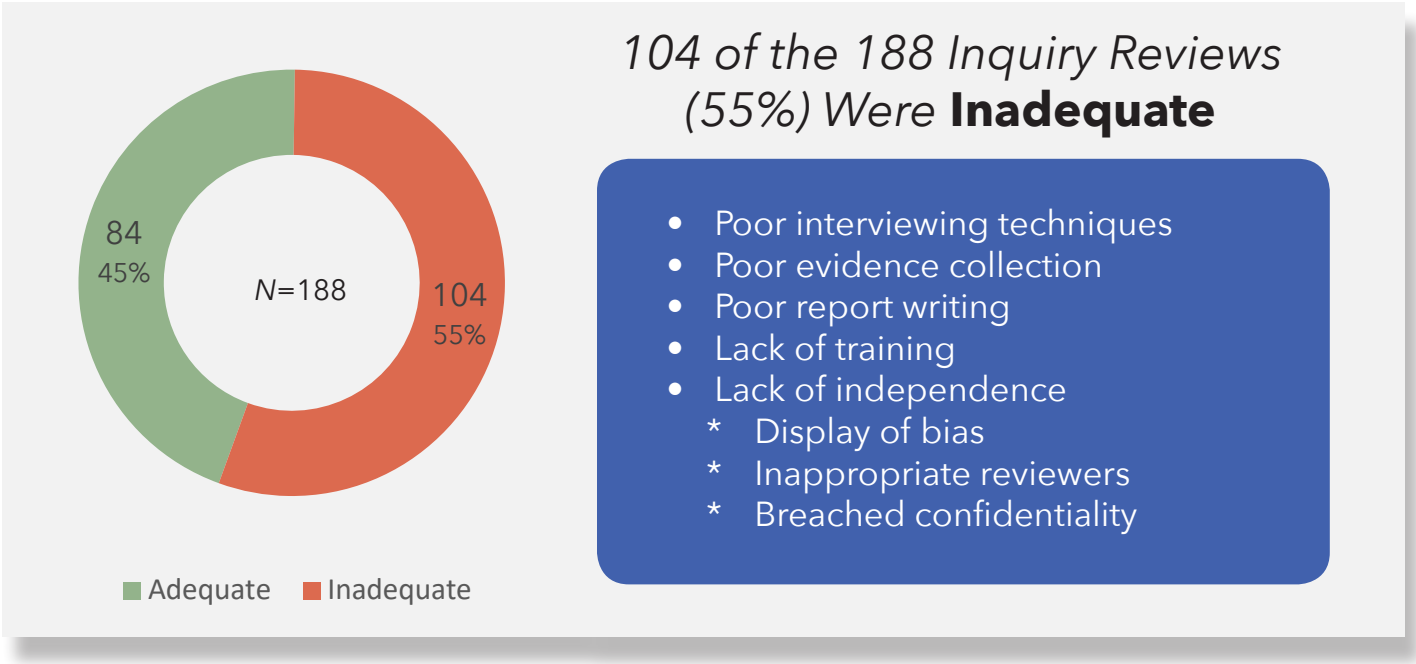
Special Review of Salinas Valley State Prison's Processing of Inmate Allegations of Staff Misconduct

In January 2018, the secretary of CDCR and attorneys from the Prison Law Office requested that the OIG assess the prison's process of handling inmate allegations of staff misconduct, "staff complaints." The department allows local prison supervisors to conduct "staff complaint inquiries," which are a preliminary collection of evidence pertaining to an allegation. Our review included a retrospective paper review of 61 staff complaint inquiries the prison completed between December 1, 2017, and February 28, 2018, and an onsite monitoring review of 127 staff complaint inquiries the prison intiated between March 1, 2018, and May 31, 2018. **This totaled 188 staff complaint inquiries, which included 268 allegations.** Our review also included our assessment of nine additional complaints submitted to the department by the Prison Law Office.



104 of the 188 Inquiry Reviews (55%) Were **Inadequate**

- Poor interviewing techniques
- Poor evidence collection
- Poor report writing
- Lack of training
- Lack of independence
  - * Display of bias
  - * Inappropriate reviewers
  - * Breached confidentiality

Other Notable Results

» *The work across all ranks of reviewers was* **lacking in quality**

» *There was* **at least one significant deficiency** *in 173 of the 188 inquiries (92%)*

» *Reviewers frequently* **failed to ask relevant questions** *in interviews*

» *Reviewers* **failed to collect relevant evidence** *in 60% of relevant inquiries*

» *108 of the 188 inquiry reports were* **incomplete, inaccurate, or both** *(57%)*

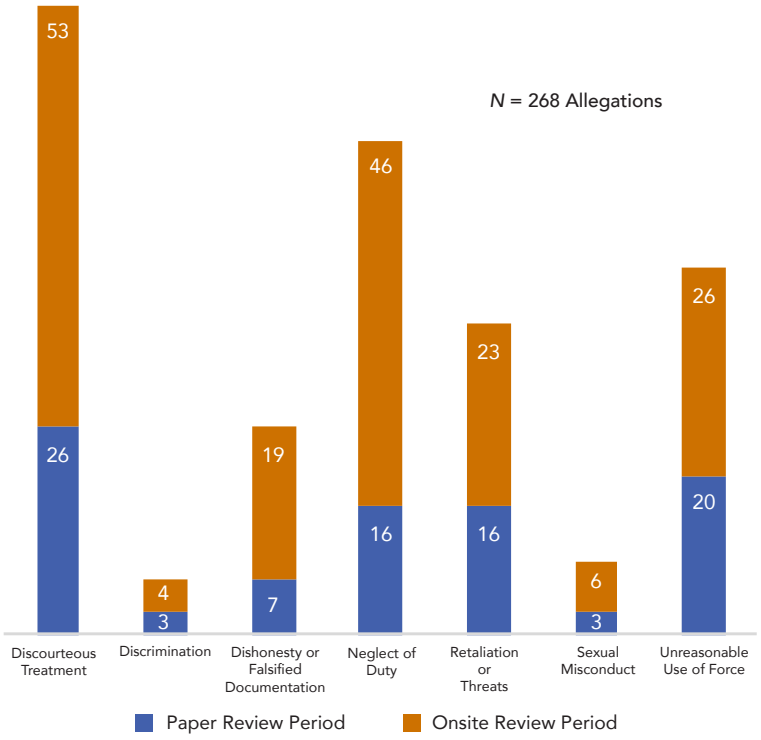
» *Of the 61 reviewers,* **zero received meaningful training** *in inquiry-related techniques of interviewing, collecting evidence, or writing reports*

» *In 113 of the 188 inquiries (60%),* **the reviewer worked on the same yard and shift** *as the subject employee*

» *In five instances, the* **reviewer was involved in the incident** *related to the allegation*

» *Reviewers frequently* **compromised the confidentiality** *of the process*

Number and Type of Allegations Included in the 188 Staff Complaint Inquiries We Reviewed



Sample Allegations

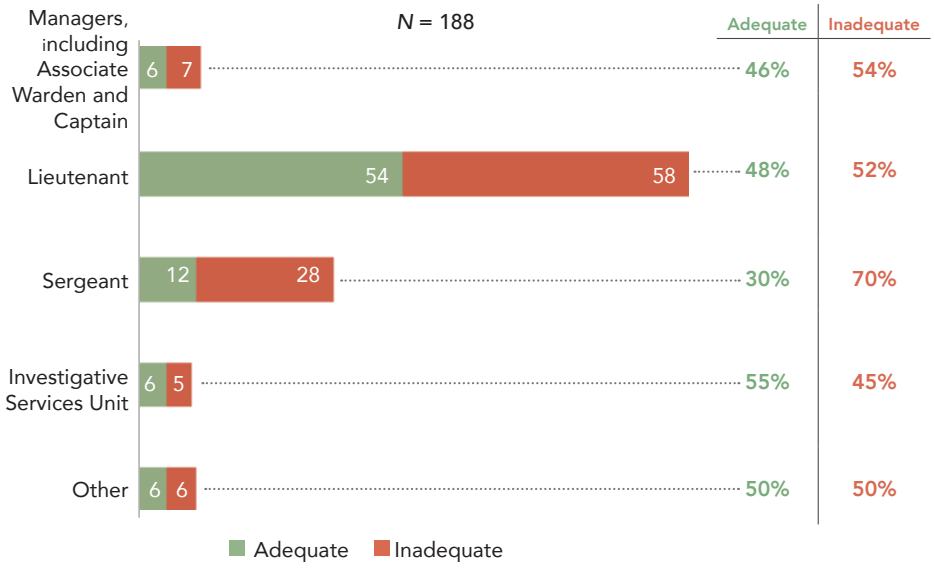
- An officer made several derogatory comments about the appellant's sexual identity.
- The officer discriminated against black inmates with disciplinary actions.
- An officer planted a weapon in the appellant's cell during a cell search.
- The investigative services unit improperly housed the appellant in the administrative segregation unit because he would not agree to be an informant.
- An officer told other inmates that the appellant was reporting their actions to authorities in an attempt to have the appellant "assaulted, stabbed up, or killed."
- A female officer told the appellant to strip naked or else he would not be released from his cell to attend morning yard.
- An officer shut the food port on the appellant's hand after he attempted to pick up a medication cup he dropped during medication pass. He was left stuck in the food port for 15 to 30 minutes.

*Salinas Valley rarely found misconduct from its staff complaint inquiries, and in the few cases where it determined that staff violated policy, it did not always provide corrective action—***until we asked about it***. The hiring authority determined that subject staff* **did not** *violate policy in 183 of the 188 complaint inquiries we reviewed (97%).*

Corrective Actions for the Five Incidents in Which Staff Were Found to Have Violated Policy

Employee	Allegation Type	Description of Corrective Action	Number of Days It Took to Complete the Corrective Action
Officers 1 and 2	Unreasonable Force	Training	**411**
Officers 3 and 4	Neglect of Duty	Training	**240**
Officer 5	Unreasonable Force	Training	**239**
Unidentified Employee(s)	Neglect of Duty	None	**–**
Officer 6	Discourteous Treatment	Letter of Instruction	**22**

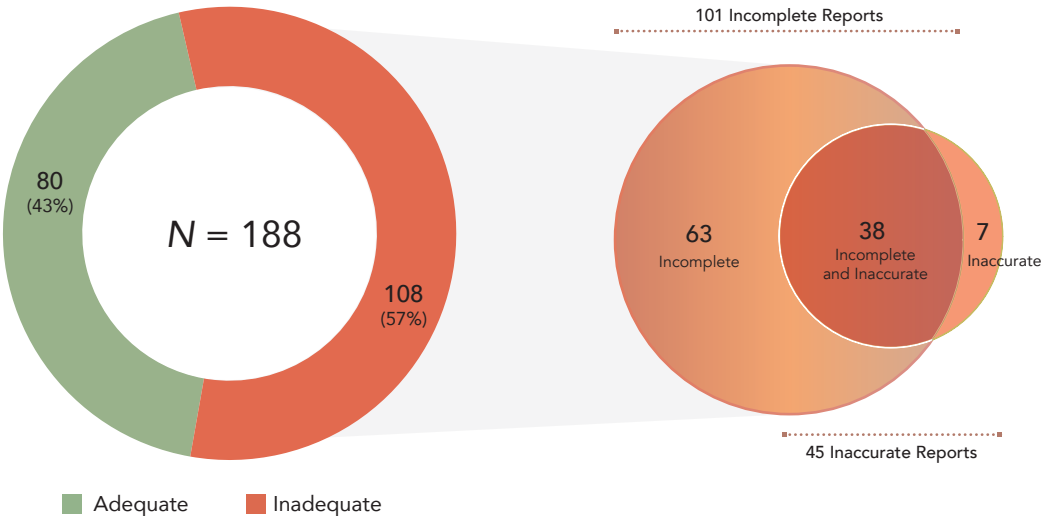
A reviewer's rank of service had little effect on the quality of the staff complaint inquiry; **we found the work across all ranks to be lacking in quality.** *Sergeants performed the poorest at 70% inadequate. Lieutenants, the most common reviewers, produced inadequate inquiries 52% of the time.*



Assessment Question	Relevant Period: Paper	Relevant Period: Onsite
Question 1 Was the staff complaint inquiry assigned to an appropriate reviewer?	✓	✓
Question 2 Did the reviewer properly conduct an interview of the appellant?	(partial) ✓	✓
Question 3 Did the reviewer properly conduct an interview of the witnesses?	✗	✓
Question 4 Did the reviewer properly conduct an interview of the subjects?	✗	✓
Question 5 Did the reviewer collect all relevant documentary evidence?	✓	✓
Question 6 Did the reviewer prepare an adequate inquiry report?	✓	✓

For cases we found inadequate, we did not conclude that staff members alleged to have committed misconduct actually violated policy or were found responsible for the alleged misconduct. Rather, we found that the prison's handling of these cases was inadequate because it did not rely on an adequate process to fully support its conclusions.

Staff complaint inquiry ***reports*** we reviewed were often incomplete, inaccurate, or both



Deficient Interviewing Skills

According to an appellant, staff at Salinas Valley had subjected him to cruel and unusual punishment as part of a use-of-force incident. The inmate's appeal stated, in its entirety, "I would like to do a video interview for staff misconduct and for cruel and unusual punishment on 3-18-18. I thank you for your time." After contacting the appellant by telephone and advising him that the call concerned his staff complaint at Salinas Valley, the reviewer asked the appellant only one question: "Do you have anything else?" The appellant responded by giving a lengthy statement about the incident, including the comment, "All the officers knew." Instead of inquiring about this statement, the reviewer simply repeated, "Do you have anything else?" The appellant made a few additional comments, after which the reviewer concluded the interview. The appellant had not identified any of the officers by name, and the reviewer failed to ask him obvious questions, such as whether the appellant could identify any of the officers by name. The reviewer also failed to ask follow-up questions, such as whether the inmate could clarify his statement or provide a general description of the officers involved in the incident. *Report, page 40*

Discounting Corroborating Evidence

An inmate alleged that an officer made several derogatory remarks about the inmate's sexual identity. The reviewer did not collect the employee sign-in sheet to determine whether any staff witnesses were present. The reviewer interviewed an inmate witness who corroborated the appellant's allegation, but the reviewer concluded there was no additional evidence beyond the statements of these two inmates to support the allegation. The hiring authority assigned the case to the prison's Investigative Services Unit, but specified that the appellant's witness undergo a computerized voice stress analysis test (i.e., a lie detector). The witness, however, declined to participate once he learned of the lie detector test. With this approach to collecting evidence, an inmate's statements held no value as evidence unless it was validated by a machine. *Report, page 59*

Compromised Confidentiality

A reviewer told our monitor that the subject of the appellant's complaint was actually working in the control booth in the inmate's housing unit. Nevertheless, the reviewer conducted the interview in an office located immediately beneath the control booth, with the gun port window open (the window in the ceiling), and within visual and hearing range of the subject officer. In fact, the OIG monitor believed that the subject officer in the control booth was actively listening to the conversation. The reviewer apparently thought he appropriately addressed the matter when he told the appellant that the subject officer was working in the control booth immediately over their room and would be able to overhear the interview. The reviewer then asked the appellant if the subject officer's listening to the interview bothered him; the appellant replied, "No." Notwithstanding the appellant's response, the interview should have taken place in a private setting, the subject officer should not have known the conversation was about the appeal, and the appellant should not have been asked to make that decision. *Report, pages 61–63*

Display of Bias

An appellant claimed during his interview that a female officer harassed him, calling him a "bitch" and a "coward"; falsely accused him of misbehavior; and issued him an undeserved counseling memorandum. And yet, the male reviewer stated: "She is always professional with me." The appellant replied, in effect, that the subject officer would naturally be professional with the reviewer because the reviewer held a higher rank and was a supervisor. The reviewer then responded: "Are you calling me a liar?" This reviewer's interviewing technique resulted in the inmate disengaging from the interview. *Report, pages 40–41*

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A reviewer commented on the subject's professionalism, demeanor, and pride while concluding that no policy violation occurred. The reviewer wrote, "Through my observations [the subject] is very professional with staff and inmates. She has a no[-]nonsense demeanor about herself and takes a lot of pride in her job. Staff did not violate any policy." The reviewer's personal opinion in favor of his fellow coworker appeared to have been the primary basis for the conclusion. *Report, page 55*

Failure to Interview Appropriate Persons

An inmate alleged that upon returning to his bunk, he found that staff had discarded his dental prosthetics during a search of his living area in the dormitory. The inmate alleged that when he spoke to the sergeant about his dental prosthetics, the sergeant responded, "Tough shit[.] 602 it." We were onsite for the reviewer's interview with this appellant, who commented to the reviewer that his dental prosthetics had been accidentally discarded and that he did not want his appeal to be a staff complaint; he was merely unhappy with the sergeant's response because the inmate wanted to get his missing prosthetics replaced as soon as possible. The inmate said he was "not looking to get anyone in trouble" and that too many officers had been present for him to be able to identify any one individual. The reviewer did not obtain the sign-in sheet for staff or the logbook to identify potential staff witnesses, nor did the reviewer interview any witnesses. The reviewer did obtain the search receipt provided to the inmate, but it included only the inmate's name, number, and assigned bunk, and no staff member had signed the receipt. We were not permitted to observe the reviewer's interview of the named sergeant, but the completed staff complaint inquiry report packet noted that the reviewer asked the sergeant whether he recalled making the statement, "Tough shit[.] 602 it," and that the sergeant replied, "I spoke to several inmates that night and informed them that I was not involved with the searches, [and] that they would have to 602 the Supervisor who oversaw the searches and those conducting the searches." The reviewer concluded that because the subject sergeant was not the sergeant in charge of the searches, the inmate had "misidentified the sergeant." In fact, the reviewer noted the name of the sergeant who was actually in charge of the searches–the one who should have been included as a subject–but did not interview him. *Report, pages 33–34*

Recommendations

The OIG recommends the department do the following:

1. Reassign the responsibility to conduct staff complaint inquiries **outside the prison's command structure**;
2. Adopt a **regionalized model** for staffing purposes as is done with the Office of Internal Affairs;
3. Provide **comprehensive and ongoing training** for all staff who perform inquiries. Consider certification from the California Commission on Peace Officer Standards and Training for those conducting inquiries. Assign inquiries only to those staff who have been trained;
4. Require **audio recording** of all subjects and witnesses;
5. Consider **redefining an inquiry** so that it is not considered a less-laborious than or an inferior process to an investigation;
6. Require all reviewers to report all evidence they uncover and prohibit them from including in reports their personal opinions or from drawing conclusions or making recommendations in the report. In other words, they should **just report the facts**.
7. Evaluate its notification procedures so that it **promptly notifies appellants** when reviewers need additional time to complete the staff complaint process beyond the regulatory time frame; and
8. Ensure that **staff receive the corrective or adverse actions** that are ordered by the hiring authority when policy violations occur. **Routine audits** should be completed and the results reported publicly.

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