some prisons funneled every car to a single screening location, where prison staff conducted verbal and temperature screenings of

the cars' occupants. Other prisons screened staff at certain pedestrian entrances to the prisons. We found that this second approach increased the risk that staff or visitors may have walked into or through other workspaces without having been screened.

OIG staff viewed and experienced these inconsistencies firsthand. During multiple visits by our staff between May 19, 2020, and June 26, 2020, prisons did not screen some of them for the disease's known signs and symptoms. For example, California State Prison, Sacramento, conducted screenings at an area that cannot be seen from the prison's main entrance. In one example at this prison, two OIG staff experienced no delays when walking onto prison grounds; no one screened them as they parked their cars and then walked into the prison's administration building.

OIG staff's observations were also supported by staff whom we surveyed at several prisons. To obtain prison employees' perspectives, we surveyed all staff at seven prisons—more than 12,000 staff members. Staff responding to that survey indicated that the vast majority of them, but not all, had always been screened upon prison entry. Specifically, 5 percent of the survey's respondents indicated that they had not always been screened as required by the department's directive. We also learned that the results derived from some staff and visitor screenings may have been flawed. In response to a separate survey that we administered to screeners at five prisons, numerous screeners also identified multiple instances of thermometers malfunctioning during screenings. However, the screeners' survey responses did not indicate how they proceeded to conduct screenings when they could not accurately obtain temperatures; consequently, it is unclear whether they allowed entry to those individuals. Nevertheless, because the department's directive lacks instructions on what screeners were supposed to do in those instances, it was possible that screeners allowed some staff and visitors entry without obtaining accurate temperature readings. In addition, according to our review of a sample of screeners' training records and our survey of screeners themselves, many screeners apparently received no formal training at all concerning their prisons' screening processes, thus increasing the risk of allowing infected individuals to walk into prison facilities and expose others to the disease.

In this report, although we focused on the department's March 2020 directives to screen all staff and visitors for signs and symptoms of COVID-19, the department subsequently began laboratory testing for COVID-19 of all its staff statewide. While laboratory testing will significantly enhance the department's detection of staff infected with the virus, the tests only reflect whether the staff member was infected when the sample was taken; a staff member could have become infected and could have exhibited signs and symptoms of COVID-19 after having been tested, but before results were received, or between laboratory tests. Therefore, it is important that prisons consistently and effectively screen all staff and visitors for the virus' signs and symptoms.

Introduction

Background

On April 17, 2020, the Speaker of the California Assembly requested the Office of the Inspector General (the OIG) to assess the policies, guidance, and directives the California Department of Corrections and Rehabilitation (the department) had implemented since February 1, 2020, in response to the novel coronavirus disease (COVID-19).¹ Specifically, the Speaker requested we focus on three concerns pertaining to the department's response to the looming crisis:

1. Its screening process as applied to all individuals entering a prison or facility in which incarcerated persons are housed or are present,
2. The means by which it distributes personal protective equipment to departmental staff and incarcerated persons, and
3. How it treats incarcerated persons suspected of having either contracted or been exposed to COVID-19.

In this initial report, we focused on the Speaker's first concern listed above: the department's efforts to screen prison staff and visitors for signs and symptoms of COVID-19. The purpose of these screenings was to help identify and prevent staff and visitors who showed signs and symptoms of the disease from bringing the virus onto prison grounds, which would have increased the risk of its spread to incarcerated persons and other staff. Future reports will focus on the second and third items on the Speaker's list: the distribution of personal protective equipment and the institutional treatment of incarcerated persons suspected of having contracted COVID-19.

National and International Organizations Issued Warnings Concerning Increased Risks of COVID-19 Within Prison Systems

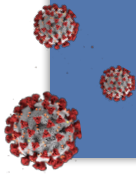
According to the World Health Organization, people in prisons and other places of detention are more likely to suffer vulnerability to the COVID-19 outbreak (which continues to persist at the time of this report's publication), compared with the general population. This effect is due to the confined conditions in which these individuals must cohabit for prolonged periods. Moreover, the World Health Organization has also observed that experience shows prisons, jails, and similar settings in which people are gathered in close proximity may also act as sources of infection, amplifying and spreading infectious diseases within and beyond the prisons themselves. Prison health is therefore widely

1. For more information on COVID-19, visit the website maintained by the United States Centers for Disease Control (<http://www.cdc.gov/coronavirus/2019-ncov/index.html>).

Three Reasons Why Responding to COVID-19 in Prisons Is Particularly Challenging

1. Widespread transmission of an infectious pathogen affecting the community at large poses a threat of introduction of the infectious agent into prisons and other places of detention; the risk of rapidly increasing transmission of the disease within prisons or other places of detention is likely to have an amplifying effect on the epidemic, swiftly multiplying the number of people affected.
2. Efforts to control COVID-19 in the community are likely to fail if strong infection prevention and control measures, adequate testing, treatment, and care are not carried out in prisons and other places of detention as well.
3. People in prisons and other places of detention are already deprived of their liberty and may react differently to further restrictive measures imposed upon them.

Source: **Preparedness, Prevention, and Control of COVID-19 in Prisons and Other Places of Detention: Interim Guidance**, March 15, 2020, World Health Organization.



considered to be part of public health. The World Health Organization has also noted that mounting an effective response to COVID-19 in prisons and other places of detention is particularly challenging to achieve.²

The United States Centers for Disease Control and Prevention (Centers for Disease Control) offers additional information concerning the disease, further highlighting the magnified risk facing California's prison population. According to the Centers for Disease Control's web publication, "Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities," because these institutions "can include custody, housing, education, recreation, health care, food service, and workplace components in a single physical setting," integrating these institutional components presents unique challenges for controlling the spread of the disease among incarcerated persons, as well as staff and visitors.³ The Centers for Disease Control has identified several challenges to containing the spread of infection which prisons face that are related to COVID-19; these include a discussion of the following aspects:

2. The World Health Organization provides considerable information on the pandemic along with suggestions for preventing the spread of COVID-19 in institutional settings. To learn more, visit <https://www.euro.who.int/en/health-topics/health-determinants/prisons-and-health/focus-areas/prevention-and-control-of-covid-19-in-prisons-and-other-places-of-detention>.

3. See the Centers for Disease Control's website for more information, specifically <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>.

- The numerous opportunities that allow for introducing the virus if an infected person enters the prison, such as daily staff ingress and egress; during transfers of incarcerated persons between facilities, to court appearances, and to outside medical visits; and during visits from family, legal representatives, and other community members when they enter the institutions;
- The effectiveness of incarcerated persons in carrying out basic personal preventive measures, such as handwashing. This single precaution may be limited because it is dependent on supplies that facilities are willing to provide to both staff and incarcerated persons;
- Limited options for medically isolating incarcerated persons who may be exhibiting signs and symptoms of COVID-19; and
- Incarcerated persons and staff who may already be suffering from underlying medical conditions which can increase their risk of experiencing severe disease that results from COVID-19.

The California Department of Corrections and Rehabilitation and California Correctional Health Care Services: Roles and Responsibilities

Each prison is managed collaboratively by a two-person team: a warden, who manages all custody-related matters, and a chief executive officer (CEO), who manages all health care-related matters. The co-equal relationship between these two individuals was established more than a decade ago as a consequence of the *Plata v. Newsom* litigation.⁴ These institutional leaders report to a higher level of authority through separate command structures within their respective organizations; wardens ultimately report to the Secretary of the department, whereas CEOs ultimately report to the federal receiver through California Correctional Health Care Services.

Although day-to-day institutional operations require close coordination among the staff who oversee all programs and services provided to the incarcerated population, this pair of coleaders maintains established standards distinguishing between their respective areas of responsibility, separating health care from custody. The CEO exercises sole province over concerns pertaining to health care while the warden responds to matters regarding custody. In the present environment of the COVID-19 pandemic, these otherwise bright lines are increasingly blurred. Institutional safety and security are inextricably intertwined with the health of the incarcerated population and that of the department's staff. In fact, several policies we reviewed were signed by officials from both organizations.

4. *Plata/Coleman v. Newsom*, Case Nos. C01-1351 JST (N.D. Cal.) and 2:90-cv-0520 KJM DB (E.D. Cal.).

Background of the Department's COVID-19 Screening Process for Staff and Visitors

To limit the risk of COVID-19 occurring in its prisons, the department issued several directives that were generally consistent with the guidance issued by both the California Department of Public Health (Department of Public Health) and the Centers for Disease Control on the management of COVID-19 in correctional and detention facilities. Among the first steps the department implemented in seeking to limit the virus's introduction into prisons was suspending the incarcerated population's family and guest visitation privileges. This necessary step immediately eliminated one route for the potential spread of the disease, which likely slowed the spread of the virus within the prisons. According to the department's publicly posted time line,⁵ the department suspended visiting privileges on March 11, 2020, and the suspension remained in effect as of August 2020.

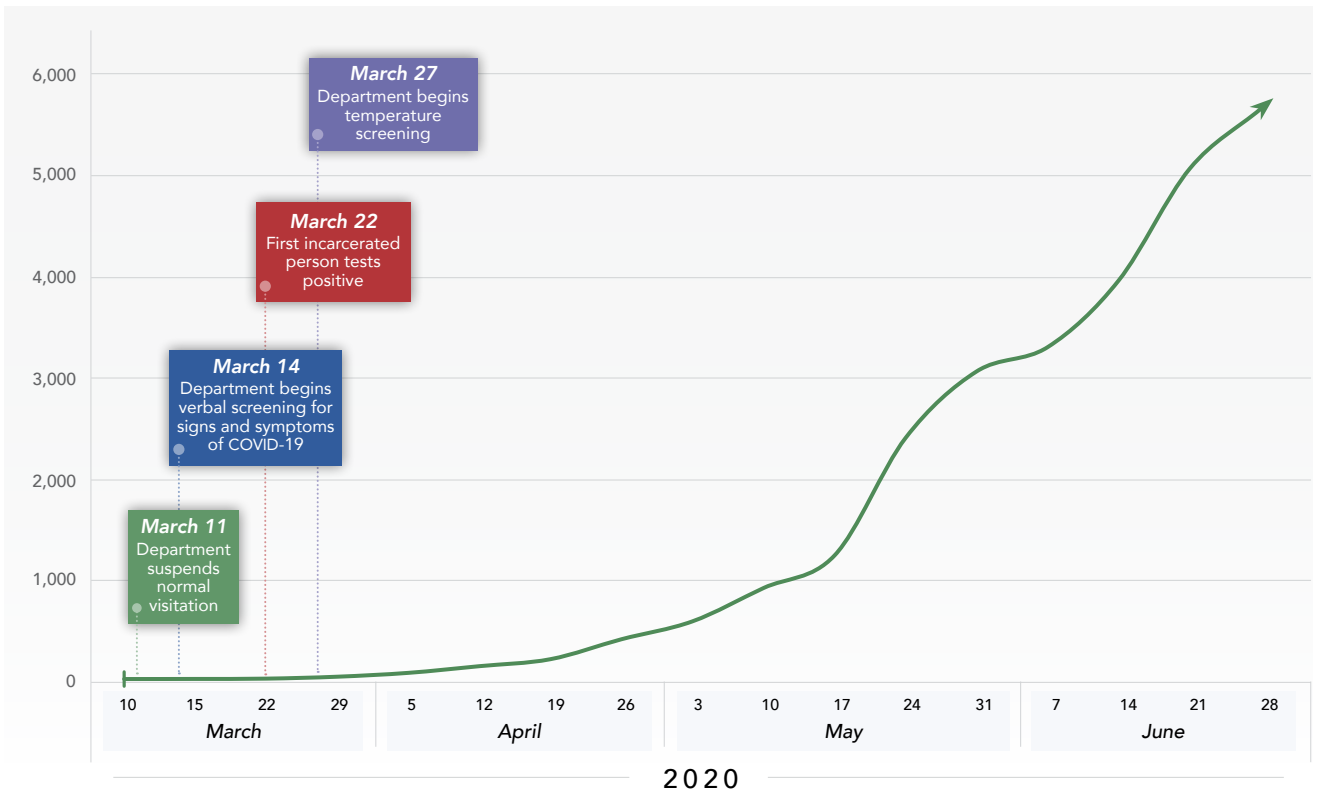
Yet some essential visitors, such as contracted workers, attorneys, emergency responders, and OIG staff, continued to enter the prisons, along with thousands of departmental staff who came to work in the prisons each day. Accordingly, and consistent with recommendations from the California Department of Public Health and the Centers for Disease Control, the department directed prisons, effective March 14, 2020, to begin screening both staff and visitors upon their entry into prisons' secure perimeters (Figure 1, next page).

During March 2020, the department established and then expanded both the delivery of its screening process and the screening process itself. The department's memorandum, effective March 14, 2020, requiring that both staff and visitors be screened, applied only to prisons' secure perimeters and those staff and visitors who crossed that perimeter. However, many prisons comprise multiple work areas, such as administrative offices and warehouses, located beyond their secure perimeters. Therefore, even if prisons perfectly followed this original directive, the directive allowed for individuals to enter other prison work areas unscreened. In an attempt to enhance the screening process, the department amended its directive on March 26, 2020, effective March 27, 2020. In addition to requiring prisons to screen staff and visitors when entering prisons' secure perimeters, the department expanded its directive to require screening of all staff and visitors accessing any prison location, whether inside the secure perimeter or beyond it.

The department also expanded the screening process itself, amending the original directive that required only verbal screening to also require temperature checks of all staff and visitors, and a medical evaluation for people exhibiting or reporting symptoms. Effective March 14, 2020, the department directed its prison staff (screeners) who worked at entry

5. The department's time line is posted on its public website: <https://www.cdcr.ca.gov/covid19/updates>.

Figure 1. Time Line of the Department's Pertinent Actions and the Number of Confirmed COVID-19 Cases Among Its Incarcerated Population



Note: The department did not provide us with the number of confirmed staff cases of COVID-19 in time for us to include the data in the report, therefore this chart does not depict the total number of confirmed cases in the prison system.

Source: Unaudited data from the California Department of Corrections and Rehabilitation's population COVID-19 tracker.

points to verbally screen all staff and visitors for signs and symptoms of COVID-19. This directive required screeners to ask each staff member or visitor to indicate whether he or she was exhibiting signs and symptoms of COVID-19; staff and visitors would not be permitted entry until screeners had cleared them. In addition, the updated directive, effective March 27, 2020, added a requirement for prisons to conduct temperature checks on all individuals entering prison grounds. Once individuals had cleared both the verbal and temperature screening processes, screeners allowed them to enter the institution. However, if a staff member or visitor answered “yes” to any of the screening questions, or if screeners observed that a staff member or visitor displayed signs or symptoms of COVID-19, or if that person’s temporal artery temperature (measured on the forehead) registered higher than 100.0 degrees F, the directive required a licensed health care staff member to perform a secondary evaluation. The institution’s licensed health care staff member, using his or her clinical judgment, determined whether the staff member or visitor should be granted entry into the prison. Staff who were denied entry were required to notify their supervisors.

Although our report focuses on the department's March 2020 directives to screen all staff and visitors for signs and symptoms of COVID-19 upon prison entry, the department subsequently began laboratory testing—collecting specimens from people for clinical analysis—of all staff statewide. The department started its testing at two prisons with identified outbreaks and has expanded it since. The department's COVID-19 website advises it mandated staff testing at two prisons (Avenal State Prison and California Institution for Men) on May 26, 2020. Then, on June 9, 2020, the department expanded mandatory staff testing to San Quentin State Prison and California State Prison, Corcoran. On July 1, 2020, the department announced it planned to test all staff statewide by July 16, 2020. In this report, we did not evaluate the department's staff testing program. Although laboratory testing of staff will likely enhance the department's ability to detect COVID-19 infections, laboratory testing only provides results that indicate a person was or was not infected when the person's test sample was taken; a staff member could have become infected and could have exhibited signs and symptoms of COVID-19 after having been tested, but before results were received, or between laboratory tests. Therefore, in addition to directing that its staff undergo laboratory testing, the department continued to mandate that all staff and visitors be screened for signs and symptoms of COVID-19 upon entry to prisons.

Scope and Methodology

On April 17, 2020, the Speaker of the Assembly requested the OIG to assess the department's response to the COVID-19 pandemic. Specifically, the Speaker asked that we focus on the policies, guidance, and directives that the department had developed and implemented since February 1, 2020, in the following three areas:

1. Screenings of all individuals entering a prison or facility where incarcerated persons are housed or are present.
2. Distribution of personal protective equipment to departmental staff and incarcerated persons.
3. Treatment of incarcerated persons who are suspected to have contracted COVID-19 or have been exposed to COVID-19.

Furthermore, the Speaker requested that our review include, at a minimum, the following:

1. The department's method of communication and implementation of its policies, guidance, and directives.
2. Measures the department instituted to ensure ongoing compliance with its policies, guidance, and directives.
3. The department's actions to rectify noncompliance.
4. A time line that quantifies the outbreak over time.

Our work for this review focused on the first area of the request: screenings of all individuals entering a prison or facility in which incarcerated persons are housed or are present. In essence, we examined whether staff and visitors were screened for signs and symptoms of COVID-19. We did not evaluate the efficacy of the screenings themselves. In other words, we did not conclude whether the screenings' temperature checks and verbal queries for signs and symptoms of COVID-19 had actually prevented the spread of COVID-19. However, we acknowledge that general guidance from both the Centers for Disease Control and the California Department of Public Health recommends that the department screen all individuals entering its prisons for signs and symptoms of COVID-19.

Our review encompassed the period from February 1, 2020, through July 5, 2020. Therefore, in this report, we present and discuss only our assessment of the department's process for screening staff and visitors for signs and symptoms of COVID-19; this report does not include our assessment of the department's more recently implemented laboratory testing program for its staff.

To accomplish our review, we examined the COVID-19 policies, guidance, and directives the department had implemented since February 1, 2020. We also considered guidance issued by other organizations, including the Centers for Disease Control, the World Health Organization, and the United States Department of Justice's National Institute of Corrections. We obtained and reviewed multiple files and documents from the department, including hundreds of files and documents collected by the department's COVID-19 operations center. Furthermore, we reviewed pertinent legal filings associated with multiple class-action lawsuits which name the department as a party.

We performed detailed reviews and conducted visits at a sample of five prisons selected based on factors that included the prevalence of COVID-19 in the institution and surrounding areas, the prisons' geographic locations, the prisons' physical layouts, and the prevalence of incarcerated persons with underlying health conditions. Those prisons included California Health Care Facility; California Institution for Men; California Institution for Women; California State Prison, Los Angeles County; and San Quentin State Prison. A team of OIG staff visited these five prisons in which they interviewed management and key staff, directly observed operations, and obtained and reviewed additional documentation.

To obtain an additional perspective on the screening process, we surveyed staff members the department identified as being responsible for screening as well as other staff members and visitors at those same five prisons. To obtain broad staff perspectives and experiences with COVID-19 directives, we also sent a survey to more than 12,000 staff members from seven selected institutions (the five selected in the sample above, as well as two other prisons—Avenal State Prison and Chuckawalla Valley State Prison—which were reported as having COVID-19 outbreaks after we started our review) and analyzed the 4,161 responses that we received. In addition, while conducting monitoring activities at 34 of the State's 35 prisons, we documented our observations of prison staff's compliance with applicable departmental COVID-19 directives. Finally, we requested, obtained, and reviewed the department's written account of its efforts to ensure ongoing compliance with policies, guidance, and directives applicable to the review, along with all actions it took to rectify any noncompliance.

The Department Delayed Sending Us Information and Ultimately Limited Our Scope by Improperly Withholding Other Pertinent Information

On May 8, 2020, near the beginning of our review, we requested that the department send us a sizable list of highly relevant information in the form of documents and electronic files necessary for our staff to conduct a comprehensive and thorough analytical review of the situation as it has unfolded in the prisons. Although we recognized that our request was substantial, we had firsthand knowledge that many of the requested items were already prepared and were readily available because OIG staff had observed these types of records while they were present in (or on the telephone with) the department's emergency operations center. For expediency, our written request specifically instructed the department to provide us with the information as it became available instead of waiting to provide it to us until all items had been collected.

The department took nearly three weeks—until May 28, 2020—to provide us with a single document, originating from just one prison. Furthermore, it was not until the afternoon of June 3, 2020, 26 days after our initial request, that we received the department's first substantial response. From that point forward, the department provided additional documents until July 14, 2020. On that date, the department sent us an electronic file that included the medical information it used to populate the summary of incarcerated persons who tested positive for COVID-19, which is also posted on its public website. Upon reading the submission, we discovered that the electronic file did not contain similar information pertaining to the department's staff. This information was important for us to use in addressing at least one of the Speaker's requests: that we include a time line which quantified the outbreak over time. To do so with accuracy would require information related to both staff and incarcerated persons. The requested information could have also been used in our analysis to address other concerns raised by the Speaker. We would not have published or disclosed the names of any departmental staff who had tested positive for COVID-19 per our customary practice of maintaining the confidentiality of records the department provides to us.

When we brought the matter of the missing information to the attention of the department, it hosted a teleconference on July 27, 2020, between several high-ranking individuals from the OIG and the department, including attorneys from both organizations. During this teleconference, one of the department's attorneys raised the issue of confidentiality and connected the department's decision of having not yet provided the information to us based on an unspecified section of the federal Americans with Disabilities Act. The attorney also suggested that if the OIG agreed to limit distributing the requested information to only those individuals who needed to see it, then his concern might have been alleviated. We agreed to limit the access to only three individuals—an executive and two supervisors—who would be able to view the actual

names of departmental staff who tested positive for COVID-19 and that we would redact or de-identify the list of names for internal use by any OIG staff apart from those three individuals. We ended the meeting after the department's attorney represented to us that he would raise the limited-access suggestion up through his chain of command to the department's General Counsel, the highest-ranking attorney in the department. On July 31, 2020, four days later, the department notified us it would not provide the staff-level testing information we had requested; it based its decision now on its "belief that disclosure of this information would be a violation of the California Confidentiality of Medical Information Act (CMIA)."

We believe California law provides us with the clear and unmistakable right to access the information the department refused to provide. Penal Code section 6126.5, subdivision (a), provides our office with unfettered access to the department's records and imposes an unqualified obligation on officials from the department to grant us access to its information and its records upon request. It states:

(a) Notwithstanding any other law, the Inspector General during regular business hours or at any other time determined necessary by the Inspector General, **shall have access to and authority to examine and reproduce any and all books, accounts, reports, vouchers, correspondence files, documents, and other records**, and to examine the bank accounts, money, or other property of the Department of Corrections and Rehabilitation in connection with duties authorized by this chapter. Any officer or employee of any agency or entity having these records or property in their possession or under their control **shall permit access to**, and examination and reproduction thereof consistent with the provisions of this section, upon the request of the Inspector General or the Inspector General's authorized representative. (emphasis added)

The phrase "notwithstanding any other law" in this statute is of particular significance as it relates to our request for employees' medical information. The use of this phrase in a statute means that the specific statute overrides any other law that might conflict with it (*Arias v. Superior Court* (2009) 46 Cal.4th 969, 983; *Ni v. Slocum* (2011) 196 Cal. App.4th 1636, 1647). In other words, any other State law that would normally prohibit the department from disclosing a particular piece of information does not apply when the OIG is the entity requesting access to the information.

In denying our request to obtain access to the records of its staff who had tested positive for COVID-19, the department cited concerns that releasing these records to the OIG would violate its obligations

under the CMIA. This Act generally forbids employers from disclosing their employees' medical information unless the employees authorize disclosure, in writing (Civil Code section 56.20, subd. (c)). However, when the California Legislature placed the phrase "notwithstanding any other law" into our statute, it exempted the department from this general prohibition when our office is the party seeking access to departmental employees' medical information.

Even if the language of our statute did not contain this overriding authority, the CMIA expressly provides that it is subservient to other laws which compel disclosure. The CMIA provides four exceptions to the general prohibition against disclosing employee medical information; one of those exceptions states that an employer may disclose the information "if the disclosure is compelled by judicial or administrative process or by any other specific provision of law" (Civil Code section 56.20, subd. (c)(1)). By stating that the department "shall permit access to" all its records, Penal Code section 6126.5, subdivision (a), qualifies as a provision of law that compels the department to disclose its employees' medical information when we request those records in connection with our official duties, as we did during the course of this authorized review. Therefore, the very law on which the department relies to restrict our access actually lends greater support to our position that the department lacks a legitimate reason to restrict our access to this information.

The department's justification for its refusal in this instance also contradicts its past practice of providing our office with several different types of confidential information since we became an independent agency in 1998. For example, the department provides us with its employees' medical information (even though it is protected under the CMIA) when custody staff are assessed by medical staff following their involvement in a use-of-force incident. The department also provides us with access to its investigative and disciplinary records, which contain confidential information concerning its peace officers (which are protected under Evidence Code section 832.7) and information covered by attorney-client privilege.

We appreciate the department's legal obligation under the CMIA to establish procedures that ensure the confidentiality of its employees' medical information. But our statute addresses this point as well, by declaring that our access to, examination, and reproduction, of the department's records "shall not result in the waiver of any confidentiality or privilege." Our long history of receiving confidential information in connection with our ongoing monitoring activities and maintaining their confidentiality should provide the department ample assurance that we will continue to safeguard this recently requested information. As further assurance, the CMIA imposes a legal obligation that we, as recipients of this confidential medical information, not further disclose any employee medical information the department provides us (Civil Code section 56.245). Our own statutes provide the same mandate; we

risk criminal penalties if we fail to maintain the confidentiality of this information (Penal Code section 6126.4).

We find it even more puzzling that the department expressed no concerns with providing records pertaining to incarcerated persons who tested positive for COVID-19, even though the CMIA provides a similar clause prohibiting health care providers from disclosing their patients' medical information.

Our statutory access is the foundation on which rests our ability to provide transparency and independent oversight of the State's prison system. Without unfettered access to the department's records, we cannot exercise true independence. Our full right-of-access guarantees that we control the scope of our work. Departmental staff—including its highest-level executives—cannot interfere with our work or determine for themselves what we can or cannot view. The Legislature underscored the value it places on our independence by making it a misdemeanor if anyone fails or refuses to permit us access to any type of information we are authorized to review. Without complete, unfettered access to the department's information, we cannot carry out our statutory responsibilities as effectively as we otherwise could. In this particular instance, because the department improperly limited the information it sent to us, we unfortunately could not fulfill one of the Speaker's requests: to include a time line which quantifies the outbreak over time.

Subsequent to receiving a draft version of this report, the Secretary of the department informed us that "after further review and consideration, the decision has been made to release the information." The Secretary also indicated that departmental staff members are in the process of gathering the information we requested and would provide it to us as soon as possible. Furthermore, the decision to initially withhold the information we requested remains a concern. The department's decision to change course at this point does not alleviate the adverse effect its initial decision had on our ability to fulfill our mission.

Review Results

In response to COVID-19, the department began screening its staff and visitors in March 2020 for any signs and symptoms of the disease before allowing them to enter any of the department's prison facilities. However, we found that some prisons allowed some staff and visitors to enter facilities without having been appropriately screened. Specifically, we found the following concerns:

- Due to a lack of standardized guidance from the department, prisons were left to their own accord to implement their screening processes. To implement the directive, prisons generally employed two different methods to screen staff and visitors: 1) funneling every vehicle—and all of its occupants—to a single screening post, and then screening the occupants while they remained in their vehicles; or 2) screening staff and visitors after they had parked their vehicles and walked to a screening area.
- Institutions did not implement the department's screening directive in a consistent manner systemwide; thus, we observed that prison staff did not screen all staff and visitors for signs and symptoms of COVID-19. Specifically, from May 19, 2020, through June 26, 2020, OIG staff were not screened in 38 of their 212 prison visits (18 percent); our staff even met with prison wardens without having been screened.
- Our survey of departmental staff at seven prisons revealed mixed results: although the vast majority of staff members who replied—a range between 93 and 98 percent—responded that they had always been screened, the remaining staff members—between 2 and 7 percent—responded that they had not. On average, 5 percent of the respondents indicated that they had not always been screened.
- Our review of training records and results from a separate survey we conducted of screeners (the department's staff who were responsible for screening staff and visitors) revealed two more concerns:
 - screeners reported using thermometers that were faulty or had batteries that malfunctioned during the screener's shift; and
 - screeners also reported receiving little to no training on COVID-19 screening protocols.

Not Everyone Who Entered Prison Facilities Was Properly Screened for Signs and Symptoms of COVID-19

Effective March 14, 2020, the department instructed its prisons to screen all staff and visitors for signs and symptoms of COVID-19 before they entered prison facilities. The department, however, did not direct prisons how to implement the procedures logistically. To carry out the department's screening directive, each prison designed its own process for delivering the required screening, presumably based on its staffing resources and physical layout. Generally speaking, the processes appear to have been categorized in one of two ways. In the first method, prisons funneled every vehicle—and thus every occupant—to a single screening post, asked the vehicle's occupants the screening questions, and measured the temperatures of all occupants before allowing drivers to park their vehicles. This method would make it difficult for any staff or visitors to circumvent screening as long as screeners were present to conduct the screening.



Photo 1. Staff and visitor screening at Mule Creek State Prison vehicle entrance. (Photo taken by OIG staff on July 10, 2020, at the institution located in Lone, California.)

On the next page, Figure 2 shows that during our review period, eight of the department's 35 prisons screened staff and visitors in their vehicles. We directly observed this method in action as part of this review at seven of those eight institutions, and our staff were properly screened in all 49 of our visits to those institutions.



Figure 2.

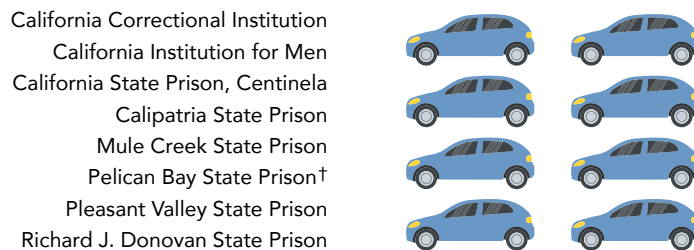
Distribution of Prison Screener Sites During the OIG's Review Period

Prisons That Screened Staff and Visitors at Pedestrian Entrances



27

Prisons That Screened Staff and Visitors in Their Vehicles



8

* San Quentin State Prison and Sierra Conservation Center changed their screening processes after our review period. Both prisons now screen staff and visitors in their vehicles.

† OIG staff did not visit Pelican Bay State Prison during the review period; however, the prison's public information officer stated that the prison screens staff and visitors in their vehicles.

Source: The Office of the Inspector General's Visit Tracking and Reporting System.

The second—and less effective—method was to screen staff and visitors after they had parked their vehicles and walked to a screening area, typically a pedestrian entrance to the secure perimeter of the prison. Many prisons have multiple perimeter entrances and include buildings, such as an administration building, a warehouse, and a fire house (to name a few examples), located outside the secure perimeter.

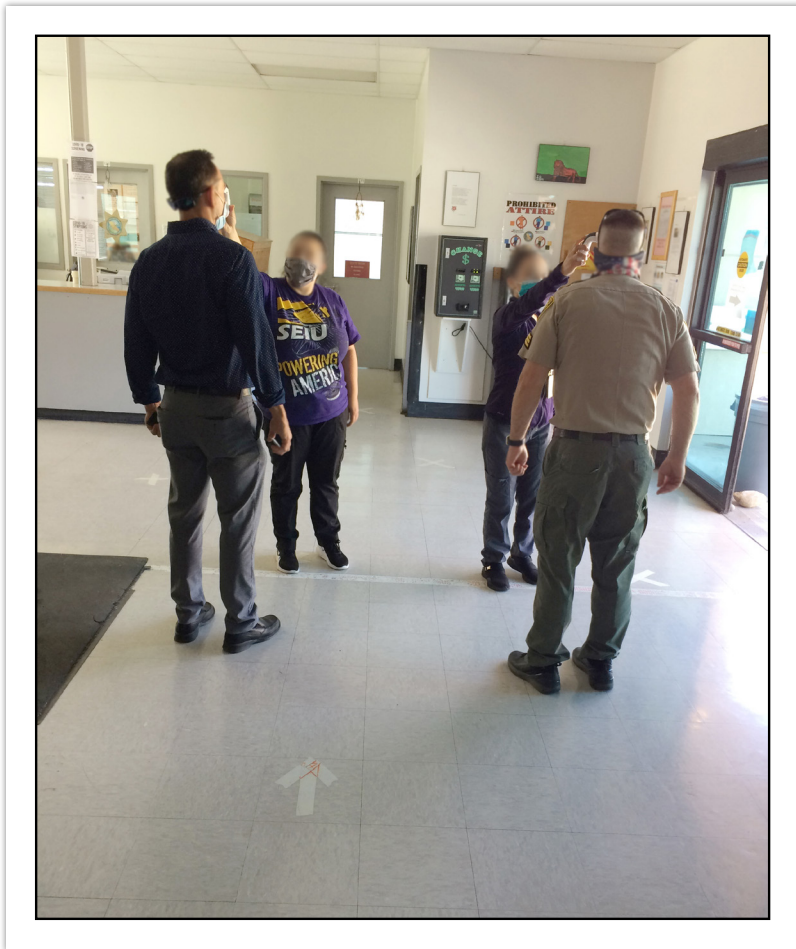


Photo 2. Staff and visitor screening at Salinas Valley State Prison pedestrian entrance. (Photo taken by OIG staff on May 27, 2020, at the institution located in Soledad, California.)

Significantly, some staff who worked inside the secure perimeter routinely passed across the perimeter during their shifts and frequently came into contact with employees in work areas located outside the secure perimeter. Therefore, although the staff who worked inside the secure perimeter would have been screened for signs and symptoms, only moments before their screening, they could have come into contact with unscreened staff in work areas outside the secure perimeter who could have been symptomatic.

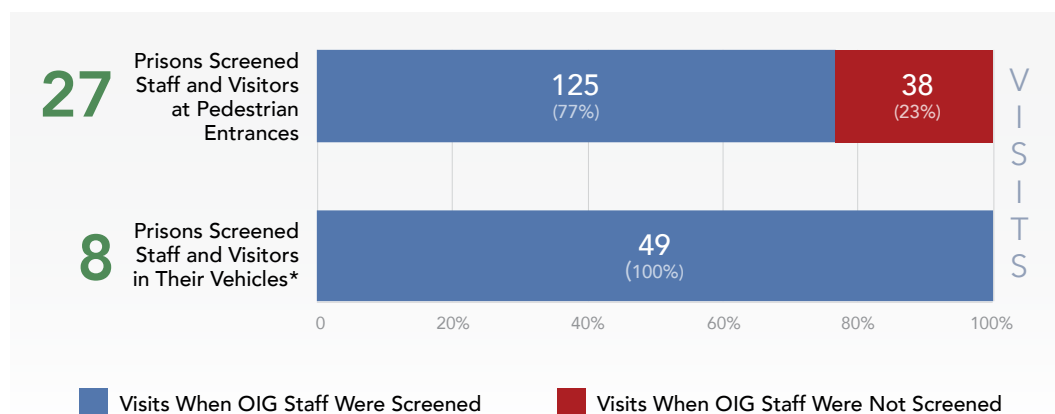
In addition, a number of incarcerated persons provided various cleaning services at or in buildings outside the secure perimeter throughout the day; they also could have come into contact with staff working

in these locations. These incarcerated persons would have then returned to their housing areas, to interact with and live among other incarcerated persons within the secure perimeter. As a result, incarcerated person and staff exposure to unscreened staff and visitors outside the secure perimeter increased the chance these individuals could have cross-contaminated people who worked in other buildings if any of them had been exposed to the disease. Screening individuals who visited or worked in buildings *outside the perimeter* was no less important than screening people who *came through the main checkpoints*. Based on our

observations, we believe that staff and visitors entering prisons using the walkup screening method should have walked first to the screening location to be screened for signs and symptoms of COVID-19 and then, upon clearance, been permitted to walk to their workplaces in separate buildings. Some of those buildings were located inside the secure perimeter; some were not. In at least one institution, California State Prison, Sacramento, screeners handed staff and visitors a paper pass (the design of which changed daily) that indicated they had passed screening for the day.

Overall, we found this type of walkup screening less effective than vehicle screening. While this was especially true for visitors unaware of the prison's screening process, it could also have been true for staff who may have wanted to circumvent the screening process altogether. It is possible that some staff who worked in buildings outside the secure perimeter walked directly to those buildings without taking the additional step of getting screened at the pedestrian entrance to the secure perimeter. Some prisons' lack of visible instructions to guide visitors and staff to the correct location for COVID-19 screening and advise them of the required procedure no doubt led to, at least, the possibility of them evading the required screening. At prisons using the walkup method of screening, some of our staff and some departmental staff reported they had not always been screened. Figure 3 below shows our staff's experiences with the screening process during 212 visits we made to the prisons. It compares the number of times we observed prisons screening staff who walked through pedestrian entrances with the number of times screenings took place while staff remained in their vehicles.

Figure 3. COVID-19 Screening Experiences of OIG Staff by Screening Site



* OIG staff visited seven of the eight prisons that screened staff and visitors in their vehicles.

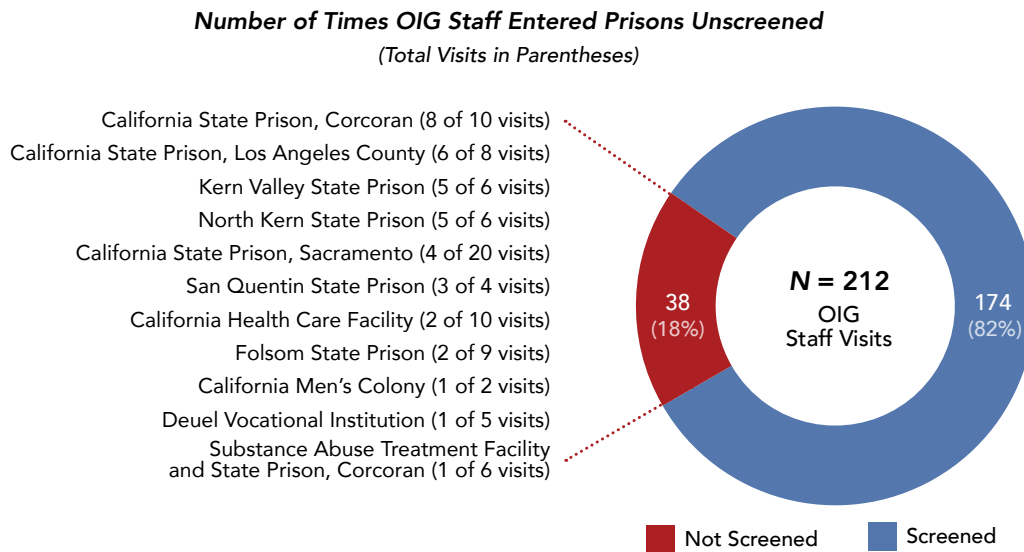
Source: The Office of the Inspector General's analysis of an internal survey of prison visits that OIG staff made between May 19, 2020, and June 26, 2020.

OIG Staff Were Not Screened for Signs and Symptoms of COVID-19 in Nearly 20 Percent of Their Prison Site Visits

As part of our customary monitoring activities that occurred between May 19, 2020, and June 26, 2020, we documented our staff's observations during 212 site visits at 34 of the 35 prisons statewide. Immediately following each visit, we asked our staff to report their experiences in response to a series of questions pertinent to this review, such as whether they were screened prior to entering the prison.

As depicted in Figure 4 below, our staff reported they were not screened during 38 of their 212 prison visits (18 percent).⁶ In every instance of not having been screened, our staff arrived at the prison, parked their vehicles, and walked into one of the buildings located outside the prison's secure perimeter. During these visits, our staff met with the warden or a multitude of other prison staff. To be clear: our staff did not seek to circumvent the prisons' screening process; they followed all directions they were given verbally or that were on display at each prison.

Figure 4. Percentage of OIG Employees Screened Upon Prison Entry During Our Review Period



Source: The Office of the Inspector General's analysis of an internal survey of our staff members' prison visits between May 19, 2020, and June 26, 2020.

6. The 212 visits included 34 different prisons and 43 different OIG staff members.

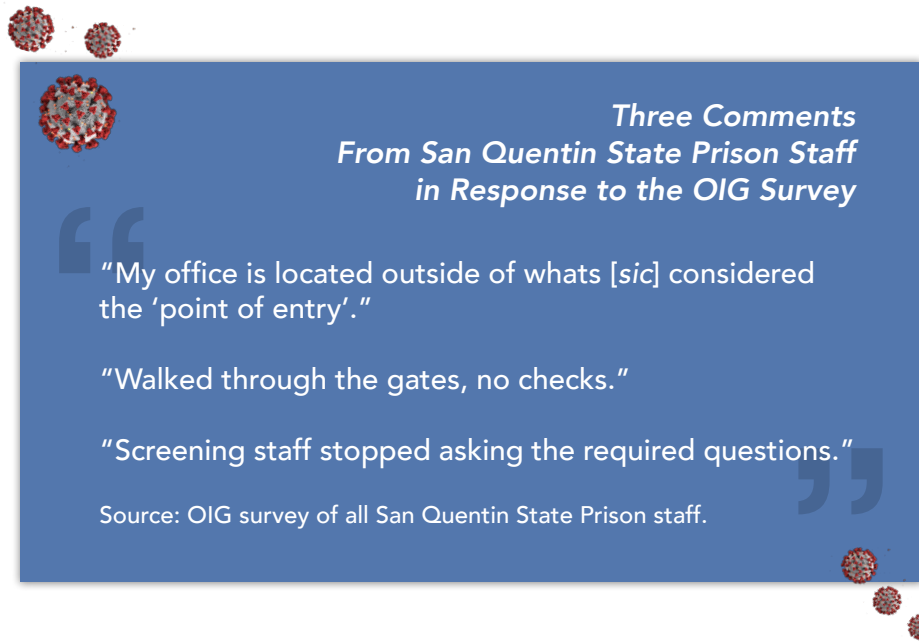
Our observations at California State Prison, Sacramento, demonstrate the risk the lack of clear instructions posed. At this prison, screeners conducted their questioning and testing at a building located apart from the prison's administration and secure pedestrian entrances. Many staff and visitors walked by the prison's administration building and low-security housing units before arriving at the screening location. Nevertheless, after our staff parked their vehicles at the prison and began walking to the administration building, they did not observe any signs or postings directing them to the prison's screening location. As a result, they walked all the way through the administration building and met with the warden in his office, unscreened. When the warden asked our staff whether they had been screened, they responded that they had not. The warden then explained where our staff could find the screening location. But by that point, although our staff were eventually screened, the screening failed to accomplish its purpose: our staff could have already infected departmental staff. Because of this prison's layout and its screening process, we are concerned that other visitors or departmental staff may also have bypassed the screening site—intentionally or not—in reaching the administration building.

Even more troubling, departmental staff at California State Prison, Sacramento, allowed the same OIG staff entry into one of its secure perimeters and housing areas without first checking that screeners had already cleared them for entry. In this instance, after conducting screening, the screeners handed our staff a paper pass as proof that they had been screened and thus cleared for entry. Our staff were then prepared to show the paper pass to another member of the prison's staff to gain entry into its secure perimeter. The intent of this process was to ensure that only screened individuals entered the prison's secure entrance to its housing areas. However, when our staff arrived at one of the prison's secure perimeter entrances, the officer neglected to check their screening pass, instead checking only their identification, and then allowed them to enter. That officer, having no assurance that prison screeners had cleared our staff for entry, thereby nullified the screening process altogether. Our staff might not have been screened; the officer's act of allowing them entry could also have allowed infection to enter the prison. Because the officer did not ensure that our staff were screened before entry, we are not confident that the officer checked passes from more familiar coworkers.

We also found the screening process at California State Prison, Los Angeles County, to be of great concern: departmental staff there offered our staff three different descriptions of the screening process on two separate days. The screening took place at the prison's secure perimeter entrance; however, other buildings at the prison had separate entrances, including the prison's main administration building and

low-security housing units. When we visited the institution, prison staff related conflicting information about the screening process. For instance, one lieutenant informed us that we should have reported to the screening area before we had entered the administration building. The lieutenant stated that all staff, even those who worked in the administration building or at the low-security housing facility, were expected to report to the prison's main secure-perimeter entry, where the screening process was staged, before reporting to their designated work locations. In contrast, the warden informed other OIG staff on the same day that the minimum-support yard used its own screening process. We observed this to be true, but noted that the minimum-support-yard screening consisted of verbal questions only and did not include a temperature reading, as required by the departmental directive. On another day, a prison manager provided another OIG staff member with yet another description of the process: COVID-19 screening occurred only where people enter the prison's main secure perimeter, not at the gate nor when entering the administration building. We found these conflicting directions troubling and confusing because if the prison staff we consulted could not convey an accurate understanding of the screening process nor offer a clear, consistent presentation of it to visitors, we believed that other prison staff and visitors must also have been confused about the process.

We also found the screening process at San Quentin State Prison problematic because no one stopped us from walking directly into prison facilities without being screened. The screening was set up at the secure perimeter rather than the entrance gate, where most vehicles enter prison grounds. San Quentin State Prison had several buildings with offices located outside the secure perimeter, including the warden's office, administration offices, and a cafeteria. As a result of the prison's screening of staff and visitors at its secure entrance, our staff entered the warden's office, located outside the secure perimeter, on four occasions without having been screened. Our staff saw no signs directing them to the screening site, nor were they verbally prompted by San Quentin State Prison staff to submit to screening on their arrival to the institution. In July, more than three months after the department implemented the screening process and one month following a severe COVID-19 outbreak at San Quentin State Prison, the prison changed the location of its screening process. At the time of this report's publication, screeners had begun to screen staff and visitors while they remained in their vehicles, immediately after they drove through the prison's main vehicle entrance. Thus, San Quentin State Prison's decision to change its screening venue may have reduced the risk that staff and visitors entered the prison's facilities without having been screened.



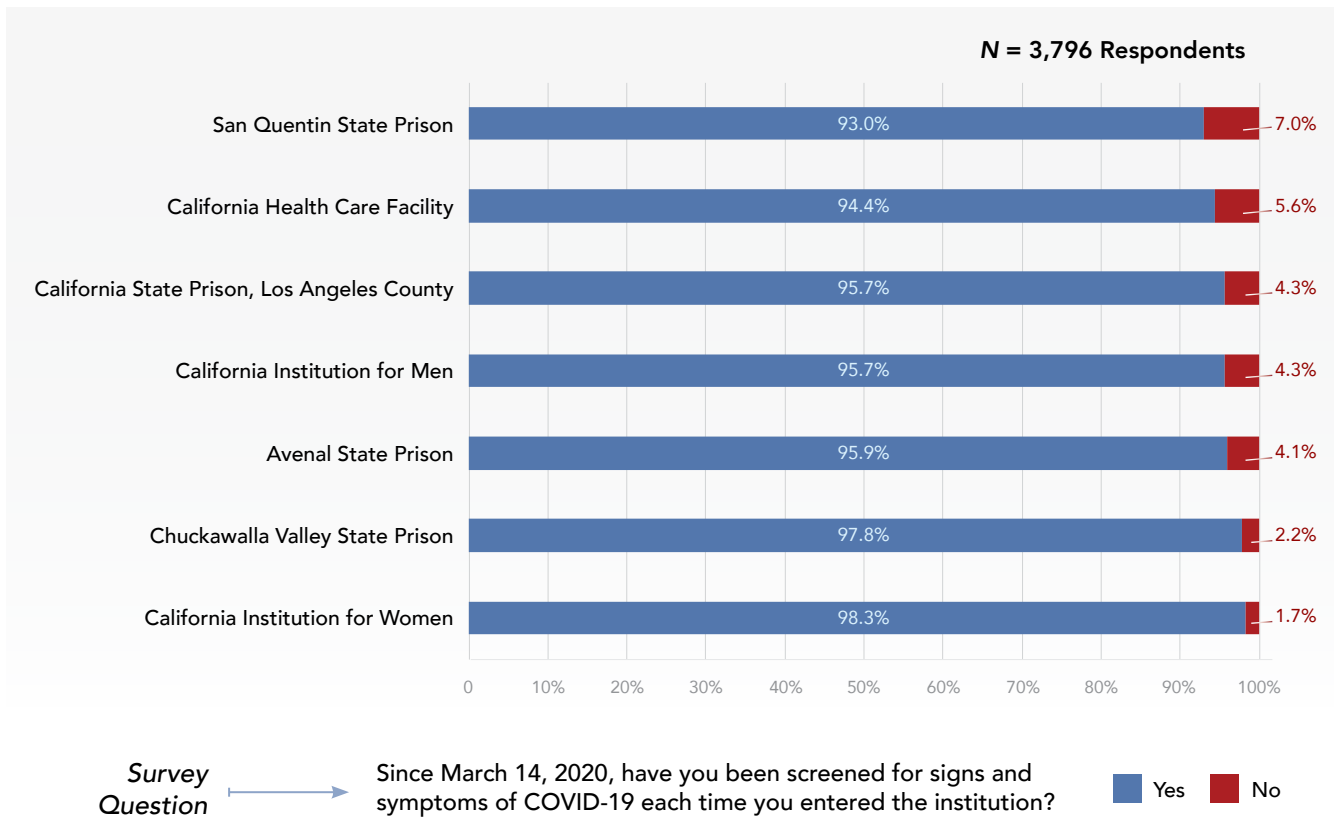
Some Prison Staff Also Reported That They Were Not Always Screened for Signs and Symptoms of COVID-19

To obtain the perspective of departmental staff regarding the screening process, we sent surveys to these employees—about 12,000 people—at seven prisons. We asked, for example, whether staff had been screened for signs and symptoms of COVID-19 each time they had entered a prison since the department had issued the directives. Of the 3,796 staff members who chose to answer this particular question, 176 staff (4.6 percent) reported that they had not always been screened upon entry.

On the next page, as Figure 5 shows, results from our survey of all staff at seven prisons indicated that some prisons may have complied with screening procedures more consistently than others. For example, 40 of 571 San Quentin State Prison's staff respondents (7 percent) indicated they had not always been screened as required. San Quentin State Prison is of particular concern since it has reported more than 200 staff cases of COVID-19 and more than 1,400 confirmed incarcerated person cases.⁷ In contrast, only about 2 percent of the responses from the California Institution for Women indicated that its staff had not been screened each time upon entry.

7. Despite the flawed screening process, San Quentin State Prison had maintained zero active COVID-19 cases among its incarcerated population until a group of incarcerated persons were transferred to the institution from the California Institution for Men on May 30, 2020, without first having been properly evaluated for exhibiting signs and symptoms of the disease. We will address this issue in a subsequent report. As discussed in the Introduction of this report, due to the department's refusal to send us its COVID-19 staff case data, we were unable to determine how many staff cases were present on the date the transferred incarcerated persons arrived from the California Institution for Men.

Figure 5. Prison Staff Survey Responses Related to the COVID-19 Screening Process



Source: The Office of the Inspector General's analysis of its survey conducted with departmental staff at seven prisons.

Malfunctioning Equipment and Insufficient Training Likely Diminished the Effectiveness of Prisons' Screening for COVID-19

Even when prisons did screen staff and visitors as required, the effectiveness of some of those screenings may have been compromised by two factors: malfunctioning equipment and a lack of training. To obtain the screeners' perspectives concerning the process, including their opinions of which aspects of the process they believed worked and which did not, we sent a survey to 692 prison staff at five prisons whom the department identified as screeners; we received 81 responses (a response rate of 12 percent). Those who responded to us reported multiple problems, including the possibility screeners had used thermometers that failed to display people's temperatures accurately and that some screeners had received inadequate training or none at all. In fact, our review of training documentation for a sample of screeners reinforced the screeners' survey responses. Specifically, we reviewed official training records for the period of March 1, 2020, through June 26, 2020, for a sample of 75 screeners at the five prisons. We found that most screeners had received no training on their prison's screening process, and of those few who had, none received training specific to the thermometers they were issued for screening purposes.

Survey responses and additional comments provided by screeners allowed us to identify significant concerns with the thermometers used to measure the temperatures of staff and visitors who entered the prisons. Specifically, 46 of the 66 respondents (70 percent) reported that their thermometers malfunctioned when they were screening staff and visitors. Of these 46 screeners, 33 indicated their thermometers had malfunctioned, including one screener whose thermometer reportedly showed some readings under 90 degrees F. The same screener also commented that during a particular screening, a staff member reported feeling feverish, yet the thermometer displayed a reading of only 95 degrees F.

We also found evidence that prison staff alerted the department's headquarters operations center to apprise its staff about similar thermometer concerns. Specifically, on March 28, 2020, one day after prisons were directed to start using the thermometers, a staff member from one prison sent an email to the department with the subject line reading, "Thermometers don't seem to work once it gets cold." It is unclear whether the malfunctioning thermometers led to screeners allowing staff and visitors to enter prisons when they could not obtain accurate temperature readings, or whether the screeners

The OIG Surveyed Screeners at the Following Five Prisons

- California Health Care Facility
- California Institution for Men
- California Institution for Women
- California State Prison, Los Angeles County
- San Quentin State Prison

Source: The OIG authorized review team.



prevented people from entering until they were able to use functioning equipment. In response to our survey, the screeners did not indicate how they actually proceeded when they were unable to obtain accurate temperature readings. Nevertheless, it was possible that some staff and visitors were allowed entry without having their temperatures taken as the department's policy lacks instructions on what actions screeners were to take if they could not obtain accurate readings. The March 2020 memorandum implementing temperature checks only stated that screeners should have a backup thermometer and additional batteries available. It did not instruct screeners on how to proceed if they were unable to obtain accurate readings at all.

In addition to identifying possible thermometer inaccuracies, our survey indicated that the thermometers may have been inadequately

maintained. Seventeen of the surveyed screeners noted that they ran out of batteries to use in their thermometers. If screeners' thermometers rendered inaccurate readings or quit working completely because they ran out of battery power, then screeners could not have effectively performed their screening duties. Without properly functioning equipment and adequate training, the screening process was certainly compromised, and the risk of infected staff entering the prisons, thereby exposing others, could have increased.

We also found that most screeners had received no formal training concerning their prison's screening procedures. Specifically, as Figure 6 shows on the next page, our review of a sample of training records for 75 staff members the department identified as having been assigned to screen showed that most of those staff members received no training on any of the prison's screening procedures. Our sample of screeners included 47 health care staff members, 25 sergeants, one officer, and two administrative staff members. Although the training records the department provided documented that the prisons provided some screening training to 29 of the 47 health care staff members in our sample, none of the remaining 28 screeners

we sampled had received training on any of their prison's screening procedures. Overall, training records provided by the department showed that prisons provided some training on screening procedures to only 29 of 75 screeners we sampled (39 percent).

Comments From Prison Staff in Response to the OIG Survey

"Thermometer reads temps in 80 degrees sometimes. These thermometers are never correct. I've seen someone say they feel feverish and they're sweaty and the thermometer says 95 or 97."

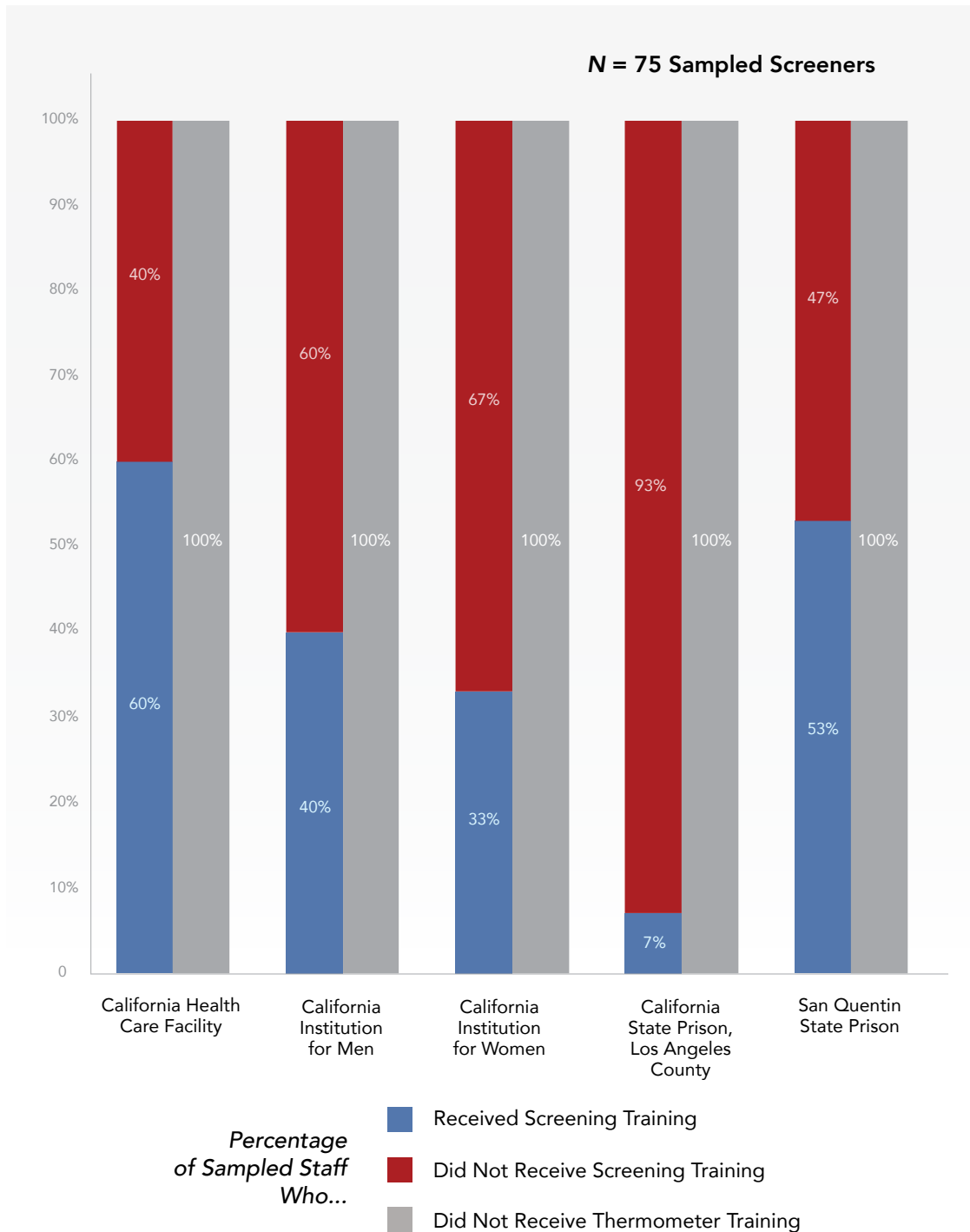
—San Quentin State Prison
screener

"Thermometer would scan low temps."

—California Health Care
Facility screener

Source: OIG survey of screening staff
at five prisons.

Figure 6. Summary of Results of the OIG's Review of Training Records for a Sample of Screeners



Source: Training records of selected staff provided by the California Department of Corrections and Rehabilitation.

Responses to our survey of all screeners at those five institutions also demonstrated that prisons may have inconsistently provided training to those staff members. As part of this survey, for instance, we asked all screeners whether they had received training that outlined or described their new screening duties or how to execute those duties. Of the 79 screeners who responded to this question, 23 of them (29 percent) indicated they had received no training.

In addition to a lack of general screening procedural training, our review of training records and surveys of prison screeners found that the five prisons often failed to provide training on the infrared thermometers used during the screening process. Our survey of prison screeners specifically asked whether they had received training in the use of thermometers. Of the 69 screeners who responded to this question, 46 (67 percent) indicated they had received no training. Moreover, our review of training transcripts for a sample of screeners at five prisons reinforced their statements: we found no documentation that any of the 75 sampled screeners had received training on how to use the thermometers between March 1, 2020, and June 26, 2020.

This lack of training increased the risk that screeners allowed symptomatic, and potentially infected, individuals into the department's prisons. At a minimum, we would have expected the prisons to have provided instructions to screeners on how to use the thermometers effectively and how to troubleshoot them if they quit working—including how to change the batteries. In addition, the screeners should have been taught how to properly use the thermometers without unnecessarily exposing themselves to possibly symptomatic staff and visitors they screened.

Proper training should also have extended beyond thermometer usage: it should have been delivered to ensure that screeners elicited accurate information and that screeners were able to independently identify individuals exhibiting signs and symptoms of COVID-19. Screeners should have been trained to ask the same screening questions in the same way with each person they were screening. That consistency is important to ensure screeners receive prompt, accurate, and complete responses from all staff and visitors. Moreover, because some staff and visitors may not have been familiar with all the common signs and symptoms of the disease, the department's training should have included instruction on how to properly observe individuals and look for the particular signs and symptoms of COVID-19.

Furthermore, once a screener identified an individual exhibiting the signs and symptoms of COVID-19, knowing how to properly interact with someone who was potentially ill with a highly contagious disease would have been essential to protecting the health of both the screeners and the individuals they screened. The screeners should have been

trained on the necessary steps to take when someone may have been sick, including where to direct that person to go to prevent infecting others, and how to interact with the individual so that the screeners themselves did not become infected. To maintain the good health of staff, visitors, and screeners alike, it was of the utmost importance for the department to have provided adequate, appropriate training to all its screeners. Without such training, screeners no doubt ran the risk of allowing staff and visitors with signs and symptoms of the disease into the department's prisons, which put their own health and those around them at grave risk.

Prison managers could have identified some of these issues themselves, had they implemented proactive quality control processes. However, the department's screening directives failed to include enough specificity to ensure the screening processes were consistently and effectively implemented. When we asked the department to describe steps its prison staff took to monitor compliance, the only action it stated in its response, with respect to screening, was that it had hired a correctional sergeant at each prison to ensure that nobody entered the institutions without responding to the screening questions or having their temperature taken. In hindsight, this action was simply inadequate to monitor the fidelity of the screening processes. Prisons must take additional steps to adequately monitor day-to-day operational compliance. Prison managers could have used resources from their own prisons to conduct and document routine and unannounced checks of compliance, including equipment checks to identify and report thermometer issues such as those identified by the screeners we surveyed. In addition, for prisons that screened staff and visitors at pedestrian entrances, we found they took few steps to ensure staff and visitors had been screened before entering other work areas. In fact, some OIG staff visited prison administration buildings on multiple days without anyone informing them they should have been screened before entering those work areas.

A team assembled with staff from California Correctional Health Care Services did conduct point-in-time reviews to observe and evaluate prisons' compliance with certain departmental COVID-19 directives, including a limited review of some prisons' staff and visitor screenings for signs and symptoms of COVID-19. However, given our review's findings, those point-in-time reviews were clearly insufficient in identifying noncompliance on a day-to-day basis. As described above, to effectively monitor ongoing compliance, the department must take additional steps to supplement the California Correctional Health Care Services' reviews.

In addition to the department's ongoing directive that prisons screen all staff and visitors for signs and symptoms of COVID-19, the department had recently implemented a policy requiring laboratory testing for all prison staff. Although this policy should significantly enhance the

department's ability to detect COVID-19 infections among staff and should decrease the likelihood that infected staff unknowingly spread the virus within prisons, laboratory testing only provides results that indicate a person was or was not infected when the person's test sample was collected. Therefore, a staff member could have become infected and exhibited signs and symptoms of COVID-19 in the window of opportunity that existed after collecting the sample, but before the department received the results, or between laboratory tests. Consequently, the department must consistently and effectively screen all staff and visitors for signs and symptoms of the disease upon entry to its prison facilities to reduce the risks of any such opportunity from arising. Accordingly, the Centers for Disease Control's guidance states that screening workers and others who enter the workplace for symptoms of COVID-19 and taking their body temperature is a critical component of preventing transmission and protecting all workers. Staff who were symptomatic upon arrival at work, or who became sick during the day, should have been separated from other people immediately. The department cannot be certain this was done, however, because it let some people enter who were not screened.

Recommendations

To better prevent the spread of COVID-19 in its prisons, the department should implement measures to ensure prisons properly screen all staff and visitors. Specifically, we recommend the department take the following steps:

Nº 1. Prescribe more specific screening instructions for its prisons. The procedures should include steps prisons must take to ensure screeners clear all staff and visitors before permitting them to enter any workspace located on prison grounds. At a minimum, prisons should position screeners so that staff and visitors cannot intentionally or unintentionally circumvent the screening process.

Nº 2. At all prisons statewide, review screeners' training records to identify those who have not received the specific, formal training necessary to carry out their screening duties. For those screeners identified as having not received training, ensure prisons promptly provide them with training.

Nº 3. At all prisons statewide, test all thermometers used to screen staff and visitors to ensure that this equipment is working properly, and repair or replace any malfunctioning thermometers. In addition, prisons should take steps to make certain that sufficient supplies of batteries are on hand at all times at all screening locations.

Nº 4. Provide specific instructions for prisons on how to monitor their compliance with screening procedures on an ongoing basis. This monitoring should test to ensure that staff and visitors cannot intentionally or unintentionally circumvent screenings, that screeners' thermometers are operating properly, and that extra batteries are always on hand for their thermometers. The monitoring process should be documented, and this documentation should be provided regularly to departmental management for review and action, as necessary.

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Response to the OIG's Report

STATE OF CALIFORNIA — DEPARTMENT OF CORRECTIONS AND REHABILITATION

GAVIN NEWSOM, GOVERNOR

OFFICE OF THE SECRETARYP.O. Box 942883
Sacramento, CA 94283-0001

August 10, 2020

Mr. Roy Wesley
Office of the Inspector General
10111 Old Placerville Road, Suite 110
Sacramento, CA 95827

Dear Mr. Wesley:

The California Department of Corrections and Rehabilitation submits this letter in response to COVID-19 Review Series, First Interim Report. Thank you for the opportunity to review and comment on the draft report.

The Department has reviewed the draft report prepared by the Office of the Inspector General (OIG). COVID-19 is a constantly emerging and rapidly evolving situation. The Department has implemented processes and procedures to reflect the most current guidelines and recommendations. The Department recognizes the establishment of effective screening procedures is imperative to prevent and slow the spread of COVID-19 among staff, inmates, and the public. Executive staff at the Department are working closely with infectious disease control experts to ensure appropriate measures are put into place while simultaneously minimizing the impact of COVID-19 on our operations.

I would like to note that while initially there were concerns regarding the release of information to OIG due to potential California Medical Information Act (CMIA) violations, after further review and consideration, the decision has been made to release the information. The Department is gathering this information and will provide it to you as soon as possible. The Department is releasing this information with the understanding that: the information provided shall only be used in connection with the COVID-19 review requested by the Speaker; the OIG will ensure the confidentiality of the information is maintained in accordance with CMIA; and specific identifying information (e.g., name of the employee connected with the result) will be shared with no more than four (4) individuals at the OIG.

1

If you have further questions, please contact me at (916) 323-6001.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Diaz".
RALPH M. DIAZ
Secretary

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Comments

The Office of the Inspector General's Comments Concerning the Response Received From the Department of Corrections and Rehabilitation

To provide clarity and perspective, we are commenting on the department's response to *Part One* of our *COVID-19 Review Series*. The number below corresponds with the number we have placed in the margin of the department's response (page 33, this report).

1. As an independent agency, the OIG will decide how it will utilize the information it receives as part of this authorized review. In fact, the OIG has a long-established track record of protecting the confidentiality and disclosure of protected information from unauthorized release. The information that was previously in dispute is no exception.

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COVID-19 REVIEW SERIES

Part One

Inconsistent Screening Practices May Have Increased the Risk of COVID-19 Within California's Prison System

OFFICE *of the*
INSPECTOR GENERAL

Roy W. Wesley
Inspector General

Bryan B. Beyer
Chief Deputy Inspector General

STATE of CALIFORNIA
August 2020

OIG