Amarik K. Singh, *Inspector General*

Neil Robertson, *Chief Deputy Inspector General*

OIG | OFFICE *of the* INSPECTOR GENERAL

Independent Prison Oversight

September 2022

Monitoring the Staff Complaints Process of the California Department of Corrections and Rehabilitation

2021 Annual Report

Electronic copies of reports published by the Office of the Inspector General
are available free in portable document format (PDF) on our website.
We also offer an online subscription service.
For information on how to subscribe,
visit **www.oig.ca.gov**.

For questions concerning the contents of this report,
please contact Shaun Spillane, Public Information Officer,
at 916-255-1131.

September 29, 2022

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California

Dear Governor and Legislative Leaders:

Enclosed is the Office of the Inspector General's report titled *Monitoring the Staff Complaints Process of the California Department of Corrections and Rehabilitation.* On February 16, 2021, we published our initial report titled *The California Department of Corrections and Rehabilitation: Its Recent Steps Meant to Improve the Handling of Incarcerated Persons' Allegations of Staff Misconduct Failed to Achieve Two Fundamental Objectives: Independence and Fairness; Despite Revising Its Regulatory Framework and Being Awarded Approximately $10 Million of Annual Funding, Its Process Remains Broken.*

This review covers inquiries completed by the department's Allegation Inquiry Management Section (AIMS) from January 1, 2021, through December 31, 2021. According to the department's data, during 2021, AIMS received 3,434 staff complaint inquiries referred by wardens and completed 1,445 inquiries during this review period. OIG inspectors monitored 28 inquiry cases. This meant we assessed how well allegations of staff misconduct were referred; whether AIMS intake staff properly assigned each allegation to an AIMS investigator; how effectively AIMS staff evaluated the investigators' inquiry work; their examination of the prison warden's decisions concerning the cases; and their assessment of the appropriateness of the Office of Appeals' decision concerning an incarcerated person's appeal, if applicable.

As to the 28 monitored cases, we assessed the overall inquiry processes performed by the department as *poor* in 17 cases, or 60 percent. For the remaining 11 cases, or 39 percent, we determined the department performed *satisfactory* work in completing the cases. In no cases did the department receive a *superior* rating.

We identified two key concerns with the department's handling of staff misconduct inquiries. First, the overall quality of the AIMS investigators' work in completing an inquiry was *poor*, especially in how they conducted interviews, collected evidence, and prepared inquiry reports. Second, the warden's decision concerning the allegations of misconduct was inappropriate in six cases we monitored. Wardens reached inappropriate decisions by making conclusions in cases in which there was not enough evidence to make a decision regarding the case or by not thoroughly reviewing all available evidence before making a decision.

10111 Old Placerville Road, Suite 110
Sacramento, California 95827
Telephone: (916) 255-1102
www.oig.ca.gov

In January 2022, the department implemented emergency regulations revising its statewide process for reviewing incarcerated people's allegations of staff misconduct. It is important to note that this report does not examine the new statewide process to review incarcerated people's allegations of staff misconduct. Our office has begun monitoring the department's implementation of this new process, and we will report our assessment and observations of the new process in future reports. Rather, in this report, we review staff misconduct inquiry cases completed by AIMS in 2021. The inquiry cases we review in this report were completed by the department before it implemented the January 2022 emergency regulations.

Respectfully submitted,

Amarik K. Singh
Inspector General

Contents

Illustrations

Figures

Tables

Exhibits

Graphics

"Scales of Justice" (cover): Graphic image designed by the U.S. Department of Justice; sourced via the internet

"Lady Justice" (page *v*): Adapted from an illustration at www.vecteezy.com

Lady Justice

The Inspector General shall provide contemporaneous oversight of grievances that fall within the department's process for reviewing and investigating inmate allegations of staff misconduct and other specialty grievances, examining compliance with regulations, department policy, and best practices. . . . The Inspector General shall issue reports annually, beginning in 2021.

(California Penal Code section 6126 (i))

The Office of the Inspector General shall be responsible for contemporaneous oversight of internal affairs investigations and the disciplinary process of the Department of Corrections and Rehabilitation, pursuant to Section 6133 under policies to be developed by the Office of the Inspector General.

(California Penal Code section 6126 (a))

The Office of the Inspector General shall be responsible for contemporaneous public oversight of the Department of Corrections and Rehabilitation investigations conducted by the Department of Corrections and Rehabilitation's Office of Internal Affairs. . . . The Office of the Inspector General shall also be responsible for advising the public regarding the adequacy of each investigation, and whether discipline of the subject of the investigation is warranted..

(California Penal Code section 6133 (a))

— State of California
Excerpted from Penal Code sections

Terms Used in This Report	
AIMS	Acronym for the California Department of Corrections and Rehabilitation's Office of Internal Affairs' Allegation Inquiry Management Section (AIMS) when referring to the unit dedicated to conducting inquiries into claims of staff misconduct (the *California Code of Regulations* (CCR), Title 15, section 3484(a)).
Adverse Action	See entry for *Disciplinary Action*, this table.
Allegation Inquiry	The collection of preliminary information concerning an allegation of employee misconduct necessary to evaluate whether a matter shall be referred to the Office of Internal Affairs' Central Intake Unit. Allegation inquiries shall be conducted at the direction of the hiring authority when there is an allegation of misconduct, which if true could lead to adverse action, and the subject(s), allegation(s), or both are not clearly defined or more information is necessary to determine whether misconduct may have occurred. Certain prison employees or Office of Internal Affairs' investigators, lieutenants, or special agents conduct allegation inquiries (CCR, Title 15, sections 3480(b)(2), 3484).
Appeal	A claimant's written request to the California Department of Corrections and Rehabilitation's Office of Appeals for review of a decision issued by the institutional or regional Office of Grievances (CCR, Title 15, section 3480(b)(3)).
Claim (or Allegation)	A claim is a single complaint within a grievance arising from a unique set of facts or circumstances. The term *allegation* is used synonymously with the term *claim*. Both claim and allegation are assertions without proof or before proving (CCR, Title 15, section 3480(b)(5)).
Claimant	An incarcerated person or a parolee under the custody or control of the department who files a grievance or appeal with the department (CCR, Title 15, section 3480(b)(6)).
Corrective Action	A documented, nonadverse action such as verbal counseling, training, written counseling, or a letter of instruction that a hiring authority undertakes to assist the employee in improving work performance, behavior, or conduct. Corrective action cannot be appealed to the State Personnel Board.
Disciplinary Action	A documented action, punitive in nature and intended to correct misconduct or poor performance or terminate employment and may be appealed to the State Personnel Board. It is the charging document served on an employee who is being disciplined, advising the employee of the causes for discipline and the penalty to be imposed. Examples of these actions include a letter of reprimand, pay reduction, suspension without pay, or termination. Also referred to as adverse action or a notice of adverse action.
Grievance	An incarcerated person may file a grievance on a "CDCR Form 602-1" or verbally with the institutional or regional Office of Grievances for review of one or more claims or allegations to challenge any policy, decision, condition, or omission by the department that has a material adverse effect upon his or her health, safety, or welfare (CCR, Title 15, sections 3480(b)(10), 3481(a), 3482(c)(1)).

Terms Used in This Report (Continued)	
Hiring Authority	An executive, such as a warden, superintendent, or regional parole administrator, authorized by the Secretary of the California Department of Corrections and Rehabilitation to hire, discipline, and dismiss staff members under his or her authority.
Inquiry	See entry for *Allegation Inquiry*, this table.
Investigation	The collection of evidence that supports or refutes an allegation of misconduct, including criminal investigations, administrative investigations, retaliation investigations, or allegation inquiries. The department conducts either criminal investigations, which concern the investigation of a potential crime or crimes, or administrative investigations, which concern the investigation of an alleged violation of a policy, procedure, or other administrative rule.
Investigator	In the context of this report, a lieutenant from the Allegation Inquiry Management Section assigned to conduct an allegation inquiry.
Office of Internal Affairs	The office within the department authorized to conduct inquiry cases and investigate staff misconduct allegations. This office works independently of the prison chain of command. In general, Office of Internal Affairs Allegation Inquiry Management Section lieutenants conduct inquiry cases; Office of Internal Affairs' Central Intake Unit special agents review and process requests from hiring authorities for investigations; and Office of Internal Affairs special agents, from both its regional teams and headquarters, conduct investigations.
Staff Misconduct Grievance	A grievance brought forward by an incarcerated person alleging facts that would constitute one or more allegations or claims of staff misconduct (CCR, Title 15, section 3480(b)(10), (14).
Staff Misconduct	The commission of an act or the failure to perform an act by departmental staff that violates a law, regulation, policy, or procedure, or is contrary to an ethical or professional standard, which, if true, would more likely than not subject a staff member to adverse disciplinary action (CCR, Title 15, section 3480(b)(14)).
Subject	In the context of this report, an employee who allegedly committed misconduct or engaged in criminal activity.
Unreasonable Use of Force	Use of force that is either unnecessary—when no force is required; or excessive—more force than is objectively reasonable to accomplish a lawful purpose.

Source: Terminology compiled from the *California Code of Regulations*, Title 15, in effect during 2021.

(This page left blank for reproduction purposes.)

Summary

The Office of the Inspector General (the OIG) is required to provide contemporaneous oversight of the California Department of Corrections and Rehabilitation's (the department) process for reviewing and investigating allegations of staff misconduct submitted by incarcerated people. In this second annual report, we provide a review of the work conducted by the department's unit that was responsible for these inquiries. The unit is called the Allegation Inquiry Management Section (AIMS), and it is dedicated to performing inquiries into such allegations. These allegations are called *staff misconduct grievances*, and in this publication, we report on the department's implementation of its former process for handling such allegations.

From January 1, 2021, through December 31, 2021, our Staff Complaints Monitoring Team inspectors monitored 28 AIMS cases. They personally attended interviews, evaluated the final inquiry reports, and examined decisions made by wardens.[1] Our inspectors also reviewed documentary evidence, photographs, audio and visual recordings, body-worn camera footage, and final inquiry reports in connection with these monitored cases.

For each of the 28 cases we monitored, we assessed the performance of departmental staff and provided an *overall* rating. Our assessment methodology for this rating is based on the OIG inspectors' answers to each of the performance-related questions. We assessed the overall work in each inquiry as *superior*, *satisfactory*, or *poor*. We used this rating system to evaluate and assess the department's overall performance in completing the inquiry case in five main areas:

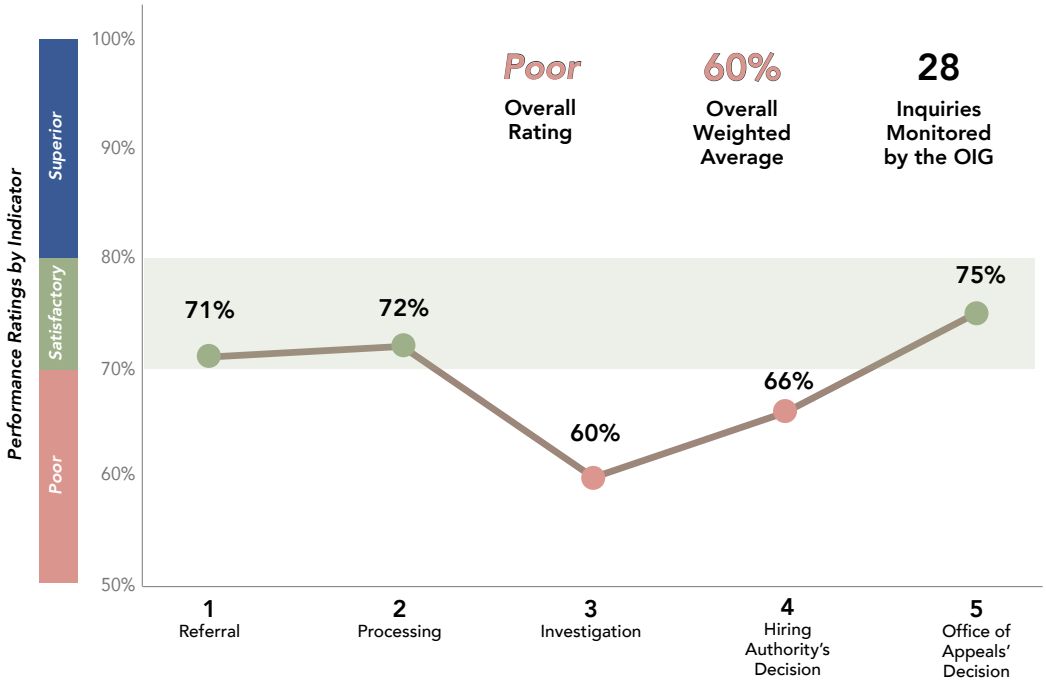
1. Whether wardens (institutional Office of Grievances) appropriately referred allegations of staff misconduct;
2. Whether AIMS intake staff properly assigned each allegation to an AIMS investigator for an inquiry;
3. Whether AIMS appropriately investigated the allegation(s) of staff misconduct;
4. Whether the warden's decision concerning the allegation(s) of staff misconduct was appropriate; and
5. Whether the Office of Appeals' decision concerning the incarcerated person's appeal was appropriate, if applicable.

1. For the purposes of this report, hereafter, we use the term *warden* to refer to the *hiring authority*.

We found that in 17 of the 28 cases we monitored, or 60 percent,[2] the department's overall performance was *poor* in completing the inquiry cases. In the remaining 11 cases, or 39 percent, the department's overall performance was *satisfactory*. In no cases did the department receive a *superior* rating.

The department's performance was *satisfactory* in three of the five performance indicators we used to assess performance: a proper referral of alleged staff misconduct, appropriate processing of a referral by AIMS intake staff, and an appropriate decision by the Office of Appeals' concerning the incarcerated person's appeal. However, we found the department's performance was *poor* with regard to investigating allegations of staff misconduct and the warden's decision concerning the allegation of staff misconduct.

Figure 1. The OIG's Overall Rating of the Department's Handling of Staff Misconduct Inquiries



1. How well did hiring authorities refer allegations of staff misconduct?
2. How well did AIMS process the referral of alleged staff misconduct?
3. How well did AIMS investigate the allegations of staff misconduct?
4. How appropriate was the hiring authority's decision concerning the allegations of staff misconduct?
5. How appropriate was the Office of Appeals' decision concerning the grievant's appeal of his or her alleged staff misconduct grievance?

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

2. The figure of 60 percent is based on an overall weighted average further explained in the Methodology section of this report, which begins on page 11.

During our monitoring, we identified two key concerns with the department's handling of staff misconduct inquiries. First, we found that the overall quality of the AIMS investigators' work in completing an inquiry was deficient, especially in how they conducted interviews, collected evidence, and prepared inquiry reports. Second, we found that the warden's decision concerning the allegations of misconduct was inappropriate in six of the 26 cases we monitored, or 23 percent.[3] The warden reached inappropriate decisions by making a conclusion in cases in which there was not enough evidence to make a decision or by not thoroughly reviewing all available evidence before making a decision. The OIG inspectors' assessments of the 28 monitored cases are reflected in case summaries, which have been incorporated herein as an appendix to this report.

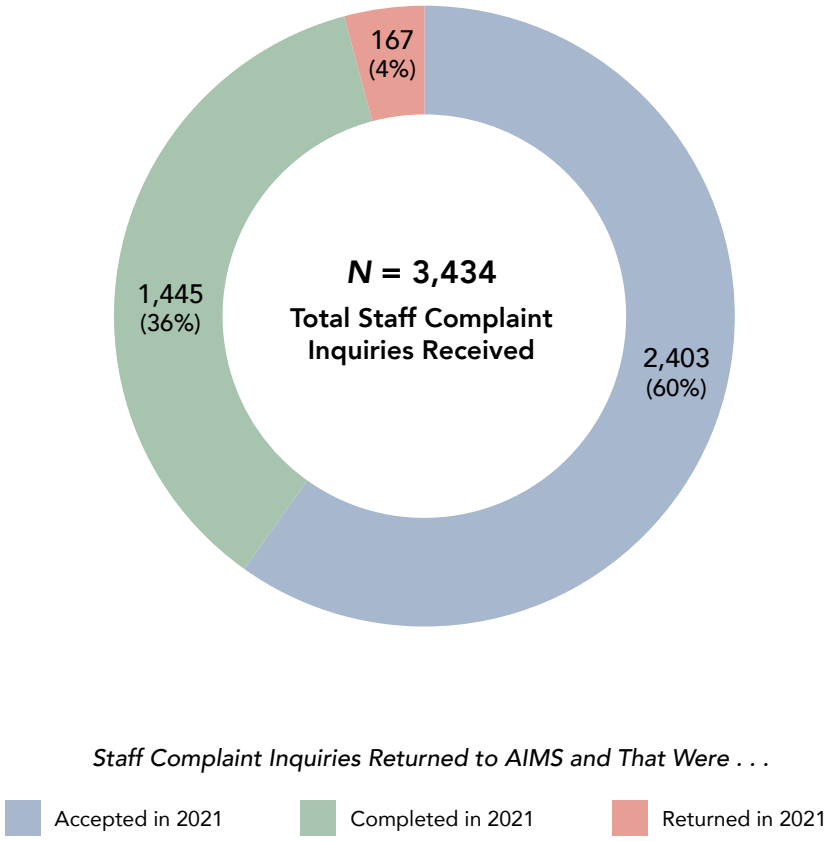
In January 2022, the department implemented emergency regulations revising its statewide process for reviewing incarcerated people's allegations of staff misconduct. The inquiry cases we reviewed for this report were completed by the department before it implemented these emergency regulations. We began monitoring the department's implementation of this new process and will report our observations of the new process in future reports.

Staff Complaints Statistics, 2021

From January 1, 2021, through December 31, 2021, according to figures provided by the department, wardens submitted a total of 3,434 inquiries to the Allegation Inquiry Management Section (AIMS) from grievances that contained alleged misconduct filed by incarcerated people. In turn, AIMS accepted 2,403 of the referrals for inquiry, and of those, completed 1,445 inquiries during 2021 (includes inquiries opened prior to 2021) at an average of 39 hours per inquiry. In addition, AIMS returned 167 referrals to the wardens as AIMS determined they did not meet staff misconduct criteria (as described beginning on page 5 of this report). Furthermore, AIMS had 1,557 inquiries that were in-process as of December 31, 2021. Figure 2 on the following page shows the distribution.

3. In two of the 28 cases the OIG monitored (21-0038384-SC and 21-0040906-SC), a hiring authority decision was not made concerning the allegations of staff misconduct since the hiring authority review and decision was completed on the associated allegation inquiry. Thus, only 26 cases were evaluated for this area of our review.

Figure 2. Staff Complaint Inquiries Received and Processed by AIMS in 2021



Source: The California Department of Corrections and Rehabilitation's Allegation Inquiry Management Section.

Introduction

Background

California Penal Code Section 6126 (i) requires the Office of the Inspector General (the OIG) to provide contemporaneous oversight of grievances that fall within the California Department of Corrections and Rehabilitation's (the department) process for reviewing and investigating incarcerated people's allegations of staff misconduct. Generally speaking, this oversight includes our examination of compliance with regulations, departmental policy, and best practices. The law requires that we issue reports annually, beginning in 2021. This second report is intended to serve as a progress report covering the department's implementation of its former grievance process in place during 2021 by its Allegation Inquiry Management Section (AIMS). This unit, which is part of the department's Office of Internal Affairs, was dedicated to performing inquiries into grievances that contain allegations of staff misconduct.

In March 2020, the department proposed a new regulatory framework for processing allegations of staff misconduct. Generally, the new framework was established to move the responsibility for performing inquiries into those allegations away from staff working at the prisons and delegate that responsibility to staff working in AIMS. In this revised process, incarcerated people file grievances by dropping them in collection boxes located in their housing units and at other locations throughout the prison. The prison's Office of Grievances reviews and logs each grievance. The grievance coordinator reviews each grievance and separates out any grievances he or she believes contain allegations of staff misconduct from among the more routine grievances that do not contain allegations of misconduct. The grievance coordinator provides the set of grievances believed to allege staff misconduct to the prison's reviewing authority (either the warden or chief deputy warden), who then determines whether the grievances officially contain allegations of staff misconduct. The department's regulations provide the following two-part definition to guide grievance coordinators, wardens, and other departmental staff in determining whether to classify a grievance as a staff misconduct grievance:

> *Staff misconduct* is defined as an allegation that
>
> 1. departmental staff violated a law, regulation, policy, or procedure, or acted contrary to an ethical or professional standard,
> 2. which, if true, would more likely than not subject a staff member to adverse disciplinary action.

When an allegation meets both of these parameters, departmental regulations require the warden to refer the grievance to the Office of

Internal Affairs. The particular unit within the Office of Internal Affairs that should receive the grievance depends on whether the grievance provides sufficient information to establish a reasonable belief that the alleged misconduct occurred. If true, the warden must refer the grievance to the Office of Internal Affairs' Central Intake Unit, requesting either a formal investigation or permission to take adverse action without additional investigation. If not, the warden must refer the grievance to the Office of Internal Affairs' AIMS, requesting an inquiry. The department's regulations mandate that wardens refer all staff misconduct grievances to one of these two units in the Office of Internal Affairs, the Central Intake Unit or AIMS. The unit that must investigate the allegations is determined as follows:

1. [If] the claim warrants a request for an allegation inquiry [it] shall be referred to the Office of Internal Affairs, Allegation Inquiry Management Section. An allegation inquiry **shall be conducted** whenever the claim meets the definition of staff misconduct but the [warden] does not have a reasonable belief that the misconduct occurred. [Emphasis added]

2. [If] the claim warrants a request for a formal investigation [it] shall be referred to the Office of Internal Affairs, Central Intake Unit. A formal investigation **shall be conducted** whenever the claim meets the definition of staff misconduct and the [warden] has a reasonable belief that the misconduct occurred. [Emphasis added]

When a grievance does not contain an allegation that qualifies as staff misconduct, wardens assign that grievance to supervisory staff at the prison for a review. The department chose to exempt several types of claims from being referred to AIMS, instructing prison staff to retain the following staff misconduct allegations at the prison:

- Unnecessary or excessive use of force by staff that resulted in serious bodily injury
- Sexual misconduct or sexual harassment against an incarcerated person
- Staff involvement in due process violations during the disciplinary process
- Disagreement with staff decisions during the disciplinary process
- Issuance of false rules violation reports
- Staff misconduct in connection with the Americans With Disabilities Act's (ADA) reasonable accommodation process

When AIMS receives a staff misconduct grievance referral from a prison, AIMS staff first review the grievance to determine whether any of the following characteristics pertain:

- The claim falls within any of the six categories of misconduct that prison staff are instructed to retain for handling at the prison
- The claimant filed the grievance more than 30 days after the alleged misconduct occurred
- The staff at AIMS disagrees with the warden's determination that the allegation meets the definition of staff misconduct
- The claim is not specific enough to be investigated
- The claim of staff misconduct did not have a material adverse effect on the claimant
- The claimant is refusing to cooperate with the department's attempts to obtain additional information
- The claim concerns harm to a person other than the person who signed the grievance
- The claim of staff misconduct was committed by staff not employed or under the control of the department
- The claim duplicates a claim that has already been filed

If a grievance meets any of these criteria, AIMS does not accept the grievance, returning it to the prison without performing an inquiry or investigation. The warden must then decide how prison staff will address the incarcerated person's allegations.

When AIMS accepts a staff misconduct grievance, it assigns the grievance to an investigator, who performs an *allegation inquiry* into the allegations contained in the grievance. During the inquiry, the investigator performs interviews and gathers records and physical evidence that may prove or disprove the allegations. In essence, the investigator performs an investigation. At the conclusion of this activity, the AIMS investigator prepares a final inquiry report summarizing the evidence gathered during the inquiry. The report does not offer a conclusion concerning whether a reasonable belief the staff member engaged in misconduct existed; it merely recounts the evidence gathered.

Although the regulations are silent regarding what AIMS should do with the completed inquiry report, we observed that the inquiry report is then returned to the warden of the corresponding prison, who decides whether the staff member likely committed the alleged acts. If the warden believes that the evidence establishes a reasonable belief the staff

member engaged in misconduct, the warden returns the inquiry report to the Office of Internal Affairs, this time to the Central Intake Unit. The Office of Internal Affairs' Central Intake Unit then reviews the referral and takes one of three actions: 1) if the Central Intake Unit concludes there is sufficient evidence to sustain the allegations by a preponderance of the evidence, it will authorize the warden to take adverse action against the subject employee without further investigation; 2) if the Central Intake Unit concludes there is a reasonable belief that misconduct occurred, it will approve and open a formal investigation into the allegation (or a subject-only interview); or 3) if the Central Intake Unit concludes there is no reasonable belief that misconduct occurred, it will reject the request to open an investigation and return the report to the warden.

In February 2021, our office issued its initial special review of the new AIMS process, and our review recommended, in part:

- The department should require incarcerated people to submit staff misconduct grievances directly to the Allegation Inquiry Management Section to increase independence and fairness.
    - Effective January 1, 2022, the department established a new unit, the Centralized Screening Team, within the Office of Internal Affairs, to receive all grievances. This team conducts a review of each complaint to determine if it contains a routine issue, allegations of staff misconduct toward an inmate or parolee, or allegations of staff misconduct not related to an inmate or parolee. The establishment of this team removes the review and decision-making process from the control of hiring authorities. The new process increases the department's ability to provide greater independence and fairness to the process.
- The department should establish a designated group of AIMS staff to review each grievance and assess whether the allegations in each grievance meet the department's definition of staff misconduct.
    - Effective January 1, 2022, the department established a new unit, the Centralized Screening Team, within the Office of Internal Affairs, now reviews all complaints received and makes a screening decision concerning whether a complaint contains a routine issue, an allegation of staff misconduct toward an incarcerated person or parolee, or an allegation of staff misconduct not related to an incarcerated person or parolee.

- At the end of an inquiry, rather than refer the inquiry report back to the warden of the corresponding prison, AIMS should send the inquiry report directly to the Office of Internal Affairs' Central Intake Unit if AIMS staff have formed a reasonable belief that misconduct occurred.
    - As of May 31, 2022, the department began a phased implementation of its handling of staff misconduct allegations. This includes the Centralized Screening Team referring and forwarding allegations, which include complex issues requiring specialized investigative skills or resources, directly to the Allegation Investigation Unit for an investigation. In addition, if the staff misconduct allegations do not include complex issues requiring specialized investigative skills or resources, the Centralized Screening Team will refer the allegations to the hiring authority for an allegation inquiry.

To address these concerns, as noted, the department implemented emergency regulations,[4] effective January 1, 2022, to make substantive changes in how it addresses department staff misconduct allegations involving incarcerated people or parolees.

4. Visit the department's website **to read more about the emergency regulations**.

Scope

The OIG monitored 28 staff misconduct inquiry cases that were opened and completed by AIMS investigators from January 2021 through December 2021. In addition to monitoring interviews and other field work at prisons throughout the State, we analyzed the resulting final inquiry reports and corresponding exhibits AIMS investigators produced and submitted to the warden for a final decision. This included real-time observations of interviews and reviews of other recordings as well as other evidence, such as documentation, pertaining to the cases. We also received and reviewed memoranda from the warden concerning his or her review and resolution of the cases, including the analysis for each case concerning whether there existed a reasonable belief of staff misconduct.

To properly assess the 28 cases we monitored, we analyzed the relevant dates of the inquiry cases to include, but not be limited to, the assignment date of the investigators, the date of the final interview, the completion dates of the inquiry case, the deadlines to take disciplinary action, and the date of the warden's decision as to each case. In addition, we analyzed the number of days occurring between certain events, such as the number of days between the start of each inquiry and the date the AIMS investigator completed and submitted the final inquiry report. We also conducted a qualitative analysis of the inquiry work conducted by all investigators—including their interviews, evidence collection, and report preparation—for the 28 cases we monitored.

In addition, we reviewed a number of key documents, including the department's March 2020 revised regulations and the related training materials used to instruct both staff who conduct inquiries and those who interact with the process at the prisons. In addition, our staff attended various training sessions held by departmental instructors on the new inquiry process.

We obtained and analyzed data from a number of the department's electronic tracking systems. These include the offender grievance tracking system, the incarcerated-person appeals tracking system (now eliminated), the allegation inquiry management system database (which the department anticipates decommissioning by January 1, 2023), and internal affairs tracking logs (referred to as CDCR Form 2140 spreadsheets).

Methodology

The OIG monitors the department's adherence to its policies, procedures, and training concerning the review and investigation of incarcerated people's allegations of staff misconduct and the department's inquiry process. We present our assessment of inquiries (or investigations) by the department's AIMS and the department's subsequent review process using data and information garnered from an assessment tool. The tool divides the department's processes into five units of measurement that we refer to as *performance indicators* (indicators), as described below:

- **Indicator 1** addresses whether wardens, along with the Office of Grievances, appropriately referred an incarcerated person's staff misconduct grievance.
- **Indicator 2** addresses whether AIMS staff properly processed the referral of alleged staff misconduct.
- **Indicator 3** addresses whether AIMS staff appropriately investigated the allegations of staff misconduct.
- **Indicator 4** addresses whether the warden's decision concerning the allegations of staff misconduct was appropriate.
- **Indicator 5** addresses whether the Office of Appeals' decision concerning the incarcerated person's appeal of alleged staff misconduct was appropriate.

From January 1, 2021, through December 31, 2021, our Staff Complaints Monitoring Team inspectors monitored 28 AIMS cases,[5] personally attending interviews, and evaluating the final inquiry reports, along with the warden's[6] decision. OIG inspectors also reviewed documentary evidence, photographs, audio and visual recordings, body-worn cameras, and final inquiry reports in connection with these monitored cases.

Concerning each indicator, we developed a series of compliance- or performance-related questions. Our inspectors who monitored the inquiries collected data to answer the questions. Based on the collective answers, we rated each of the five indicators for each incident as *superior*, *satisfactory*, or *poor*.[7] Then, using the same rating descriptors, our inspectors determined an overall rating for each incident they monitored.

5. OIG monitored an additional 15 inquiries that were opened by AIMS during 2021 and six inquiries opened by AIMS in 2022; however, these 21 cases were in-process and completed by AIMS investigators in 2022.

6. For the purposes of this report, hereafter, we use the term *warden* to refer to the *hiring authority*.

7. Certain indicators are not applicable for all incidents. For instance, if an incarcerated person did not appeal the warden's decision concerning the allegations of staff misconduct, Indicator 5, which assesses the Office of Appeals' decision concerning an incarcerated person's appeal, would not apply.

The rating for each indicator, and ultimately the rating for the completed AIMS inquiry, is based on the department's compliance with its own policies, procedures, and training concerning the use-of-force, combined with our opinion regarding the department's overall handling of the inquiry. To arrive at meaningful data to monitor during this reporting period and to track the compliance and ratings of the department over time, we assigned a numerical point value to each of the individual indicator ratings and to the overall rating for each incident.

The point system is as follows:

Superior ..... 4 points

Satisfactory ..... 3 points

Poor ..... 2 points

We then added the collective value of the assigned points and divided the result by the total number of points possible to arrive at a weighted average score. To illustrate how this scoring method works, consider a hypothetical example consisting of 10 inquiries. The maximum point value—the denominator—would be 40 points (10 inquiries multiplied by 4 points). If the department scored one superior result, seven satisfactory results, and two poor results, its raw score—the numerator—would be 29 points. To arrive at the weighted average score, we would then divide 29 by 40, yielding a score of 72.5 percent. The formula for the hypothetical situation is shown below.

Equation. Scoring Methodology

$$\frac{[\,(1\ \textit{superior} \times 4\ \text{points}) + (7\ \textit{satisfactory} \times 3\ \text{points}) + (2\ \textit{poor} \times 2\ \text{points})\,]}{(10\ \text{cases} \times 4\ \text{points})}$$

Finally, we assigned a rating of *superior* to weighted averages that fell between 100 percent and 80 percent, *satisfactory* to weighted averages that fell between 79 percent and 70 percent, and *poor* to weighted averages that fell between 69 percent and 50 percent. Thus, using the example above, the summary-level rating would be *satisfactory* because the weighted average score of 72.5 percent was between 79 percent and 70 percent. As we assign a minimum of two points to each rating, the minimum weighted average percentage value is 50 percent.

Results & Percentages

Superior	*Satisfactory*	*Poor*
100%–80%	79%–70%	69%–50%

Review Results

Wardens Satisfactorily Referred Staff Misconduct Allegations for Cases the OIG Monitored

Indicator 1 Rating

Satisfactory

71% weighted average score

Warden's Referral

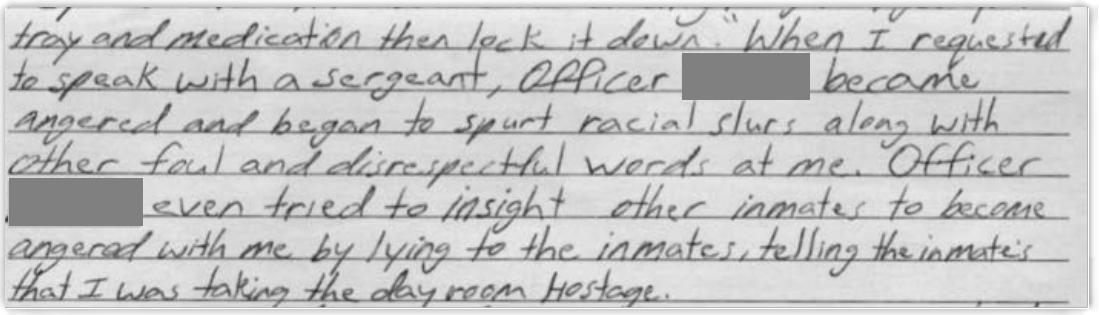
Did wardens appropriately refer allegations of staff misconduct?

For Indicator 1, we reviewed whether wardens and their respective Office of Offender Grievances staff identified, properly documented, and appropriately referred an incarcerated person's complaints of staff misconduct for inquiry. An incarcerated person who wishes to submit a grievance alleging staff misconduct submits a grievance to an institutional Office of Offender Grievances. When that office receives the grievance, a reviewing official logs the grievance in the department's offender grievance tracking system, reviews each grievance, and determines whether it contains allegations of staff misconduct. If so, the grievance is submitted to the prison's warden, who then determines whether the grievance officially contains allegations of staff misconduct. If the warden agrees, the reviewing official will then forward the grievance to the appropriate authority for investigation. Our review focused on those grievances determined to contain alleged staff misconduct, with the grievance having been submitted to AIMS to conduct an inquiry into the claims.

Overall, we found, the department's performance as *satisfactory* in referring allegations of staff misconduct. The OIG assessed the department's performance as *satisfactory* in 23 cases and *poor* in five cases. We did not assign any cases *a superior* rating in this indicator. For five of the 28 monitored cases, or 18 percent, we found that the warden did not properly identify an allegation of staff misconduct in an incarcerated person's complaint. We will discuss two of the five cases below where allegations of staff misconduct were not identified by wardens, and the remaining three cases are included in Indicator 2 since they were assigned to an AIMS investigator without all staff misconduct allegations being properly identified by the respective warden or AIMS intake staff.

In one case, an officer allegedly used profanity and racially discriminatory and derogatory language toward an incarcerated person, as properly identified by the warden. However, it was also alleged that the same officer conspired to incite other incarcerated persons by falsely claiming the incarcerated person was preventing other incarcerated persons from participating in dayroom activities.

Exhibit 1. Excerpt From an Incarcerated Person's Staff Misconduct Grievance Form



tray and medication then lock it down. When I requested to speak with a sergeant, Officer [redacted] became angered and began to spurt racial slurs along with other foul and disrespectful words at me. Officer [redacted] even tried to insight other inmates to become angered with me by lying to the inmates, telling the inmate's that I was taking the day room Hostage.

Source: The California Department of Corrections and Rehabilitation.

The latter allegation was subsequently identified by AIMS intake staff and properly assigned to the AIMS investigator for an inquiry.

In another case, a warden identified that a sergeant allegedly repeatedly called an incarcerated person an unprofessional name, used unreasonable force by slamming the incarcerated person against a wall, and attempted to initiate a fight with him. The warden's identification of these staff misconduct allegations is included below.

Exhibit 2. Excerpt From a Warden's Allegation Inquiry Referral Memorandum to AIMS

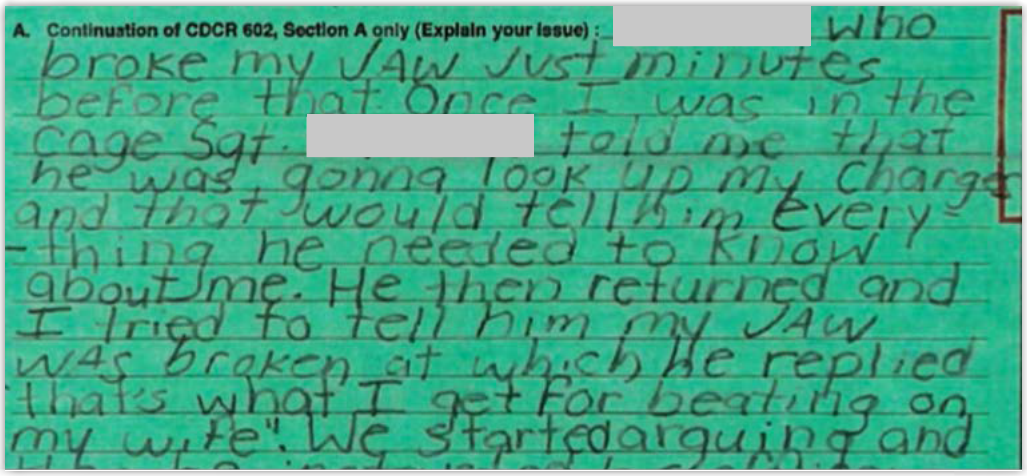
RE: Grievance Log Number [redacted]
Correctional Sergeant [redacted]
PERNER # [redacted] Post [redacted] – A Program Sergeant, 2nd Watch, RDO – Wednesday/Thursday

The attached grievance from Inmate [redacted], alleges staff misconduct. Inmate [redacted] alleges, Sergeant [redacted] repeatedly called him an "SNY b***h," slammed against the holding cell wall and encouraged him to participate in mutual combat. It is being requested an inquiry be conducted into the staff's alleged misconduct.

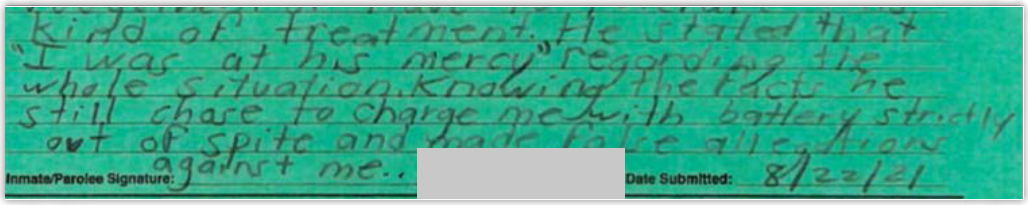
Source: The California Department of Corrections and Rehabilitation.

However, the warden did not identify several other staff misconduct allegations included in the grievance: an officer allegedly fractured the jaw of an incarcerated person (by slamming him against a fence post), and a sergeant falsely charged the incarcerated person with battery on a peace officer. Each of these allegations were subsequently identified by AIMS intake staff and properly assigned to the AIMS investigator for an inquiry.

Exhibits 3a and 3b. Excerpts From an Incarcerated Person's Staff Misconduct Grievance Form


A. Continuation of CDCR 602, Section A only (Explain your issue): [redacted] who broke my JAW just minutes before that. Once I was in the cage Sgt. [redacted] told me that he was gonna look up my charge and that would tell him every-thing he needed to know about me. He then returned and I tried to tell him my JAW was broken at which he replied "that's what I get for beating on my wife". We started arguing and

3a.


kind of treatment. He stated that "I was at his mercy" regarding the whole situation. Knowing the fact he still chose to charge me with battery strictly out of spite and made false allegations against me..

Inmate/Parolee Signature: [redacted] Date Submitted: 8/22/21

3b.

Source: The California Department of Corrections and Rehabilitation.

Indicator 2 Rating

Satisfactory

72% weighted average score

AIMS's Processing

Did AIMS staff properly assign each allegation of staff misconduct?

Allegation Inquiry Management Section (AIMS) Staff Effectively Processed Referrals of Alleged Staff Misconduct for Cases the OIG Monitored

In Indicator 2, we evaluated whether AIMS intake staff properly assigned each allegation of staff misconduct. Overall, we found, the AIMS intake staffs' performance as satisfactory in properly assigning and processing allegations of staff misconduct. The OIG assessed the department's performance as satisfactory in 25 cases and poor in three cases. We did not assign any cases a superior rating in this indicator.

As explained in Indicator 1, we found that five of the 28 monitored cases, or 18 percent, were not properly identified by the warden to refer each allegation of staff misconduct in an incarcerated person's complaint. In two of the five instances where an allegation of staff misconduct was not detected, AIMS intake staff correctly identified the other allegations (not identified by the warden) that were then referred to the AIMS investigator. Thus, only three of the 28 monitored cases were assigned to an AIMS investigator that did not properly identify all staff misconduct allegations. The three cases are discussed below.

In one case, an officer allegedly falsified documentation of an incarcerated person to conceal a battery against the incarcerated person by four other incarcerated people and a sexual assault by one of the four incarcerated people. The officer was allegedly overly familiar with two of the four involved incarcerated people. The latter allegation was not identified by the institutional Office of Offender Grievances or by the warden's review or by the AIMS intake staff review. The warden did not include a referral memorandum to AIMS ("Determination of Grievance Against Staff") to indicate the specific staff misconduct claim(s) being referred to AIMS. The incarcerated person's grievance form stated that the officer "falsified documents to attempt to cover up the fact that I was viciously beaten by 4 inmates suffering many injuries, and sexually assaulted by 1 of the 4 inmates during the incident . . . [officers'] actions/misconduct may be due to 'over familiarity' of two of the [four] inmates involved." Since this allegation was not identified, the AIMS investigator did not perform an inquiry regarding this allegation of alleged overfamiliarity by the officer.

The other two cases involved linked allegations processed with separate grievance forms. The incarcerated person alleged that two officers slammed the handcuffed incarcerated person to the ground, without sufficient justification, causing the incarcerated person to suffer a fractured orbital bone, a laceration over his left eyebrow, and a loss of consciousness. The wardens' referral memorandum to AIMS detailed the separate claims and requested the allegations be processed with a single inquiry report since they were related to one another. For one of the grievance forms, the incarcerated person specifically alleged a false statement on the officer's use of force report that the incarcerated person

had "hit his shoulder." As shown below, both subject officers reported similar accounts that the incarcerated person had "lunged his head," making contact with the right shoulder of Subject Officer 1 prior to the officer's using force with physical strength.

Exhibit 4. Subject Officer No. 1's Use-of-Force Incident Report

Officer gave a direct order to submit to handcuffs which he complied. I gave a direct order to submit to handcuffs which he complied. I gave a direct order to go to the back of the cell which he complied. I signaled the control booth officer to open the cell door. I observed Officer escort and secure into the lower tier shower. I took control of left arm with my right hand. Officer and I escorted out of and into the . still seemed agitated and aggressively shouting "I've been fucking waiting for a bed move!" I explained to that this was the first time I was hearing of a bed move. Once we entered the , suddenly planted his feet which stopped the escort and without warning, lunged his head to his left which made contact with my right shoulder area. In order to subdue an attacker and overcome resistance, I utilized immediate use of force, specifically, I transitioned my hand right hand and forearm to upper back area and grabbed left arm area with my left hand and utilized physical strengths along with forward momentum to force him to the ground in a prone position. Due to my positioning on upper body I did not observe if Officer utilized force. Once on the ground,

Exhibit 5. Subject Officer No. 2's Use-of-Force Incident Report

complied, I escorted to the shower where I then secured . Officer gave a direct order to back out of the cell in which he complied. I assisted Officer with the escort of down to the holding cell. Officer was on right side, while I was on left side, during the escort once again became agitated asking about his bed move while also yelling other unintelligible verbiage. Officer tried deescalating the situation using slow simply English explaining to the proper way to facilitate a bed move. still angry without warning lunged with his head towards Officer , striking Officer in his right shoulder. In order gain compliance in a lawful order, overcome resistance, and subdue the attack from I used immediate physical force, by utilizing my physical strengths, grabbing with my right hand on right shoulder and my left hand on the middle of back using momentum and my weight pushed him to the ground, where he landed in a prone position on the floor. Due to my focus on I was unaware of Officer hand placement. Once on the ground was still actively resisting, so I utilized my physical strengths, applying downward pressure to right side, pushing down with my right hand on his right shoulder and my left hand on his lower back. Officer was on left side using his physical strengths by applying downward pressure to back. Due to my focus on I am unaware of Officer hand placement.

Source for both exhibits: The California Department of Corrections and Rehabilitation.

Indicator 3 Rating

Poor

60% weighted average score

Investigation

How well did AIMS staff investigate the allegations of staff misconduct?

AIMS Investigators Poorly Conducted Interviews, Failed to Collect Relevant Evidence, and Produced Poorly Written Reports

One of our key findings was that the quality of the AIMS investigators' work in conducting most of the inquiries was *poor*. We identified three significant problems: poorly conducted interviews and failure to interview involved staff; incomplete collection and reporting of relevant evidence; and incomplete or inaccurate inquiry reports. Of the 27[8] monitored cases assessed in Indicator 3, we found the quality of investigators' inquiry work to be *poor* in 16 of the cases, or 59 percent. In the remaining 11 cases, or 41 percent, we assessed the quality of the investigators' work as *satisfactory*. In our opinion, none of the cases merited a *superior* rating.

Investigators Conducted Deficient Interviews and Failed to Interview Involved Staff

Our monitoring revealed that AIMS investigators generally performed poorly when conducting interviews. Examples of these problems included investigators who did not initially inform the incarcerated person of the inquiry under review, ask relevant or clarifying questions during interviews, and failed to conduct interviews with appropriate witnesses and subjects. Ineffective interviewing techniques included not asking open-ended questions and asking leading questions. Any inquiry into staff misconduct allegations requires a thorough and rigorous interview process to ensure a complete presentation of facts. Without such interviews, a warden or other reviewer cannot be expected to adequately assess whether a reasonable belief of staff misconduct exists.

For example, in one case, two lieutenants, one sergeant, and three officers allegedly attacked and knocked a wheelchair-bound incarcerated person out of his wheelchair, causing the incarcerated person to suffer back pain. It was further alleged that each of these subjects had damaged the incarcerated person's wheelchair after the attack. At the start of the interview, the AIMS investigator did not inform the incarcerated person of the allegations under review for the inquiry or redirect the incarcerated person when other discussion topics or uninvolved staffed were mentioned. Instead, the investigator had the incarcerated person explain the "entire incident" for approximately 21 minutes (of the 70-minute interview). Although most of the descriptions shared involved events and encounters with staff unrelated to the two allegations made on the grievance form, there was no interruption or clarification by the investigator what allegations were under review. Subsequently, it was necessary for the investigator to ask numerous additional clarifying

8. The OIG initiated monitoring of 28 cases; however, 27 separate cases had a separate and unique AIMS inquiry assessed since the inquiry work was merged with another OIG monitored case.

questions to understand and determine whether the incarcerated person made additional allegations.

Our review of monitored inquiries also determined that investigators asked leading questions of witnesses or subjects. The purpose of asking questions during the interview process is to obtain relevant and pertinent information to ensure an adequate fact-finding process is conducted. When leading questions are asked, it does not facilitate obtaining important details from witnesses, which impacts how information is gathered and presented to allow for a warden to make an informed decision. One example of this concern was noted with an officer who allegedly escorted a handcuffed incarcerated person to an area beyond the audio-video surveillance system and used unreasonable force by slamming the incarcerated person against a fence and twisting the incarcerated person's arms. The AIMS investigator asked leading questions or made conclusory statements of witnesses and the subject officer during interviews. For example, after a staff witness explained that an incarcerated person was "hollering and yelling," the AIMS investigator asked, "So he (incarcerated person) was being kind of resistive and being verbally abusive?" Another witness explained that he heard the incarcerated persons' name mentioned in the morning meeting and "I knew he was. . . ." Instead of allowing the witness to continue, the investigator stated "problematic inmate" to which the witness concurred. Furthermore, during an interview with the subject, the AIMS investigator asked, "Do you pretty much consider him (incarcerated person) to be a problematic inmate?" and "Do you think other staff members probably think the same (about the incarcerated person)?"

Concerning the same inquiry, the AIMS investigator asked a witness clarifying questions, but the questioning was flawed. During the interview, the AIMS investigator asked for clarification as to where the alleged use of force took place. The witness stated he was "outside . . . trying to enter the building but I didn't make it to the 'driveway' . . . seen them [officers] bring him [incarcerated person] out from Building 2 and slammed him, they were dragging him and slammed him against the wall . . . the left wall approaching the building." Both the AIMS investigator and witness stood up and looked out the interview room window seemingly toward the location of the incident, as the witness continued to describe what was observed. The AIMS investigator attempted to confirm the location, by stating the incident took place "a few feet outside of the doorway, ok, and he slammed him against that wall." The AIMS investigator did not clarify, for the record, the specific area outside the housing unit where they were looking. Although the OIG representative was present for this interview, viewing and pointing toward the incident location from the interview room was not helpful in documenting the incident location. Instead, as identified in AIMS

investigator training,[9] a better practice would have been to ask the witness to draw a schematic or layout of the building exterior, note the location of the witness and involved parties, have the witness sign and date the schematic, and include it as an exhibit with the inquiry.

Moreover, we determined that, in some cases, investigators did not conduct interviews with the claimant, witness(es), and subject(s) for several inquiries we monitored. The importance of conducting interviews goes beyond obtaining details regarding the alleged claim of staff misconduct. Witness testimony can assist in proving facts, disproving facts, providing unknown details regarding an allegation, or reveal additional allegations that were unknown. An investigator who fails to conduct all appropriate interviews reduces the amount of pertinent information the investigation contains, which renders the investigation incomplete.

For example, in one case, an investigator failed to interview a subject who was a sergeant. An officer allegedly fractured the jaw of an incarcerated person by slamming the person against a fence post. The incarcerated person stated he was then placed in a holding cell where a sergeant used unreasonable force by slamming him against the wall. The sergeant allegedly called the incarcerated person an "SNY piece of shit,"[10] attempted to initiate a fight with him, and falsely charged the incarcerated person with battery on a peace officer. According to AIMS' review, the incarcerated person made allegations that "mirrored the claims" of another allegation inquiry that was recently completed by an AIMS investigator. However, our review found that no interview was conducted of the subject sergeant (in either inquiry); only an interview of the subject officer was completed in the earlier inquiry. A review of the incarcerated person's medical records after this use-of-force incident confirmed he had sustained a broken jaw. Furthermore, the earlier allegation inquiry did not identify the sergeant as a subject regarding the incarcerated person's claims of unreasonable use of force, discourteous treatment, and threats of making a false allegation. Thus, AIMS' decision to discontinue the second inquiry was flawed, as the claims, in fact, did not mirror each other, resulting in AIMS' failure to conduct any fact-finding inquiry regarding the staff misconduct allegations against the sergeant.

In another case, two officers allegedly coerced an incarcerated person's cellmate of two weeks to assault him in retaliation for filing a staff complaint grievance. A sergeant, at the local level, conducted a supervisorial review of this allegation against the two officers. Several

9. California Department of Corrections and Rehabilitation, Allegation Inquiry Management Section (AIMS), AIMS Training Academy, Staff Complaints - Conducting Interviews, September 2020, July and October 2021.

10. Incarcerated people may be housed on a "sensitive needs yard" (SNY), and individuals in this group may fall into one of the following general categories: 1) prison gang dropout; 2) victim of assault; 3) significant enemy concerns; and 4) other safety concerns, such as high notoriety, public interest cases, or sex offenders.

weeks later, the same incarcerated person alleged this sergeant exhibited bias during his supervisorial review. During the subsequent inquiry conducted by the AIMS investigators, they failed to interview two of the three subjects and two incarcerated people as witnesses. Instead, the AIMS investigators relied on the supervisorial review, conducted by the local prison supervisor (instead of an AIMS investigator not assigned to an institution), even though the sergeant who conducted the supervisorial review was identified as the third subject within the AIMS inquiry.

The sergeant's supervisorial review concluded that both witnesses (incarcerated people) were neither credible nor deemed reliable. However, our review found the sergeant documented that the incarcerated person's cellmate involved in the fight (a witness) had stated both officers made statements that they would "take care of (incarcerated person), he's nothing but trouble and if something was to happen, I wouldn't care." Furthermore, this witness's interpretation, as stated in the sergeant's report, was that "staff wanted him to assault his new cellmate" (an incarcerated person). Thus, the witness interview conducted by the local level sergeant corroborated the incarcerated person's claim that the officers had coerced the incarcerated person's cellmate to fight him. Yet the AIMS investigators relied on the local-level sergeant's conclusion that the witnesses were not credible and that the officers did not instruct the incarcerated person's cellmate to fight him. Instead of interviewing the other two subjects or witnesses, the AIMS investigator bypassed the critical steps necessary to conduct an independent fact-finding inquiry.

Investigators Failed to Obtain Relevant Evidence

Our monitoring also showed that investigators failed to adequately search for and obtain relevant evidence. In 13 out of the 28 cases we monitored, or 46 percent, we found investigators failed to collect evidence relevant to the inquiry. A staff misconduct inquiry entails a fact-finding process. Therefore, to conduct a thorough and complete inquiry, an investigator should review and obtain proper evidence to support or refute an allegation. We encountered cases in which the investigator failed to search for or collect relevant evidence, or applicable departmental or prison policies or procedures. Since a warden should carefully and thoroughly review all available evidence, the investigators' failure to obtain relevant evidence and include it in the final inquiry report can lead to an improper decision.

In some cases, the investigator did not review or obtain applicable policies and procedures relevant to the allegation of the subject officer. It was not clear whether the investigator could not locate an applicable policy or procedure, or, if found, was determined to be not relevant to include in the final inquiry report.

For example, in one case, the investigator conducted an inquiry in which an officer, working in a novel coronavirus (COVID-19) quarantine housing unit, allegedly denied a request for medical attention by an incarcerated person. The incarcerated person indicated that he approached the podium and informed the officer that "I can't breathe and I'm throwing up . . . I need help." The incarcerated person stated the officer responded, "Ok, well, go finish throwing up, and throw up blood and come back." The incarcerated person further described when he had asked for help, the subject officer "was reading a book, he had a book in [his] hand, . . . he was at the podium with his legs up reading a book." The subject officer acknowledged that the incarcerated person approached the podium and informed the officer he was not feeling well. Furthermore, the subject officer stated, "I told him to use the restroom and throw up in the toilet if he had to throw up," and the officer stated he had never notified health care staff.

The incarcerated person claimed he was left to suffer in extreme pain for 11 hours before receiving medical care. The investigator's review of medical documentation identified in the inquiry report that the incarcerated person was not seen by medical staff for over 11 hours after notifying the officer. A medical emergency was initiated, and the incarcerated person was transferred from quarantine housing to the outpatient housing unit for five days, where he received medical treatment due to a COVID-19 diagnosis and other health concerns. The investigator did not include any applicable policies and procedures regarding the subject officer not making any notification to health care staff of the reported health concern.[11] The final inquiry report only included the applicable policy regarding the second allegation that the officer was distracted on duty since the officer acknowledged reading a book at the podium while on duty.[12] The warden issued a letter of instruction to the officer for being distracted while on duty. However, no applicable policy was cited in the final inquiry report regarding the officer's failure to report the incarcerated person's health problem to health care staff, and the warden did not identify staff misconduct.

Another example of an AIMS investigator failing to gather relevant evidence involved an officer allegedly using unreasonable force by grabbing and slamming an incarcerated person against a wall. The AIMS investigator obtained body-worn camera footage for the subject officer and for the other two officers who were present for the alleged incident. The AIMS investigator's final inquiry report documented a review of the body-worn camera footage, a surveillance video recording, and other documentation. The investigator determined that it was unnecessary to interview anyone—the incarcerated person, the subject officer, or other

11. CCR, Title 15, section 3999.206 (a), "Right to Health Care Services": Patients shall be provided an opportunity to report an illness or any other health problem and receive an evaluation of the condition and medically necessary treatment and follow-up by health care staff.

12. CCR, Title 15, section 3394, "Distractions."

staff as part of this inquiry. The investigator concluded: "After reviewing the entire duration of the BWC [body-worn camera] footage, I did not observe [subject officer] slam [incarcerated person] against the wall. At no time did I identify [incarcerated person] resist in the custody of [subject officer]."

The subject officer's body-worn camera was reviewed by an OIG inspector; its recording showed another officer standing at the incarcerated person's cell front, providing verbal instructions to the incarcerated person on how to properly exit his cell. The subject officer then stated to the other officer, "What are you being so nice for? This guy's a piece of s**t [the other officer then tapped the body-worn camera of the subject officer first with her left elbow and then tapped on it rapidly four more times with her left hand], I don't give a f**k." Upon exiting the cell, the incarcerated person secured in handcuffs, was immediately grabbed by his left bicep with the subject officer's right hand, and then guided and placed against the wall near his cell door. The subject officer then stated to the incarcerated person, "Why do you do this sh**t, I know you been to the hole, you do the same s**t. Is this your f***ing normal s**t, you're going to do? Hmm. [While the incarcerated person was standing, the subject officer suddenly pulled backward on the incarcerated person's left arm, moving the incarcerated person briefly away from the wall;] I'm asking you a f***ing question [subject officer again pulled the incarcerated person's left arm backward]. Nothing." [A third officer then used his left hand to tap on the subject officer's left arm, and stated, "It's okay" to the subject officer, who then pulled the incarcerated person away from the wall and began the escort]. The incarcerated person did not respond to the subject officer. During this encounter, the subject officer maintained a constant grip on the incarcerated person's left bicep and pulled the incarcerated person's left arm in a backward motion two times. This conflicts with the AIMS investigator's conclusion regarding whether unnecessary force was used on a nonresistive inmate."

The officer's statements to the incarcerated person met the criteria for discourteous treatment. Moreover, the officer appeared to use physical force against a nonresistive incarcerated person (even though the incarcerated person was not "slammed" against the wall) when the subject officer pulled twice on the incarcerated person's left arm. It is not clear why the incarcerated person was placed against the wall, in the first place, except to be scolded by the officer before the actual escort. The investigator did not include the applicable policies in the final inquiry report to address the discourteous treatment[13] and possible unnecessary use of force.[14] Furthermore, the AIMS investigator did not conduct any

13. CCR Title 15, section 3391(a)(7), "Employee and Appointee Conduct": to not engage in any behavior or use language, which is sexually explicit, abusive, profane, discriminatory or harassing while on duty.

14. CCR, Title 15, section 3268 (2), "Use of Force": The use of force when none is required or appropriate.

interviews—of the incarcerated person, witnesses, or subject, based on the review of the body-worn camera footage. Had the AIMS investigator interviewed the subject officer and witnesses, an independent account of the incident could have been obtained to determine if it met required use-of-force reporting requirements for a user and observer of force.[15]

Staff who used unnecessary or excessive force, or who did not report observing force when it occurred, should be investigated and disciplined—when appropriate—for confirmed uses of unnecessary or excessive force, regardless of the injury inflicted. Because this encounter was not reported as a use-of-force incident, involved staff who may have been subject to employee discipline were never held accountable. For an investigator to conduct a thorough inquiry, the investigator should have collected relevant evidence, such as all applicable departmental or prison policies or procedures in the final inquiry report, and interview all involved staff even when body-worn camera data or other types of video recordings are available, to ensure that a warden can thoroughly review all available evidence, including the final inquiry report and all supporting materials. For this incident, the warden did issue a letter of instruction to the subject officer for discourteous treatment toward the incarcerated person, but no action was taken regarding the alleged unnecessary force. However, no applicable policy was cited in the final inquiry report regarding the officer's use of force toward a nonresistive incarcerated person, and the warden did not identify staff misconduct.

Investigators Prepared Poorly Written Reports

A final inquiry report is the culmination of an AIMS inquiry. It is submitted to the warden for review and a determination concerning whether the inquiry identified staff misconduct, and, if applicable, referred the matter to the Office of Internal Affairs' Central Intake Unit for an investigation. A proper inquiry report is one in which an investigator adequately summarized interviews, addressed allegations and material contradictions, and included appropriate exhibits, such as documentary evidence, recordings, and relevant policies and procedures. However, in 19 of the 28 cases we monitored, or 68 percent, we found the investigator did not include relevant policies and procedures and in 10 of the 28 cases, or 36 percent, we found the final inquiry reports had inaccurate information pertaining to the investigator's work. Thus, our review of AIMS' final inquiry reports found that investigators frequently prepared deficient inquiry reports.

For example, in one case, an incarcerated person made two allegations against the same officer. The first allegation alleged that the officer falsified documentation against the incarcerated person to conceal a battery against the incarcerated person by four other incarcerated people and a sexual assault by one of those four. The second allegation stated,

15. CCR, Title 15, section 3268.3 (a)(1)(2), "Reporting and Investigating the Use of Force for Field Staff."

"[Subject Officer's] actions/misconduct may be due to 'over familiarity' of two of the [four] inmates involved." The latter allegation was not appropriately identified by AIMS intake staff when initially reviewing the incarcerated person's allegations. In addition, the AIMS investigator failed to ask about this allegation identified on the incarcerated person's grievance form during interviews with the incarcerated person, witnesses, and the subject officer; this allegation was never identified in the final inquiry report. Thus, the incarcerated person's second allegation of staff misconduct was not investigated. By submitting this deficient inquiry report, the investigator did not present an accurate or complete picture of each allegation made by the incarcerated person for consideration by the warden.

In another case, an officer (Officer 1) allegedly entered an incarcerated person's cell and punched the incarcerated person in the face, neck, and back, causing the incarcerated person to suffer injuries to his neck, diaphragm, and left elbow. During an allegation video interview by a local prison lieutenant, the incarcerated person stated that Officer 1, upon entering the cell, "proceeded to go to the back of the cell and remove paper from the window . . . ripped [incarcerated person's] television from the wall and broke the cord, threw all of [incarcerated person's] paperwork on the floor and broke the tub. . . ." A written transcription of the allegation video interview was included as an exhibit to the final inquiry report. Following the emergency cell extraction, medical staff documented injuries to the incarcerated person, including "superficial scratches" on the incarcerated person's forehead, back of neck, both elbows, and both knees.

The AIMS investigator asked Officer 1 about the entry into the incarcerated person's cell. The officer responded, "He (incarcerated person) was laying down towards the back end of his cell, and he was in, what I would call, a praying position on his knees, with his hands underneath his body and his head facing down (completely covered in a blanket)." As soon as the cell door was opened, Officer 1 stated, "get down," the officers approached, "and with [Officer 1's] right arm, I believe, (with his) right hand, pulled the blanket off of him, and gave him orders to put his hands behind his back and cuff up, to which he complied (with a lawful order) . . . and he was sat on his bed." The AIMS investigator asked Officer 1 if he used force or observed any other officer use force and whether the incarcerated person had any injuries that would be consistent with the use of force. Officer 1 responded "No" to each of these questions. The documented injuries conflict in the following ways: staff used no force against a nonresistive incarcerated person,[16], and no explanation was provided concerning how the injuries may have otherwise occurred. Although the investigator included the

16. CCR, Title 15, section 3268 (a) (4), "Immediate Use of Force," Immediate Use of Force: The force used to respond without delay to a situation or circumstance that constitutes imminent threat. . . . If it is necessary to use force solely to gain compliance with a lawful order, controlled force shall be used.

allegation video interview transcription as an exhibit, the final inquiry report was deficient since the investigator did not properly identify this second allegation of staff misconduct by Officer 1. Since the AIMS investigator never asked any staff witnesses or subjects if they observed whether Officer 1 or anyone had damaged the incarcerated person's property, the investigator failed to discover factual evidence to support or refute this allegation.

Warden Decisions Concerning Staff Misconduct Allegations Were Inconsistent When Determining Whether to Refer Allegations to the Office of Internal Affairs' Central Intake Unit, and Some Incarcerated People Did Not Receive a Grievance Decision

Indicator 4 Rating

Poor

66% weighted average score

Warden's Decision

How appropriate was the warden's decision concerning the allegations of staff misconduct?

The quality of AIMS investigators' work and the thoroughness of the final inquiry report is critical for a warden to make an informed decision concerning whether to refer an allegation to the Office of Internal Affairs. Overall, we found the warden's decision concerning the allegations of staff misconduct was *satisfactory* in 17 of the 26[17] monitored cases, or 66 percent. In the remaining nine cases, or 34 percent, we assessed that the appropriateness of the warden's decision was *poor*. In our opinion, none of the cases merited a *superior* rating.

We also assessed whether the warden provided a written response to the incarcerated person within 60 calendar days after receipt of the grievance.[18] We found that in 23 of the 26 monitored cases, or 88 percent, the warden provided a timely written response to an incarcerated person with a grievance decision for each staff misconduct allegation. In the remaining three cases (each from the same prison), or 12 percent, we found that the warden did not provide a response which included a grievance decision to the incarcerated person.

We observed that investigators would complete a final inquiry report to the warden of the corresponding prison, who decided whether the staff member likely committed the alleged acts. If the warden believed the evidence established a reasonable belief that the staff member engaged in misconduct, the warden referred the matter to the Office of Internal Affairs' Central Intake Unit.[19] For the 26 monitored cases in which a warden received a completed inquiry report, the warden found five cases, or 19 percent, with at least one allegation establishing a reasonable belief that a staff member engaged in misconduct, which was referred to the Office of Internal Affairs' Central Intake Unit.

17. The OIG monitored a total of 28 cases; however, 26 separate cases had a unique final inquiry report submitted to the warden for review.

18. CCR, Title 15, section 3483(a)(i), "Grievance Review," states, in part, "The Reviewing Authority shall ensure that a written response is completed no later than 60 calendar days after receipt of the grievance" and approve its decision as to each claim in the grievance; a warden can select one of 10 options, such as "Disapproved" or "Under Inquiry or Investigation."

19. The Office of Internal Affairs' Central Intake Unit reviews the warden's referral and takes one of three actions: (1) if there is sufficient evidence to sustain the allegations by a preponderance of the evidence, it will authorize the warden to take adverse action against the subject employee without further investigation; (2) if there is a reasonable belief that misconduct occurred, it will approve and open a formal investigation into the allegation (or a subject-only interview); or (3) if there is no reasonable belief that misconduct occurred, it will reject the request to open an investigation and return the report to the warden.

In one case in which we rated the warden's decision *poor*, it involved an officer who allegedly made multiple disparaging and inappropriate comments to an incarcerated person, and allegedly threatened bodily harm to the incarcerated person in retaliation for submitting a past staff misconduct grievance against the officer.[20] Furthermore, a sergeant allegedly failed to take appropriate action after the incarcerated person informed the sergeant of this alleged misconduct by the officer.

While the investigator interviewed the subject officer, the subject sergeant was not interviewed. The incarcerated person alleged the officer had stopped the person from walking to the dining hall since the person was walking in the opposite direction of others, and the person told the officer, "I am not going that way (with the other persons) I got a 'short walk chrono' (medical classification chrono providing an accommodation)." As noted in the final inquiry report, the investigator noted a review of the audio-video surveillance system (AVSS) identified that the incarcerated person and officer had a brief conversation for approximately one minute concerning the alleged incident and location, but no audio was available. During this encounter, the incarcerated person alleged the officer stated, "Take you're a** in and get the chrono" even though the incarcerated person had her (yellow mobility-impaired) vest on; and "ok, try me, you're going to learn today." The officer further stated, "If you come this way, I am going to slam your fat a**"; and after the person retrieved the short walk chrono, the subject officer stated to the person "it's alright n***er b***h." Later, the incarcerated person informed the sergeant that the officer had made these discourteous comments to the incarcerated person. A review of the AVSS also identified that the incarcerated person and sergeant had engaged in a brief one-minute conversation on the alleged incident date and location, but no audio was available.

While this inquiry was in process, the warden barred the sergeant from coming onto prison grounds for an interview due to the sergeant being out on administrative leave (for an unrelated matter). The AIMS investigator requested the warden to allow the sergeant to interview on prison grounds, but the hiring authority denied the request. The investigator also made multiple attempts to schedule an interview at an alternate location, but received no response from the subject sergeant. Without interviewing the subject, along with the warden's decision to not allow the subject onto prison grounds, the ability of the AIMS investigator was limited in conducting a thorough fact-finding inquiry

20. The locally designated investigator identified in the final inquiry report that the same subject officer, approximately nine months prior to this alleged incident, was alleged to have called the incarcerated person a "n***er b***h" and threatened to harm the incarcerated person by stating "you're about to have a nose fracture." The grievance was "disapproved" due to insufficient evidence to support the allegations of staff misconduct.

and left potential evidence of the incident undiscovered. The warden[21] concluded, in part, the officer "was interviewed and confirmed he did not make the statements as alleged."

In another case, two officers allegedly failed to address an incarcerated person's safety concerns regarding his cellmate when they ignored his multiple requests for a cell move. The incarcerated person claimed he feared for his life because his cellmate spoke of killing people, eating them, and wanting to taste the incarcerated person's blood. In response to these multiple requests, the two officers allegedly told the incarcerated person cell moves were only conducted on Sundays. A few days later, during the early-morning hours on Monday, with no cell move conducted, the incarcerated person's cellmate attempted to murder him.

During a witness interview, an AIMS investigator was notified that one of the subject officers contacted the incarcerated person to discuss the staff misconduct allegation. The warden identified the officer's actions as staff misconduct and referred the matter to the Office of Internal Affairs' Central Intake Unit for investigation. Furthermore, during other witness interviews, multiple AIMS investigators were informed by witnesses that the photo of the attacking cellmate shown during subject and witness interviews was outdated, and the cellmate no longer looked like the image in the photo, but investigators continued to use the outdated photo.

Furthermore, a subject officer stated that incarcerated-person bed moves could be done any day of the week, but "convenience bed moves" are typically done on Sundays (at this particular housing unit). The officer explained if the request for a bed move is due to safety concerns, such as incarcerated people fearing for their safety or receiving threats to harm them, a sergeant would initially be contacted for an interview with the incarcerated person for review and appropriate action, if necessary. The AIMS investigator did not include a departmental policy[22] in the final inquiry report, or as an exhibit, to identify the handling of single-cell criteria when predatory behavior or safety concerns were cited by an incarcerated person. Also, the final inquiry report did not identify that a witness, named by the incarcerated person during his interview, had observed one of the initial requests for a bed move with a subject officer. However, this witness was never interviewed due to COVID-19 restrictions. The warden did not request that the AIMS investigator obtain the pertinent single-cell criteria policy to ensure compliance or go back and interview the additional witness.

21. The hiring authority for this case was the warden's designee, a chief deputy warden.

22. CCR, Title 15, section 3378(b)(2), "Security Threat Group Identification, Prevention, and Management," states, in part, "Any offender who claims enemies shall provide sufficient information to positively identify the claimed enemy. Any offender identified as an enemy shall be interviewed unless such interview would jeopardize an investigation or endanger any person."

Indicator 5 Rating

Satisfactory

75% weighted average score

Office of Appeals' Decision

How appropriate was the Office of Appeals' decision concerning the incarcerated person's appeal of his or her alleged staff misconduct grievance?

Office of Appeals' Staff Performed Satisfactorily Concerning the Incarcerated Person's Allegations of Misconduct

Incarcerated people who initially submit a grievance for alleged staff misconduct are to receive a written response from the warden, in coordination with the institutional Office of Grievances, within 60 days of receiving the grievance decision by the warden. Incarcerated people who disagree with the warden's decision concerning staff misconduct grievances, may file an appeal of that grievance with the department's Office of Appeals. The Office of Appeals must ensure the administrative remedies process for incarcerated people is accessible, responsive, and meaningful.[23] Overall, in Indicator 5, we found that incarcerated people filed an appeal of their staff misconduct grievance decision in 11 of the 28 monitored cases. We found all Office of Appeals' decisions for each of the 11 cases were *satisfactory*.

We also assessed whether a prison Grievance Coordinator acknowledged the receipt of each appeal within 14 calendars days. We found the Grievance Coordinators provided an acknowledgment in only six of the 11 cases, or 55 percent, at an average of 39 days. Furthermore, we assessed whether the Office of Appeals provided the incarcerated person with a written response no later than 60 calendar days after receipt of an appeal. We found that responses were provided in 10 of the 11 cases, or 91 percent, at an average of 75 days. A timely written response within 60 calendar days was provided in only three of 11 cases, or 27 percent. The lack of acknowledgment letters and late decision responses was inadequate, as the incarcerated persons are unaware of whether their appeal is being processed, and ultimately, what decision was made by the Office of Appeals.

Although we found the Office of Appeals performed satisfactorily overall, one case identified an area where improvement should be considered. On June 14, 2021, an incarcerated person filed a grievance alleging an officer threatened to assault the incarcerated person and called the person derogatory and unprofessional names during an interview regarding a past grievance. The officer allegedly made these threats to the incarcerated person in the presence of a lieutenant and a sergeant, who did nothing to stop it. On August 12, 2021, the Office of Grievances provided the incarcerated person with a response disapproving the allegation of a staff misconduct grievance. On September 8, 2021, the incarcerated person filed a timely appeal of the

23. Per CCR, Title 15, section 3486(g), the Office of Appeals has access to review the full record of each claim, including the incarcerated person's grievance, appeal, both acknowledgment letters, all related interviews conducted for the institutional or regional Office of Grievances, any relevant documentation prepared for the Office of Grievances, any allegation inquiry reports prepared for the Office of Grievances, any records contained in the department's information technology system, and all departmental rules and memoranda.

grievance with the Office of Appeals. On November 6, 2021, the Office of Appeals granted the incarcerated person's appeal based on the following reasoning and decision:

> The response provided to appellant by the Office of Grievances lacks sufficient reasoning in support of its decision as required by Title 15 subsection 3481(a). Furthermore, the response by the Office of Grievances states the conclusion of the investigation without any specific evidence in support of the institution's decision as required by Title 15, subsection 3483(i)(1). Because the response is incomplete and does not support the decision of the institution, this claim is granted.

The remedy required that "the Office of Grievances to open a new claim for the purpose of providing appellant with a substantive response and summary of facts in support of its determination." According to CCR, Title 15, section 3486(k)(1), the Office of Grievances was to implement the remedy within 30 calendar days of the decision being sent to the incarcerated person. On December 24, 2021, the Office of Grievances provided the incarcerated person with a second revised response, again disapproving the claim. Furthermore, on January 31, 2022, the incarcerated person filed another appeal of that grievance decision. On March 26, 2022, the Office of Appeals notified the incarcerated person that the time period had expired for its staff to review this appeal and closed the case.

Unfortunately, because the Office of Appeals failed to review the incarcerated person's second appeal and instead, allowed it to "expire," the incarcerated person's due process was not completed. The administrative remedy process was complete almost nine months after the incarcerated person submitted the original grievance. However, the statute of limitations to hold an officer accountable for staff misconduct is only one year. Without ever conducting a review of the second appeal, it is unclear whether the Office of Grievances' second response was completed and supported the decision of the institution, as outlined in the Office of Appeals' first decision.

(This page left blank for reproduction purposes.)

Appendix. The 28 Case Summaries

Poor

OIG Case Number
21-0038030-SC

Incident Summary
On December 19, 2020, an officer working in a novel coronavirus quarantine housing unit allegedly denied the request for medical attention by an incarcerated person who had tested positive for the novel coronavirus even though the incarcerated person was in pain, had difficulty breathing, and was vomiting. The officer allegedly said to the incarcerated person, "Come back to me when you're coughing up blood."

Disposition
The hiring authority did not identify staff misconduct and did not refer the matter to the Office of Internal Affairs' Central Intake Unit. Instead, the hiring authority issued a letter of instruction to the officer for being distracted while on duty (reading a book). The OIG did not agree with the hiring authority's decision.

Overall Assessment
Overall, the department poorly handled the inquiry. The Allegation Inquiry Management Section investigator did not identify the required procedures for an officer to request medical attention on behalf of an incarcerated person. Further, the investigator did not collect applicable information or evidence, such as the officer's length of time working in the quarantine housing unit, the officer's written job description, or the officer's training history. The officer admitted he responded to the incarcerated person's request for medical attention by stating he would contact medical staff only if the incarcerated person first vomited blood. The hiring authority failed to address additional evidence indicating the officer's actions constituted staff misconduct.

Poor

OIG Case Number
21-0040754-SC

Incident Summary
On January 15, 2021, a lieutenant allegedly illegally detained an incarcerated person in the administrative segregation unit in retaliation for the incarcerated person filing complaints against staff members. The lieutenant allegedly coerced another incarcerated person and an officer to lie about a fight involving the incarcerated person in retaliation for filing past staff complaint grievances.

Disposition
The hiring authority did not identify staff misconduct and did not refer the matter to the Office of Internal Affairs' Central Intake Unit. Due to the poor quality of the Allegation Inquiry Management Section's inquiry work, the OIG did not reach a conclusion regarding whether there was a reasonable belief of staff misconduct.

Overall Assessment
Overall, the department poorly handled the inquiry. The Allegation Inquiry Management Section investigator interviewed one officer as a witness who should have been identified as a subject, did not ask relevant follow-up questions during interviews, asked leading questions, did not interview identified witnesses, and did not interview the incarcerated person in a confidential location. Further, the investigator incorrectly identified a subject as a witness and did not interview one subject related to the allegation.

Satisfactory

OIG Case Number
21-0038163-SC

Incident Summary
On January 20, 2021, an officer allegedly accessed and reviewed confidential records to locate sensitive and confidential information of an incarcerated person. The officer then allegedly shared this information with another incarcerated person, thereby placing the first incarcerated person in danger of being assaulted by other incarcerated persons.

Disposition
The hiring authority identified staff misconduct and referred the matter to the Office of Internal Affairs. The OIG agreed with the hiring authority's decision.

Overall Assessment
Overall, the department handled the inquiry in a satisfactory manner.

Poor

OIG Case Number
21-0038486-SC

Incident Summary
On February 1, 2021, two lieutenants, one sergeant, and three officers allegedly attacked and knocked a wheelchair-bound incarcerated person out of his wheelchair, causing the incarcerated person to suffer back pain. The two lieutenants, one sergeant, and three officers also allegedly damaged the incarcerated person's wheelchair after the attack.

Disposition
The hiring authority did not identify staff misconduct and did not refer the matter to the Office of Internal Affairs' Central Intake Unit. Due to the poor quality of the Allegation Inquiry Management Section's inquiry work, the OIG did not reach a conclusion regarding whether there was a reasonable belief of staff misconduct.

Overall Assessment
Overall, the department poorly handled the inquiry. The investigator did not follow-up and clarify answers in critical interviews, did not use effective interviewing techniques, and did not provide the relevant policies and procedures as attachments to the final inquiry report. For instance, as noted in the final inquiry report, a subject lieutenant admitted using profanity directed at the incarcerated person. However, the final inquiry report did not include or reference departmental policy regarding discourteous treatment toward inmates or the rights and respect of others. In addition, the incarcerated person stated after being injected with psychiatric medication, he was placed in a medical observation room with a metal bunk and mattress and no grab bar installed (to assist transfer between the bed and a wheelchair). The incarcerated person described he subsequently attempted to roll onto his side, and then fell on the floor and urinated on himself. The incarcerated person then dragged himself on the floor to use his wheelchair. The hiring authority took no action regarding the lieutenant's conduct or referring the allegation of an improper disability-related accommodation to the appropriate hiring authority. Further, the investigator did not interview one of the subject officers.

Satisfactory

OIG Case Number
21-0038286-SC

Incident Summary
On February 11, 2021, an incarcerated person overheard two cellmates discussing how an officer allowed one of them to view the officer's computer, which showed the incarcerated person's commitment offense as a child molester. The incarcerated person then heard one of the cellmates state he would try to "kill [the incarcerated person] if he's a child molester." The incarcerated person alleged that he then notified another officer about his safety concerns as a result of the disclosure, but the officer failed to act.

Disposition
The hiring authority did not identify staff misconduct and did not refer the matter to the Office of Internal Affairs. The OIG agreed with the hiring authority's decision.

Overall Assessment
Overall, the department conducted the inquiry in a satisfactory manner.

Satisfactory

OIG Case Number
21-0040187-SC

Incident Summary
On April 20, 2021, a counselor allegedly misled an incarcerated person into signing a classification hearing document that contained a waiver of the incarcerated person's right to appear in person before a classification committee.

Disposition
The hiring authority did not identify staff misconduct, and the OIG agreed with the hiring authority's decision.

Overall Assessment
Overall, the department handled the inquiry in a satisfactory manner.

Poor

OIG Case Number
21-0040109-SC

Incident Summary
On April 29, 2021, an officer allegedly escorted a handcuffed incarcerated person to an area outside of the audio-video surveillance system, and used unreasonable force by slamming the person against a fence and twisting the person's arms.

Disposition
The hiring authority did not identify staff misconduct and did not refer the matter to the Office of Internal Affairs. Due to the poor quality of the inquiry work, the OIG did not reach a conclusion regarding whether there was a reasonable belief of staff misconduct.

Overall Assessment
Overall, the department poorly conducted the inquiry. The Allegation Inquiry Management Section did not provide information in a timely manner to the OIG during the course of the inquiry. The investigator conducted the interview in a private office; however, the office had a large, uncovered window that multiple individuals (officers, medical staff, and incarcerated persons) were able to look through the window and see inside the office when they walked by. The investigator failed to obtain and review all available evidence to ensure a thorough and complete final inquiry report with all supporting materials. The investigator was notified by a staff witness that housing unit log book entries are maintained to document negative encounters with incarcerated persons; however, the investigator did not obtain, or document an attempt to obtain, a copy of the log book entries for the incident date. The investigator did not refrain from expressing bias and asked leading questions. For instance, the investigator asked the subject officer, "Do you pretty much consider him [incarcerated person] to be a problematic inmate" and "Do you think other staff members probably think the same [about the incarcerated person]?" The investigator also asked a witness officer, "So he [incarcerated person] was being kinda resistive and being verbally abusive?" and "Do you know why [incarcerated person] would make these accusations towards [subject officer]?"

Satisfactory

OIG Case Number
21-0040110-SC

Incident Summary
On April 29, 2021, an officer allegedly verbally harassed an incarcerated person prior to the same officer using unreasonable force toward the incarcerated person.

Disposition
The hiring authority did not identify staff misconduct, and the OIG agreed with the hiring authority's decision.

Overall Assessment
Overall, the department handled the inquiry in a satisfactory manner.

Poor

OIG Case Number
21-0040239-SC

Incident Summary
On May 9, 2021, an officer allegedly was discourteous toward an incarcerated person when the officer stated if the incarcerated person kept asking about his property, the officer would cancel exercise yard time and blame it on the incarcerated person. Further, the officer allegedly responded unprofessionally after the incarcerated person indicated the officer's actions would incite a riot.

Disposition
The hiring authority did not identify staff misconduct and did not refer the matter to the Office of Internal Affairs. Due to the poor quality of the Allegation Inquiry Management Section's inquiry work, the OIG did not reach a conclusion regarding whether there was a reasonable belief of staff misconduct.

Overall Assessment
Overall, the department poorly handled the inquiry. The investigator did not use effective interviewing techniques, asked leading questions, and did not follow up and clarify answers in interviews. While questioning the incarcerated person, the investigator asked, "When you use the word threatened, ugh, when you said you were fearful, ugh, describe that? What specifically made you feel that way?" However, the incarcerated person's grievance documenting the allegations, nor the interview, up to this point of questioning, did not reflect that the incarcerated person felt "threatened" or "fearful." In addition, when the incarcerated person informed the investigator, "I told them [officers] I have been asking you guys every day for two weeks about [incarcerated person's] property… and was fed up about the delay." The investigator did not clarify which officers were informed, whether a prior grievance form was submitted, or when the incarcerated person first arrived at the prison. In addition, the investigator asked the subject officer whether he was familiar with the department's code of conduct and zero tolerance policy on sexual harassment and threats. However, the investigator did not include this question or the officer's response in the final inquiry report, nor was the relevant policy included as an exhibit.

Poor

OIG Case Number
21-0040107-SC

Incident Summary
On May 19, 2021, an officer allegedly made multiple disparaging and inappropriate comments to an incarcerated person, and allegedly threatened bodily harm to the incarcerated person in retaliation for submitting a staff misconduct grievance against the officer. On May 19, 2021, a sergeant allegedly failed to take appropriate action after the incarcerated person informed the sergeant of this alleged misconduct by the officer.

Disposition
The hiring authority did not identify staff misconduct and did not refer the matter to the Office of Internal Affairs' Central Intake Unit. Due to the poor quality of the Allegation Inquiry Management Section's inquiry work, the OIG did not reach a conclusion regarding whether there was a reasonable belief of staff misconduct as to the sergeant.

Overall Assessment
Overall, the department poorly handled the inquiry. The investigator did not interview the sergeant who was one of two subjects resulting in an incomplete inquiry. The hiring authority barred a sergeant from coming onto prison grounds for an interview due to the sergeant being out on administrative leave. The investigator requested the hiring authority to allow the sergeant to interview on prison grounds but the hiring authority denied the request. The investigator left two voicemail messages for the subject in an attempt to schedule an interview at an alternate location but received no response. Without interviewing the subject, the hiring authority's decision to not allow the subject onto institutional grounds and inability to schedule an interview by the investigator, risked leaving potential evidence undiscovered.

Satisfactory

OIG Case Number
21-0040057-SC

Incident Summary
On May 29, 2021, an officer allegedly threatened to assault an incarcerated person and also called the incarcerated person derogatory and unprofessional names during an interview regarding a past grievance. The officer made these threats to the incarcerated person in a lieutenant's office, where both a lieutenant and sergeant were present. The lieutenant and sergeant allegedly did not stop the officer's unprofessional behavior. In addition, a captain allegedly fostered a hostile living environment for incarcerated persons by covering for dishonest officers.

Disposition
The hiring authority did not identify staff misconduct, and the OIG agreed with the hiring authority's decision. The incarcerated person appealed the hiring authority's decision to disapprove the allegation to the Office of Appeals (OOA). OOA granted the incarcerated person's appeal and cited the Office of Grievance lacked sufficient reasoning to support the hiring authority's decision. The incarcerated person again appealed the OOA decision but OOA took no further action with the second appeal.

Overall Assessment
Overall, the department handled the inquiry in a satisfactory manner. Although, the OOA granted the incarcerated person's initial appeal, a second appeal was submitted by the incarcerated person. Regarding the subsequent appeal, the OOA notified the incarcerated person that the time period had expired for its staff to review the appeal and closed the case. Since the OOA never conducted a review of the second appeal, it is unclear whether the Office of Grievances' second response was completed and supported the initial decision by the warden.

Poor

OIG Case Number
21-0041385-SC

Incident Summary
On August 3, 2021, a sergeant, and an officer allegedly shared confidential information about one incarcerated person to a second incarcerated person. On August 4, 2021, the incarcerated person whom the sergeant and the officer allegedly shared the information with engaged in a physical altercation with the second incarcerated person.

Disposition
The hiring authority did not identify staff misconduct and did not refer the matter to the Office of Internal Affairs' Central Intake Unit. The OIG agreed with the hiring authority's decision.

Overall Assessment
Overall, the department poorly handled the inquiry. The Allegation Inquiry Management Section delayed assigning an investigator to conduct the inquiry work for over three months after the initial assignment. The investigator conducted the interview of the incarcerated person and incarcerated witnesses in a setting that was not private or confidential. The interview was held in the game room located in the building where the incarcerated person and witnesses were housed. The game room is directly across from the officer station and had a large window which did not have blinds or other coverings. No departmental policy was cited during the inquiry or in the final inquiry report regarding the alleged improper transmittal of confidential information as cited by the incarcerated person. In addition, the hiring authority notified the incarcerated person of the results of the inquiry on January 23, 2022, but the response was incomplete. The response included the allegation inquiry results for the sergeant, but the results of the inquiry for the second subject, an officer, were not addressed.

Satisfactory

OIG Case Number
21-0041330-SC

Incident Summary
Between January 1, 2019, and February 28, 2019, an officer allegedly planted drugs in an incarcerated person's cell.

Disposition
The hiring authority did not identify staff misconduct and did not refer the matter to the Office of Internal Affairs' Central Intake Unit. During the inquiry, the investigator discovered evidence that staff members including the subject officer, two sergeants, and a lieutenant did not follow cell search procedures, as they failed to provide a cell search receipt to the incarcerated person. Therefore, the hiring authority provided on-the-job training to each of these staff members concerning cell search procedures. The OIG concurred with the hiring authority's decision.

Overall Assessment
Overall, the department handled the inquiry in a satisfactory manner.

Satisfactory

OIG Case Number
21-0039629-SC

Incident Summary
On September 5, 2020, a lieutenant and a sergeant allegedly failed to act on the incarcerated person's safety concerns and allowed officers to falsify reports about the incarcerated person. The lieutenant and the sergeant allegedly made discriminatory comments about the incarcerated person's sexual orientation.

Disposition
The hiring authority did not identify staff misconduct and did not refer the matter to the Office of Internal Affairs' Central Intake Unit. The OIG agreed with the hiring authority's decision.

Overall Assessment
Overall, the department handled the inquiry in a satisfactory manner.

Satisfactory

OIG Case Number
21-0038284-SC

Incident Summary
On November 24, 2020, an officer conducted a cell search and an unclothed body search of an incarcerated person. Immediately following this search, a second officer allegedly conducted a retaliatory cell search and confiscated a cellular telephone and destroyed some of the incarcerated person's personal property, including confidential documents. Despite the incarcerated person's notifying the second officer and several sergeants of his missing personal property, the second officer allegedly maintained possession of the incarcerated person's phone books and notepad for five days, returning them to the incarcerated person on November 29, 2020. On December 5, 2020, the incarcerated person believed an unknown officer attempted to make contact with his wife for an unknown reason.

Disposition
The hiring authority did not identify staff misconduct and did not refer the matter to the Office of Internal Affairs' Central Intake Unit. The OIG agreed with the hiring authority's decision.

Overall Assessment
Overall, the department conducted the inquiry in a satisfactory manner.

Poor

OIG Case Number
21-0038285-SC

Incident Summary
On December 9, 2020, an officer allegedly entered an incarcerated person's cell during an emergency cell extraction and punched the incarcerated person in the face, neck, and back, causing the incarcerated person to suffer alleged injuries to his neck, diaphragm, and left elbow. Upon cell entry, the officer allegedly damaged the incarcerated person's property, including a radio, television cord, and air conditioning cable. Other officers allegedly failed to act and take action to stop the unreasonable use of force and failed to report the force observed. After the incident, the incarcerated person alleged he attempted to notify two sergeants and a captain about his visible injuries, but they ignored him.

Disposition
The hiring authority did not identify staff misconduct and did not refer the matter to the Office of Internal Affairs' Central Intake Unit. Due to the poor quality of the Allegation Inquiry Management Section's inquiry work, the OIG did not reach a conclusion regarding whether there was a reasonable belief of staff misconduct.

Overall Assessment
Overall, the department poorly conducted the inquiry. The Allegation Inquiry Management Section investigator shared details of the allegations with three of the five witnesses prior to commencing interview questions. When the investigator asked questions during subject interviews, the investigator provided alternate responses without allowing the subject to first answer the question. The investigator did not reference or include as an exhibit an applicable policy regarding an immediate cell extraction in the final inquiry report. Although a detailed time line of the audio-video surveillance system was included in the final inquiry report, there was no explanation on why it took officers over seven minutes to make an "emergency" cell entry, from the time the initial officer obtained a shield after conversing with the incarcerated person until making entry into the cell with the incarcerated person. Following the emergency cell extraction, medical staff documented injuries to the incarcerated person, including "superficial scratches" on the incarcerated person's forehead, the back of the neck, bilateral elbows, and bilateral knees. The documented injuries contradict that staff utilized no force to a non-resistive incarcerated person, as no explanation was provided concerning how the injuries may have occurred. Further, the investigator did not properly identify and document a second allegation of staff misconduct by an officer damaging the incarcerated person's property discovered during the inquiry and documented in the final inquiry report.

Poor

OIG Case Number
21-0038031-SC

Incident Summary
On January 25, 2021, two officers allegedly slammed a handcuffed incarcerated person to the ground, without sufficient justification, causing the incarcerated person to suffer a fractured orbital bone, a laceration over his left eyebrow, and a loss of consciousness.

Disposition
The hiring authority identified staff misconduct by the two officers and referred the matter to the Office of Internal Affairs' Central Intake Unit. The Office of Internal Affairs' Central Intake Unit identified staff misconduct by a third officer and recommended the hiring authority add the third officer to the investigation. The hiring authority concurred with the recommendation. The OIG agreed with the hiring authority's decisions.

Overall Assessment
Overall, the department poorly handled the inquiry. The hiring authority and Allegation Inquiry Management Section intake staff failed to identify an allegation of misconduct by an officer who claimed the incarcerated person had hit the officer's shoulder. The investigator failed to gather potentially relevant evidence because the investigator did not ask all relevant questions during interviews, did not use effective interviewing techniques, did not complete all necessary and relevant interviews, and did not provide the relevant policies and procedures as attachments to the final inquiry report. Further, the investigator did not properly identify and document an additional allegation of staff misconduct by a third officer discovered during the inquiry. [Note: since AIMS determined that the incarcerated person also authored a substantially duplicative grievance, AIMS completed a single grievance allegation inquiry report to the hiring authority, see related monitored case, 21-0038384-SC.]

Poor

OIG Case Number
21-0038384-SC

Incident Summary
On January 25, 2021, two officers and a sergeant allegedly threw a handcuffed incarcerated person to the ground, without sufficient justification, causing the incarcerated person to suffer loss of consciousness and facial fractures.

Disposition
The hiring authority identified staff misconduct by the two officers and a sergeant, and referred the matter to the Office of Internal Affairs' Central Intake Unit. The OIG agreed with the hiring authority's decision.

Overall Assessment
Overall, the department poorly handled the inquiry due to the hiring authority and Allegation Inquiry Management Section intake staff failing to identify an allegation of misconduct by an officer who claimed the incarcerated person had hit the officer's shoulder. Since AIMS determined that the incarcerated person also authored a substantially duplicative grievance, AIMS completed a single grievance allegation inquiry report to the hiring authority. Thus, our assessment of Indicators 3 and 4 are documented in the related monitored case, 21-0038031-SC.

Satisfactory

OIG Case Number
21-0038094-SC

Incident Summary
On January 30, 2021, a sergeant allegedly punched a handcuffed incarcerated person in the face. Another officer then allegedly pulled the handcuffed incarcerated person to the ground, face-first, resulting in a loss of consciousness and facial fractures. The sergeant and two officers allegedly each falsified records, stating that the incarcerated person had kicked the second officer prior to the sergeant using unreasonable force.

Disposition
The hiring authority identified staff misconduct by two officers and a sergeant, and referred the matter to the Office of Internal Affairs' Central Intake Unit. The OIG agreed with the hiring authority's decision.

Overall Assessment
Overall, the department handled the inquiry in a satisfactory manner.

Poor

OIG Case Number
21-0039825-SC

Incident Summary
On April 15, 2021, an officer allegedly used profanity and racially discriminatory and derogatory language toward an incarcerated person. The officer allegedly retaliated against the incarcerated person by drafting a false rules violation report.

Disposition
The hiring authority did not identify staff misconduct and did not refer the matter to the Office of Internal Affairs' Central Intake Unit. Due to the poor quality of the Allegation Inquiry Management Section's inquiry work, the OIG did not reach a conclusion regarding whether there was a reasonable belief of staff misconduct.

Overall Assessment
Overall, the department poorly handled the inquiry. Numerous extensions were granted by the Allegation Inquiry Management Section due to workload and staffing concerns, causing the inquiry to not begin until approximately 90 days after the initial assignment to the investigator. The investigator conducted the interview of the incarcerated person in an interview room that was not private or confidential. The room was located in the same building where the alleged comments were made to the incarcerated person; practically every incarcerated person housed in the building saw the investigator, incarcerated person, and OIG inspector arrive and could see when staff entered and exited the interview room. The investigator inadequately conducted interviews, failed to ask the subject clarifying questions, asked leading questions during witness interviews, and did not provide any relevant policies and procedures to the final inquiry report, such as discourteous treatment toward an incarcerated person or harassing anyone based upon race or color.

Poor

OIG Case Number
21-0039826-SC

Incident Summary
On April 15, 2021, an officer allegedly used profanity and racially discriminatory and derogatory language toward an incarcerated person. The officer allegedly conspired to incite other incarcerated persons by falsely claiming an incarcerated person was preventing other incarcerated persons from participating in dayroom activities.

Disposition
The hiring authority did not identify staff misconduct and did not refer the matter to the Office of Internal Affairs' Central Intake Unit. Due to the poor quality of the Allegation Inquiry Management Section's inquiry work, the OIG did not reach a conclusion regarding whether there was a reasonable belief of staff misconduct.

Overall Assessment
Overall, the department poorly handled the inquiry. The Office of Grievances did not identify one of two allegations of the incarcerated person; however, the Allegation Inquiry Management Section identified both allegations. Numerous extensions were granted by the Allegation Inquiry Management Section due to workload and staffing concerns, causing the inquiry to not begin until approximately 84 days after the initial assignment to the investigator. The investigator conducted the interview of the incarcerated person in an interview room that was not private or confidential. The room was in the same building where the alleged comments were made to the incarcerated person; practically every incarcerated person housed in the building saw the investigator, incarcerated person, and OIG inspector arrive and could see when staff entered and exited the interview room. The investigator inadequately conducted interviews, failed to ask the subject clarifying questions, asked leading questions during witness interviews, and did not provide any relevant policies and procedures to the final inquiry report, such as discourteous treatment toward an incarcerated person or harassing anyone based upon race or color.

Satisfactory

OIG Case Number
21-0039820-SC

Incident Summary
On May 11, 2021, an officer allegedly used unreasonable use of force against an incarcerated person involved in a physical altercation with two other incarcerated persons. Prior to this incident, the officer allegedly failed to act on the incarcerated person's safety concerns and, following this incident, the same officer allegedly tampered with evidence and issued a false report regarding this incident. Also, a second and a third officer allegedly failed to act regarding the incarcerated person's safety concerns prior to the altercation. In addition, during the inquiry, the incarcerated person made the following allegations: a fourth and a fifth officer failed to address the incarcerated person's safety concerns; and a sixth officer attempted to prevent the incarcerated person from expressing safety concerns to medical staff, did not provide decontamination after the use-of-force incident, and did not provide access to water while the incarcerated person was in a holding cell.

Disposition
The hiring authority identified potential staff misconduct for the first officer and the fourth officer and referred the matter to the Office of Internal Affairs. The OIG agreed with the hiring authority's decision.

Overall Assessment
Overall, the department handled the inquiry in a satisfactory manner.

Poor

OIG Case Number
21-0037976-SC

Incident Summary
On December 1, 2020, an officer allegedly falsified documentation of an incarcerated person to conceal a battery against him by four other incarcerated persons and a sexual assault by one of the four incarcerated persons. The officer was allegedly overly familiar with two of the four involved incarcerated persons.

Disposition
The hiring authority did not identify staff misconduct and did not refer the matter to the Office of Internal Affairs. Due to the poor quality of the Allegation Inquiry Management Section's inquiry work, the OIG did not reach a conclusion regarding whether there was a reasonable belief of staff misconduct.

Overall Assessment
Overall, the department poorly handled the inquiry. The hiring authority and Allegation Inquiry Management Section intake staff failed to identify a second allegation of misconduct by the officer for overfamiliarity. The investigator inadequately conducted interviews with witnesses and subjects of the inquiry, failed to ask critical questions and clarify information, failed to establish any applicable policies, and failed to obtain the witnesses' and subjects' understanding of such. Further, the investigator failed to consider an additional allegation of misconduct since it was not identified by the hiring authority or by the Allegation Inquiry Management Section intake staff.

Poor

OIG Case Number
21-0038279-SC

Incident Summary
Between December 4, 2020, and December 6, 2020, two officers allegedly failed to address an incarcerated person's safety concerns regarding his cellmate when they ignored his multiple requests for a cell move. The incarcerated person claimed he feared for his life because his cellmate spoke of killing people, eating them, and wanting to taste the incarcerated person's blood. In response to these multiple requests, the two officers allegedly told the incarcerated person cell moves were only conducted on Sundays. On December 7, 2020, the incarcerated person's cellmate attempted to murder him.

Disposition
The hiring authority did not identify staff misconduct regarding the initial allegations and did not refer the matter to the Office of Internal Affairs' Central Intake Unit. The Allegation Inquiry Management Section poorly conducted the inquiry. The OIG did not agree with the hiring authority's decision regarding the initial allegations. During the inquiry, a witness notified an investigator that one of the subject officers contacted the incarcerated person to discuss the staff misconduct complaint. The hiring authority identified this officer's actions as staff misconduct and referred the matter to the Office of Internal Affairs' Central Intake Unit for investigation. The OIG concurred with the hiring authority's decision regarding the latter allegation.

Overall Assessment
Overall, the department poorly handled the inquiry regarding the initial and subsequent allegations. The Allegation Inquiry Management Section assigned four investigators to conduct subject and witness interviews which, in part, caused delays in the sharing of evidence collected with, and untimely notification of interviews to, the OIG. Although the investigators were informed by a witness that the photo of the attacking cellmate they were using during subject and witness interviews was outdated, and the cellmate no longer looked like the image in the photo, they failed to obtain and use an updated photo. No departmental policy was cited in the final inquiry report or as an exhibit to the report to identify the handling of single-cell criteria when predatory behavior or safety concerns are cited by an incarcerated person. On the day of his interview with an investigator, a subject officer confronted the incarcerated person, stating how it was unfair the incarcerated person filed a complaint against him as it put more pressure on the officer. Although the final inquiry report mentioned this "interaction" as an "inquiry note," it did not highlight the inappropriateness of a subject initiating contact with the incarcerated person during an active inquiry. The final inquiry report did not include a witness named by the incarcerated person during his interview. The incarcerated person stated the witness had observed one of the initial requests for a bed move with a subject officer. However, this witness was never interviewed due to COVID-19 restrictions.

Poor

OIG Case Number
21-0040468-SC

Incident Summary
On January 23, 2021, two officers allegedly coerced an incarcerated person's cellmate of two weeks to assault him in retaliation for filing a staff complaint grievance. In March 2021, the sergeant who conducted the supervisorial review of this staff misconduct allegation against the two officers allegedly exhibited bias during his review.

Disposition
The hiring authority did not identify staff misconduct and did not refer the matter to the Office of Internal Affairs' Central Intake Unit. Due to the poor quality of the Allegation Inquiry Management Section's inquiry work, the OIG did not reach a conclusion regarding whether there was a reasonable belief of staff misconduct.

Overall Assessment
Overall, the department poorly conducted the inquiry. The Allegation Inquiry Management Section investigators failed to interview two of the three subjects and two incarcerated persons as witnesses for the inquiry. Instead, the investigators relied on a supervisorial review and interviews conducted by a sergeant who was identified as the third subject within this inquiry. The sergeant's supervisorial review concluded that both witnesses were not credible or deemed reliable. However, the sergeant documented that the incarcerated person's cellmate involved in the fight (witness) had stated both officers made statements to "Take care of (incarcerated person), he's nothing but trouble and if something was to happen, I wouldn't care"; further, this witness' interpretation as stated in the sergeant's report was "staff wanted him to assault his new cellmate" (incarcerated person). Thus, the witness interview conducted by the sergeant corroborated the incarcerated person's claim that the officers had, in fact, coerced the incarcerated person's cellmate to fight him. Yet the Allegation Inquiry Management Section investigators relied on the sergeant's conclusion that the witnesses were not credible, and the officers did not instruct the incarcerated person's cellmate to fight him. Instead of interviewing the other two subjects or witnesses, the investigator bypassed the critical steps necessary to conduct an independent fact-finding inquiry.

Satisfactory

OIG Case Number
21-0040907-SC

Incident Summary
On August 14, 2021, an officer allegedly authored a rules violation report charging an incarcerated person with delaying a peace officer in the performance of duties. The incarcerated person alleged the events contained in the rules violation report did not occur.

Disposition
The hiring authority did not identify staff misconduct, and the OIG agreed with the hiring authority's decision.

Overall Assessment
Overall, the department handled the inquiry in a satisfactory manner.

Poor

OIG Case Number
21-0040906-SC

Incident Summary
On August 16, 2021, an officer allegedly fractured the jaw of an incarcerated person by slamming him against a fence post. The incarcerated person stated he was then placed in a holding cell where a sergeant used unreasonable use of force by slamming him against a wall. The sergeant allegedly repeatedly called the incarcerated person an unprofessional name, attempted to initiate a fight with him, and falsely charged the incarcerated person with battery on a peace officer.

Disposition
The Allegation Inquiry Management Section administratively closed this inquiry on November 10, 2021, based on additional information received from the incarcerated person regarding alleged misconduct involving the subject officer immediately prior to this allegation. According to the Allegation Inquiry Management Section, since the incarcerated person made allegations that "mirrored the claims" of another allegation inquiry that was recently completed and had been submitted to the hiring authority on October 18, 2021, no interviews of the subject officer or sergeant or an inquiry report were completed by the Allegation Inquiry Management Section for this monitored inquiry. Due to the poor quality of the Allegation Inquiry Management Section's inquiry work, the OIG did not reach a conclusion regarding whether there was a reasonable belief of staff misconduct.

Overall Assessment
Overall, the department poorly handled the referral, processing, and inquiry work for this allegation of staff misconduct. Based on the Allegation Inquiry Management Section's decision to administratively close this allegation inquiry, the OIG reviewed the prior allegation inquiry which "mirrored the claims" of this inquiry. Instead, the OIG found the earlier allegation inquiry did not identify the sergeant as a subject regarding the incarcerated person's claims of unreasonable use of force, discourteous treatment, and threats of making a false allegation. The earlier allegation inquiry only included an interview of the incarcerated person in which the allegations made against the sergeant were consistent with the incarcerated person's original allegation; the investigator did not interview the sergeant. The earlier allegation inquiry involved two subject officers, of which, one officer was included in this allegation; this officer allegedly slammed the incarcerated person into a fence post, causing serious bodily injury. Thus, the department failed to conduct any fact-finding inquiry regarding the staff misconduct allegations against the sergeant.

Poor

OIG Case Number
21-0041364-SC

Incident Summary
On October 9, 2021, an incarcerated person alleged three officers used unreasonable force when one of the officers grabbed and slammed him against the wall. The three officers allegedly did not report the alleged force used, and other officers who were present allegedly did not report the force observed during this incident.

Disposition
The hiring authority did not identify staff misconduct and did not refer the matter to the Office of Internal Affairs' Central Intake Unit. Instead, the hiring authority issued a letter of instruction to one of the subject officers for discourteous treatment toward the incarcerated person. The OIG concurred with the hiring authority's decision regarding this matter. However, due to the poor quality of the Allegation Inquiry Management Section's inquiry work, the OIG did not reach a conclusion regarding whether there was a reasonable belief of staff misconduct regarding the other allegations made by the incarcerated person.

Overall Assessment
Overall, the department poorly handled the inquiry. The investigator failed to interview the incarcerated person, subject, or any witnesses for the inquiry. The investigator relied upon body-worn camera footage of the involved officers, audio-visual surveillance system, and a previously videotaped interview of the incarcerated person. The body-worn camera footage identified the subject officer using physical force on the incarcerated person without any imminent threat and discourteous treatment toward the incarcerated person, but no follow-up interviews were conducted. During this incident, body-worn camera footage showed an officer providing direction to the incarcerated person to turn around and step out backward from his cell; the subject officer stated, "What are you being so nice for, this guys a piece of s---. I don't give a s---. I don't give a f---." After hearing the unprofessional language, the officer who provided directions to the incarcerated person then tapped on the subject officer's body worn camera, as a reminder that he was being recorded. Body-worn camera footage then identified the subject officer grabbing the incarcerated person's left bicep with his right hand and pulling the incarcerated person outside of his cell. The subject officer also pulled the incarcerated person's left arm backward toward the officer two times while asking the incarcerated person, "I know you been to the hole, you do the same s---, is this your f------ normal s--- you're going to do? I'm asking you a question." The claimant did not respond. The final inquiry report did not include any applicable departmental policy regarding the actions of the subject officer, including whether imminent threat ("any situation or circumstance that jeopardizes the safety of persons or compromises the security of the institution, requiring immediate action to stop the threat") was present and whether physical strengths and holds ("any deliberate physical contact, using any part of the body to overcome conscious resistance" were necessary. Thus, the department failed to conduct an adequate fact-finding inquiry regarding the staff misconduct allegation against the subject and additional staff misconduct observed from body-worn camera footage.

(This page left blank for reproduction purposes.)

Monitoring the Staff Complaints Process of the California Department of Corrections and Rehabilitation

2021 Annual Report

OFFICE *of the* INSPECTOR GENERAL

Amarik K. Singh
Inspector General

Neil Robertson
Chief Deputy Inspector General

STATE *of* CALIFORNIA
September 2022

OIG