



# **SALINAS VALLEY STATE PRISON QUADRENNIAL AND WARDEN AUDIT**

**OFFICE OF THE  
INSPECTOR GENERAL**

**DAVID R. SHAW  
INSPECTOR GENERAL**

**STATE OF CALIFORNIA**

**OCTOBER 2008**



October 14, 2008

Matthew L. Cate, Secretary  
California Department of Corrections and Rehabilitation  
1515 S Street, Room 502 South  
Sacramento, California 95814

Dear Mr. Cate:

Enclosed is the Office of the Inspector General's audit report concerning Salinas Valley State Prison (SVSP) and the performance of its warden. The purpose of this audit was to satisfy our statutory requirement to audit each warden one year after appointment and to audit each correctional institution at least once every four years.

The report revealed that Warden Michael Evans has a reputation for integrity and professionalism, and he has gained many supporters among the employees at SVSP. Managers and staff members alike describe Evans as an effective administrator who provides strong leadership. Moreover, most of the employees we surveyed felt that SVSP was meeting its mission under Evans' leadership. However, we found that Evans must improve staff performance in two main areas: (1) ensuring that members of the inmate assignment staff place the proper inmates in work and education programs, and (2) ensuring that members of the custody staff perform regular cell searches to ensure the safety of employees and inmates. Nonetheless, Evans appears to be performing his duties well and should continue as the warden at SVSP while addressing the recommendations identified in this report.

The report contains the results of our review of SVSP's operations and programs and presents six findings and 21 recommendations. In addition to the two areas discussed above, other problem areas include timely use-of-force incident review and weapons training.

Thank you for the courtesy and cooperation extended to my staff during the audit. Please call Bill Shepherd, Deputy Inspector General, In-Charge, at (916) 830-3600 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Dave Shaw".

David R. Shaw  
Inspector General

*Arnold Schwarzenegger, Governor*

cc: Michael Evans, Warden, SVSP  
Scott Kernan, Chief Deputy Secretary, Adult Operations  
Suzan Hubbard, Director, Division of Adult Institutions  
Kim Holt, External Audits Coordinator

Enclosure

# Contents

Executive Summary .....	1
Institution Overview .....	4
Chapter 1: One-Year Evaluation of Warden Michael S. Evans .....	6
Objectives, Scope, and Methodology .....	6
Background of Warden .....	7
Discussion of Warden’s Strengths .....	7
Discussion of Warden’s Criticisms .....	8
Warden’s Response to Criticisms .....	9
Summary Discussion .....	10
Chapter 2: Quadrennial Audit Findings and Recommendations .....	11
Objectives, Scope, and Methodology .....	11
Finding 1 .....	13
<b>Salinas Valley State Prison does not appropriately place inmates in work and education assignments, resulting in ill-prepared parolees and prolonged periods of costly incarceration.</b>	
Finding 2 .....	18
<b>Only a small percentage of inmates at Salinas Valley State Prison are assigned to academic education classes, and classes are often canceled because of security concerns and other disruptions.</b>	
Finding 3 .....	24
<b>Inadequate oversight by supervisors and managers contributes to custody staff members not performing required cell searches, potentially jeopardizing the safety of the staff and inmates.</b>	
Finding 4 .....	28
<b>Salinas Valley State Prison does not review its use-of-force incident packages on time.</b>	

Finding 5.....	31
<b>Salinas Valley State Prison does not ensure that peace officers permanently assigned to armed posts remain current in quarterly weapons qualifications.</b>	
Finding 6.....	34
<b>The California Department of Corrections and Rehabilitation risks the safety and security of its prisons and the public by not requiring quarterly weapons training for peace officers temporarily assigned to armed posts.</b>	
California Department of Corrections and Rehabilitation’s Response .....	38

# Executive Summary

This report presents the results of an audit by the Office of the Inspector General (OIG) concerning the operations of Salinas Valley State Prison (SVSP) and the performance of its warden. The audit was performed under California Penal Code section 6126(a)(2), which requires the Inspector General to audit each warden one year after his or her appointment, and to audit each correctional institution at least once every four years.

Our team of inspectors examined SVSP's operations and programs to identify problem areas and recommend workable solutions. The prison gave our inspectors full access to its records, logs, and reports. In addition, site visits allowed us to observe SVSP's day-to-day operations. We also interviewed various staff members and inmates, and we surveyed three distinct focus groups: managers from the prison and California Department of Corrections and Rehabilitation (department) headquarters, prison employees, and key government and union stakeholders. In all, our inspectors made six audit findings and 21 recommendations, which are detailed in Chapter 2 of this report.

## **Overall, Warden Evans is a knowledgeable, effective leader, but he must address staff performance issues**

As detailed in Chapter 1 of this report, we used surveys, personal interviews, and our audit findings to evaluate Warden Michael S. Evans's performance. Based on our findings, we are confident that Evans has the experience and ability to face the challenges ahead. With over 20 years of department experience and a reputation for integrity and professionalism, Evans has gained many supporters among the employees at SVSP. Managers and staff members alike describe Evans as an effective administrator who provides strong leadership. Moreover, most of the employees we surveyed felt that SVSP was meeting its mission under Evans's leadership.

However, we found that Evans must improve staff performance in two main areas. First, Evans must ensure that members of the inmate assignment staff place the proper inmates in work and education programs. Second, Evans must ensure that members of the custody staff perform regular cell searches to ensure the safety of employees and inmates. Evans also needs to address concerns expressed by his employees, specifically the staff's large workload, as well as their concern that the availability of education and vocational staff is inadequate.

## **Improving inmates' access to educational and vocational programs may reduce recidivism and save state funds**

While our evaluation of the warden's performance was mostly positive, our audit of the prison and its programs uncovered several areas of concern. One area of concern involves SVSP not following state laws, regulations, and policies when it assigns inmates to vacancies in work or education programs. The prison should give priority to inmates who would most benefit from the programs—including inmates who are eligible the soonest for parole and are eligible for sentence-reducing credit (day-for-day credit). However, we found that SVSP assigned other inmates to available work or education slots, such as inmates sentenced to life terms or inmates convicted of violent felonies, both of which are ineligible to receive day-for-day credit. Besides worsening the overcrowding problem and overspending tax dollars by prolonging the inmates' period of incarceration, this practice denies work and education opportunities to the inmates most likely to be paroled.

Further, we found that SVSP canceled its education classes nearly 40 percent of the time because of security concerns, teacher absences, and other disruptions. But even if the education programs were operating at full capacity, with only 297 academic education seats, relatively few of the prison's over 4,000 inmates would be able to receive academic instruction. Because of frequent class cancellations and limited availability of academic education seats, numerous SVSP inmates who have not mastered the skills necessary to become functionally literate will most likely return to prison, continuing the cycle of recidivism. In addition, frequent class cancellations increase the time needed for an inmate to learn the curriculum, thus driving up the cost of providing instruction to that inmate.

## **Inadequate oversight of safety and security practices may endanger employees, inmates, and the public**

Another area of concern involves SVSP's response to critical safety and security requirements. For instance, during our audit, we found that most custody employees were not performing the required six cell searches daily—our review of 15 housing units over three months showed that officers completed the required cell searches only one-third of the time. Cell searches are essential because they allow officers to uncover contraband that inmates could use to harm other inmates and employees, or otherwise pose a risk to the prison's overall security.

Our audit also revealed that, for the four-month period we reviewed, SVSP's use-of-force committee did not review any of the 2008 use-of-force incidents within the required 30 days from the incident date. Further, as of April 29, 2008, the use-of-force committee had only reviewed four of the 136 use-of-force incidents that occurred in 2008—a review rate of only 3 percent. When the use-of-force committee does not review use-of-force incidents on time, delays occur in

officers' corrective training, thus increasing the possibility that the use-of-force could recur, further placing officers and inmates at risk. Also, long delays in review may jeopardize the department's ability to take adverse action against peace officers because such actions must be initiated within one year of the incident.

Quarterly weapons qualifications present another safety concern. Despite a department requirement that only peace officers who have completed firearms training and are currently qualified be assigned to armed posts, we found 15 peace officers assigned to armed posts as of March 28, 2008, who had not maintained current qualifications. We also found that the training staff was not tracking peace officers' compliance with the quarterly requirement, which prevents verification of officers' compliance. Regularly qualifying with a firearm keeps an officer's weapons skills fresh; an officer without current qualification could risk the safety of employees and inmates, as well as the surrounding community.

We also took issue with a department practice that exempts some peace officers from quarterly weapons proficiency requirements even though other officers performing the same duties are required to demonstrate quarterly weapons proficiency. This difference in application of policy for armed peace officers is inconsistent with requirements published in laws, regulations, and the department Operations Manual. Allowing some officers to work armed posts without completing required weapons qualifications could jeopardize the safety and security of prison employees, inmates, and the public.



# Institution Overview

Salinas Valley State Prison (SVSP) is one of 33 adult prisons operated by the California Department of Corrections and Rehabilitation (the department). Opened in May 1996, SVSP was designed to hold 2,388 male inmates. However, as of June 30, 2008, SVSP housed 4,095 inmates: 296 classified as Level I and 3,799 classified as Level III and Level IV.<sup>1</sup> During fiscal year 2007–08, SVSP deactivated beds in its dayrooms and gyms to ease overcrowding in areas not designed to house inmates.

## Housing and Health Services

SVSP provides long-term housing and services for minimum and maximum custody inmates (Levels I, III, and IV) housed in five facilities—A, B, C, D, and E. As one of the department’s newer prisons, SVSP was constructed to meet the access requirements of the Americans with Disabilities Act. Moreover, SVSP is designated as a Disability Placement Program facility. As such, the prison houses inmates who meet the department’s criteria that ensure eligible inmates with designated disabilities will not be denied or excluded from participation in services or programs, or otherwise be discriminated against.

SVSP has a stand-alone administrative segregation unit to isolate inmates, as well as a correctional treatment center to provide medical care. SVSP also provides Correctional Clinical Case Management System (CCCMS), Enhanced Outpatient Program (EOP), and Crisis Bed mental health services.

In addition, SVSP houses an on-site division of the Department of Mental Health (DMH). This inpatient psychiatric program provides intermediate care primarily to Level IV high-security inmates who have major mental disorders that diminish their ability to function within a prison environment. Besides the stand-alone DMH facility, there are two retrofitted DMH housing units within D facility.

## Rehabilitation Programs

SVSP offers various work, education, and self-help programs designed to increase inmates’ social awareness and personal responsibility. For example, the prison provides work opportunities in office support, janitorial, kitchen, education, firefighting, and dairy areas. Academic offerings include adult basic education, General Educational Development (GED), English as a second language, reentry classes, and a computer-aided literacy lab. Vocational offerings include janitorial

---

<sup>1</sup> The department has four general classification levels; Level I through Level IV is the range from the lowest to the highest security level.

and landscaping courses. Self-help offerings include Alcoholics Anonymous, Narcotics Anonymous, and religious counseling.

## Budget and Staffing

For fiscal year 2007–08, SVSP’s budget for institution and education operations was \$122 million. This amount excludes medical operations, which are budgeted separately and under the control of the California Prison Health Care Receivership Corporation. SVSP has 1,567 budgeted positions, of which 962 (or 61.4 percent) represent custody staff. The table below compares SVSP’s budgeted and filled positions as of June 30, 2008. Overall, the institution filled 92 percent of its total budgeted positions.

**Staffing Levels at Salinas Valley State Prison\***

<b>Position</b>	<b>Filled Positions</b>	<b>Budgeted Positions</b>	<b>Percent Filled</b>
Custody	924	962	96.0%
Education	23	30	76.7%
Medical	175	214	81.8%
Support	171	202	84.6%
Trades	134	145	92.4%
Management	14	14	100%
<b>Total</b>	<b>1,441</b>	<b>1,567</b>	<b>92.0%</b>

*Source: California Department of Corrections and Rehabilitation, COMPSTAT, 2<sup>nd</sup> Quarter 2008 (for June 30, 2008), Salinas Valley State Prison*

*\* Unaudited data*

# Chapter 1:

## One-Year Evaluation of Warden Michael S. Evans

California Penal Code section 6126(a)(2) requires the OIG to audit each warden of an institution one year after his or her appointment, and to audit each correctional institution at least once every four years. To satisfy this requirement at Salinas Valley State Prison (SVSP), we audited the warden's performance and the institution's operations simultaneously.

### Objectives, Scope, and Methodology

To understand how the staff and other stakeholders view the warden's performance, we surveyed three distinct groups: department and SVSP managers, SVSP employees, and key stakeholders outside the department. Specifically, we sent surveys to 38 department and SVSP managers. Of those surveys, we received 26 responses. We also sent surveys to 252 prison employees and received 81 responses. Finally, we sent surveys to 17 key stakeholders, including members of the Legislature, representatives of unions and associations, a county district attorney, and a court-appointed special master. However, we received only four responses from these key stakeholders.

Our inspectors toured SVSP to gain insight into the environment where the warden must perform. In addition, we interviewed key employees and inmates, and we reviewed the prison's records in various operational areas. These operational areas included the following:

- Business services
- Plant operations
- Inmate appeals
- Investigative services
- Use of force
- Employee/labor relations
- Inmate records
- Mental health treatment center
- Medical transportation
- Educational and vocational programs
- Inmate visiting
- Receiving and release
- Personnel assignment
- In-service training
- Health care
- Housing units

During our site visits, we asked 42 groups or individuals throughout the prison to rate the warden's performance. These individuals included custody staff members, executive management team members, education and health care professionals, and inmate representatives from the Inmate Advisory Council. We also reviewed logs, reports, and other documents related to the warden's performance over the past year, including the materials reviewed in developing the results of our institutional audit contained in Chapter 2.

## Background of Warden

Warden Michael S. Evans began his career with the department in December 1985 as a correctional officer at the California Correctional Institution, where he gained experience working in all four inmate custody levels. In October 1990, he transferred to department headquarters as a correctional sergeant, working in the Emergency Operations Unit, and he was later promoted to correctional lieutenant. In May 1995, Evans transferred to the Correctional Training Facility, where he performed the duties of employee relations officer, investigative lieutenant, watch commander, and tactical and armory lieutenant. In August 1997, Evans was promoted to correctional captain in the transportation unit and was the northern transportation district manager. In October 2000, he was promoted to correctional administrator at High Desert State Prison, and by April 2004, he was promoted to chief deputy warden at the California Correctional Institution. In December 2004, Evans became the acting warden at SVSP, and Governor Schwarzenegger appointed him as warden on June 30, 2006.

## Discussion of Warden's Strengths

### *Employees view Evans as an effective administrator*

Employees we surveyed and interviewed described Evans as a knowledgeable administrator who provides strong leadership. Moreover, on average the employees we surveyed felt that under Evans's leadership SVSP is meeting its mission of providing housing and services for minimum and maximum custody male inmates. Employees told us that Evans emphasizes a culture of integrity, professionalism, and mutual respect. In addition, they felt that Evans fosters cultural sensitivity and seeks to prevent discrimination and sexual harassment. Employees further described Evans as accessible and willing to discuss issues. They said he is also open to feedback—including criticism—and he does not abuse his authority.

### *Evans received a favorable overall rating from the staff and management*

We conducted 42 group or individual interviews of SVSP employees and inmates asking them to rate the warden's performance, and 21 provided an overall rating. Seventeen of 21 responses (81 percent) rated the warden as either "outstanding" or "very good."

<b>Warden's Overall Performance Rating</b>		
<b>Rating</b>	<b>Respondents</b>	<b>Percentage</b>
Outstanding	9	43%
Very Good	8	38%
Satisfactory	4	19%
Improvement Needed	0	0%
Unacceptable	0	0%
<b>Total</b>	<b>21</b>	<b>100%</b>

Survey results from department officials and SVSP managers also showed a favorable overall rating for Evans’s management skills and qualities. They rated the warden in six categories based on the following 1-to-5 scale, with 1 being the

**Rating of Warden’s Management Skills and Qualities:  
Rating on a Scale of 1 to 5**

Category	Average Response
Leadership	1.24
Communication	1.52
Decision Making	1.20
Organization/Planning	1.40
Relationships with Others	1.44
Personal Characteristics/Traits	1.12
<b>Overall Rating: Outstanding</b>	<b>1.22</b>

highest: “outstanding,” “very good,” “satisfactory,” “improvement needed,” and “unacceptable.” The survey respondents’ average rating of 1.22 corresponds with a qualitative rating of “outstanding.”

## Discussion of Warden’s Criticisms

### ***Although employees generally believe that Evans is an effective leader, they identified some specific areas of concern***

We sent confidential surveys to 252 SVSP employees from all operational areas, and we received 81 responses—a 32 percent response rate. These 81 employees raised several concerns related to the way SVSP operates under Evans’s leadership. For example, 33 of the 81 employees (41 percent) felt that their assigned work area did not have enough staff members to complete the required work. Twenty-seven respondents (33 percent) felt that the availability of the education and vocational staff is inadequate. Twenty-six employees (32 percent) responded that the warden does not regularly walk the prison grounds.

The correctional officers we surveyed expressed other concerns about Evans. Thirteen of the 30 officers who responded to our survey (43 percent) told us that they are not informed about issues that affect the department as a whole. Six of the 30 officers (20 percent) felt that the warden does not regularly speak or meet with inmates. Further, seven of the 30 officers (23 percent) felt that the warden does not work effectively with the local bargaining unit representatives. Effective communication with the staff, the inmates, and the community is critical to the warden’s ability to properly run a prison.

### ***Evans should address weaknesses identified in inmate programs and institutional security***

In addition to the criticisms we received through our surveys and interviews, we also identified some concerns through our audit work. (We discuss these concerns in detail in Chapter 2 of this report.) The most significant concerns we identified were in inmate programming and institutional security.

Evans should ensure that SVSP places appropriate inmates in work and education assignments. SVSP's inmate assignment staff does not follow state laws, regulations, or department policy when assigning inmates to work or education programs. Rather than assigning inmates who are unassigned and eligible to reduce their sentences by participating in a work or education program, SVSP often assigned ineligible inmates, such as inmates sentenced to life terms. As a result, SVSP has not properly prepared inmates who are most likely to be released from prison. This failure to follow policy also increases costs by causing inmates—who would otherwise have their sentences reduced through program participation—to remain incarcerated at the taxpayers' expense. Therefore, Evans should establish procedures that ensure inmates are properly assigned to work or education programs, and he must hold his employees accountable for following the procedures.

Evans also needs to hold his employees accountable for critical safety and security procedures. Our audit disclosed that many members of the custody staff do not conduct the minimum number of cell searches required by department procedures. The importance of these procedures is unquestioned, and as the individual responsible for the overall safety and security of the prison, the warden must ensure that employees follow these critical procedures.

## **Warden's Response to Criticisms**

In his September 17, 2008, discussion with OIG staff members, Evans emphasized that the focus of his job is to ensure public safety and that the 1,500 SVSP employees do a great job within the difficult environment of this prison and with the limited resources available to the prison. He added that the institution has improved significantly in the nearly four years that he has been the warden and acting warden at SVSP.

Evans said that he knows his limitations and that he accepts the criticism in this report, but that some of the techniques used by the OIG to evaluate his performance do not fairly reflect his accomplishments. For example, he stated that our employee surveys overemphasized employee opinions rather than actual results. To illustrate this, the warden cited our report, which notes "seven of the 30 officers (23 percent) felt that the warden does not work effectively with the local bargaining unit representatives." Evans told us that he feels he has worked well with the bargaining units, and he cited a decrease of employee grievances from 501 a year when he arrived in 2005 to only 10 in the last eight months of 2008 as evidence of his good relationship. Evans also commented on the survey results that indicate he does not regularly walk the prison grounds. He told us that he thinks he walks the grounds more than employees realize, and that he communicates his agenda and answers questions from employees during the two hours he spends each week in employee training sessions.

Overall, Evans showed great concern for his employees, and he stated that he would work hard to mitigate the findings in this report.

## **Summary Discussion**

Evans has over 20 years of experience with the department, and SVSP employees describe Evans as a knowledgeable administrator who provides strong leadership. Most of the employees we surveyed felt that SVSP was meeting its mission under Evans's leadership.

In summary, Warden Michael S. Evans appears to be performing his duties well and should continue as the warden at SVSP while addressing the recommendations identified in this report.

# **Chapter 2:**

## **Quadrennial Audit Findings and Recommendations**

### **Objectives, Scope, and Methodology**

We gained an understanding of SVSP's mission, management practices, and safety and security procedures by reviewing applicable laws, department and prison policies, and other criteria related to the prison's essential functions. As detailed in Chapter 1, we also inspected the prison, observed its general operations, and interviewed employees and inmates concurrently with the warden evaluation process. In addition, we surveyed selected employees and key stakeholder groups, and we reviewed prior audit reports and statistical data that pertain to the prison.

After assessing SVSP's operations and the survey results, we focused our audit on two main areas: inmate programs and institutional safety and security.

In conducting our work, we performed the following procedures:

- To determine whether SVSP inmates are properly placed in program assignments, we reviewed relevant laws, regulations, and policies and procedures; interviewed members of the correctional counseling and inmate assignment staff; and evaluated inmate data from the department's Distributed Data Processing System (DDPS) and Offender Based Information System (OBIS). We also evaluated inmate parole dates, eligibility factors, waiting list status, and job assignment activity. Finding 1 discusses our finding results and recommendations in this area.
- To determine whether SVSP provides sufficient inmate educational programs, we assessed applicable laws and education policies and procedures, interviewed members of the education and management staff, and consulted with the department's Office of Correctional Education. We also reviewed research on correctional education and evaluated student attendance reports and monthly summaries, which included the hours each student attended classes. Finally, we observed facility space availability. Finding 2 discusses our finding results and recommendations in this area.



- To determine whether SVSP conducts the minimum required number of cell searches, we reviewed relevant laws, regulations, policies and procedures, and post orders;<sup>2</sup> interviewed members of the custody staff, supervisors, and executive management; and examined monthly cell search logs, daily housing unit activity logs, the program sergeant's daily checklist, and individual cell activity logs. Finding 3 discusses our finding results and recommendations in this area.
- To determine whether SVSP promptly processes use-of-force incident packages (incident reports involving use of force and supplemental documents), we interviewed employees responsible for monitoring and tracking the packages. We also reviewed department memorandums and statistical data, the SVSP use-of-force handbook, and the recently approved statewide use-of-force policy; evaluated data documented in the prison's incident logs and investigation log; and conferred with OIG's Bureau of Independent Review. Finding 4 discusses our finding results and recommendations in this area.
- To determine whether custody staff members in armed posts meet weapons proficiency requirements, we reviewed relevant laws, regulations, and policies and procedures; interviewed members of the in-service training and personnel assignment staff; and examined the custody staff's employee roster, weapons training records, and post assignment histories. Findings 5 and 6 discuss our finding results and recommendations in this area.

---

<sup>2</sup> The department's Operations Manual, sections 51040.1 to 51040.6.1, requires that each posted position in an institution have a post order that details the general functions and specific duty directives for that post. Employees under post orders are required to sign and date the post order, signifying they understand the duties and responsibilities of the post "when the employee is assigned to the post, when the post order has been revised, or upon returning from an extended absence."

## Finding 1

### **Salinas Valley State Prison does not appropriately place inmates in work and education assignments, resulting in ill-prepared parolees and prolonged periods of costly incarceration.**

SVSP does not always follow state laws, regulations, and policies when it assigns inmates to vacancies in work or education programs. SVSP should give priority to inmates who are eligible to reduce their term of incarceration by one-half through participation in a work or education program (day-for-day credit). However, we found that SVSP assigned other inmates to available work or education slots, such as inmates sentenced to life terms or inmates convicted of violent felonies, both of which are ineligible to receive day-for-day credit. Indeed, SVSP placed an inappropriate inmate in 32 of the 41 assignments we reviewed for May 2008 (78 percent). Because SVSP improperly assigned these inmates, it failed to provide work or education opportunities to inmates who are most likely to be paroled. Participating in such a work or education program could improve these inmates' potential of successfully completing their parole term. Further, when SVSP denies assignments to inmates who are eligible for day-for-day credit, the prison exacerbates its overcrowding problem and wastes tax dollars by prolonging the inmates' period of incarceration.

### **SVSP provides jobs and education to inmates who are ineligible for day-for-day credit while eligible inmates remain on the waiting list**

When filling inmate work or education assignments, California Code of Regulations section 3043.6 and department Operations Manual section 53130.11 require SVSP to give priority to inmates who (1) are eligible to receive day-for-

**Factors SVSP should use to place an inmate in an education or work assignment**

1. Inmate is interviewed and assessed by a correctional counselor to determine educational needs and work qualifications.
2. Inmate is placed on appropriate waiting lists if education or work assignments are not readily available.
3. When an assignment is available, the inmate assignment staff should first identify eligible inmates who are in the unassigned work group.
4. The staff then should identify inmates who are eligible to receive day-for-day credit.
5. If more than one inmate remains, the staff should then select the inmate with the earliest release date.

day credit and (2) are currently not assigned to a work or education program. These guidelines ensure that inmates who are most likely to be released have the opportunity to prepare for parole and reduce their prison term through work experience or educational training.

However, SVSP does not follow these guidelines. We reviewed 41 inmates who SVSP placed in work or education assignments during May 2008 and found that 27 (66 percent) were ineligible to receive day-for-day credit, even though

eligible inmates—who should have received higher priority—were waiting for these positions. Eighteen of these ineligible inmates were serving life sentences, and therefore may never be released from prison. California Penal Code section 2933.1 states that inmates sentenced to life terms are generally not eligible to receive day-for-day credit. In fact, one of the 18 inmates SVSP assigned to a job as a porter had a life term without the possibility of parole. This inmate will never be released from prison, and therefore should be among the last inmates SVSP places in a work or education assignment. Another lifer inmate SVSP assigned to a porter job is not eligible for parole until February 21, 2330—322 years from when SVSP assigned him.

California Penal Code section 2933.1 states that inmates convicted of certain violent felonies are not eligible to receive day-for-day credit for participating in a work or education program. Nine of the 41 inmates we reviewed were not serving life sentences, but their violent offenses made them ineligible to receive day-for-day credit. Again, in each of these instances, as many as 15 inmates were available who were eligible to receive day-for-day credit, and therefore should have received higher priority.

### **SVSP’s inmate assignments increase costs by not properly preparing some inmates for parole and delaying inmates’ release**

Because SVSP assigned inmates ineligible for day-for-day credit when eligible inmates were available, the prison prolonged the terms of incarceration of the eligible inmates it passed over. Thus, the state incurred unnecessary and preventable costs of incarcerating these inmates. California Penal Code section 2933 states that eligible inmates can reduce their term of incarceration by one-half if they participate in a work or education program. However, California Code of Regulations section 3044 provides that an eligible inmate who is willing but unable to perform in a full-time position because a work or education position

is unavailable will receive only one-half day credit for each day the inmate remains in that status. Therefore, the eligible inmates SVSP passed over for assignments in order to assign ineligible inmates will be incarcerated longer than if SVSP had assigned them properly.

<b>Unassigned but Eligible Inmates Remain Incarcerated Longer</b>		
	<b>Assigned Inmate</b>	<b>Unassigned Inmate</b>
<b>Remaining term of incarceration</b>	24 months	24 months
<b>Time credit received</b>	12 months	8 months
<b>Time actually incarcerated</b>	12 months	16 months

For example, we compare two hypothetically equal inmates who are eligible to receive day-for-day credit

and have two years remaining on their terms of incarceration. SVSP places one inmate in a work or education assignment but passes over the other inmate. SVSP

would release the assigned inmate on parole after 12 months (12 months of work credit). However, SVSP would not release on parole the unassigned inmate until after 16 months (8 months of work credit). Therefore, SVSP's failure to follow state regulations and policies would result in four unnecessary months of incarceration (or a 33 percent longer term of incarceration) for the latter hypothetical inmate.

The department reports that, for the 2007–08 fiscal year, its average annual cost per inmate is \$44,339. Therefore, in our hypothetical situation, it would cost the state an additional \$14,000 to incarcerate the unassigned inmate the extra four months. Indeed, given the rate of error we identified in our limited sample of 41 inmates, SVSP may be overspending state dollars each year by inappropriately placing inmates in work and education assignments.

Further, these actions are contrary to the department's focus on rehabilitation. One of the department's objectives in its strategic plan is to place inmates in programs that will aid their reentry to society and reduce their chances of reoffending. Specifically, the strategic plan states:

Improve and expand academic and vocational education, life skills, mental health, substance abuse treatment, and other programs and services to meet the offender needs during incarceration and while on parole.  
[Strategy 6.1.2]

Conduct assessments of all inmates that shall be used to place inmates in programs that will aid in their reentry to society and that will most likely reduce the inmate's chances of reoffending. [Strategy 6.1.6]

Work and education assignments help prepare an inmate to succeed during his parole period. However, SVSP's practice of assigning lifer inmates—or other inmates not eligible to receive day-for-day credit—to work and education opportunities instead of inmates who are much more likely to parole to the community runs counter to the department's strategic plan objective.

### **SVSP does not consider an inmate's current work status or release date when making assignments**

Additionally, SVSP failed to consider an inmate's current work status or his relative release date when making assignments to work and education programs. Three of the 41 inmates we reviewed had already attained the work status necessary to obtain day-for-day credit. California Code of Regulations section 3044 labels this status as "A-1," which refers to inmates in full-time work or education assignments who receive day-for-day credit if otherwise eligible. Inmates retain this status even if the department later removes the inmate from the assignment, unless the removal results from disciplinary actions.

However, California Code of Regulations section 3043.6 requires the department to first assign to available work or education programs inmates who are unassigned—referred to as “A-2” work status. Inmates in A-2 work status who are otherwise eligible to receive day-for-day credit receive only one-half day credit for each day served. In each of these three instances, SVSP passed over at least one inmate who was in A-2 work status to assign an inmate with A-1 work status. Because inmates with A-1 status already receive day-for-day credit if otherwise eligible, SVSP missed an opportunity to convert the A-2 inmates awaiting these assignments from earning one-half day credit for each day served to earning day-for-day credit.

Moreover, SVSP assigned two other inmates even though inmates with earlier release dates were waiting for the same assignments. In both of these instances, SVSP assigned an inmate who did not yet have a release date when another equally qualified inmate who did have a release date was available. California Code of Regulations section 3043.6 and department Operations Manual section 53130.11 state that institutions must first assign vacant program positions to inmates who are eligible to receive day-for-day credit, who are not currently assigned to a work or education assignment, and *who have the earliest release date*. Because SVSP assigned inmates without release dates, it missed opportunities to help those inmates with earlier release dates prepare for parole.

### **A lack of adequate information in the department’s computer system leads to improper inmate assignments**

According to the inmate assignment staff, the computer system that the department provides to make inmate assignments does not include an inmate’s term of incarceration or whether the inmate is serving a life term. The Distributed Data Processing System (DDPS) provides information on inmates who the department’s classification system has identified as being eligible to participate in work or education assignments. When a work or education assignment becomes available, members of the inmate assignment staff use DDPS to identify an inmate for the available assignment.

DDPS contains information helpful to inmate assignment staff in making inmate assignments, such as eligible assignments for the inmate, the inmate’s unique job qualifications, or whether the inmate already has an assignment. However, the DDPS computer screens used by the inmate assignment staff do not provide information on an inmate’s term of incarceration. This information is necessary to identify inmates sentenced to life terms—who should receive a lower priority than other inmates—or to identify an inmate’s current release date. According to the inmate assignment lieutenant, this lack of information on an inmate’s term of incarceration was the reason he placed lifer inmates in available work and education assignments when eligible non-lifer inmates were available.

Further, the inmate assignment staff do not use a code that DDPS contains to identify an inmate's eligibility to receive day-for-day credit. The inmate assignment staff told us they were unaware that they should be using the code, and they stated that they would begin to consider this code as they make assignments.

However, the DDPS code is not always accurate. To complete our testing of inmate assignments, we compared inmate data contained in DDPS to data contained in another department system—the Offender Based Information System (OBIS). While reviewing the 41 assignments, we found two instances where DDPS reported that an inmate was *ineligible* for day-for-day credit when OBIS reported that the inmate was *eligible*. According to SVSP's classification and parole representative, these two inmates are eligible for day-for-day credit. She also said that OBIS is more reliable than DDPS for day-for-day credit eligibility because analysts update OBIS when they review inmates' records on arrival at the prison. Therefore, SVSP should ensure that the inmate assignment staff have reliable information on inmates' day-for-day credit eligibility so they can prioritize assignments for eligible inmates.

## Recommendations

The Office of the Inspector General recommends that the warden of Salinas Valley State Prison:

- Ensure that inmates who are unassigned and eligible to receive day-for-day credit are the first inmates placed in available work or education assignments.
- Provide the inmate assignment staff with a means to identify an inmate's incarceration term so the lieutenant can give priority for available work or education assignments to inmates who are not serving life terms or otherwise not eligible to receive day-for-day credit.
- Ensure that an inmate's work status and relative release date are considered when making inmate assignments.
- Ensure that the information related to an inmate's day-for-day credit eligibility contained in DDPS is accurate.

## **Finding 2**

### **Only a small percentage of inmates at Salinas Valley State Prison are assigned to academic education classes, and classes are often canceled because of security concerns and other disruptions.**

We found that SVSP canceled its academic education classes nearly 40 percent of the time because of security concerns, teacher absences, and other disruptions. However, even if the academic education programs were operating at full capacity, few of SVSP's over 4,000 inmates would receive academic instruction because the prison only has 297 academic education seats. The frequent class cancellations coupled with the limited availability of academic education seats means that many inmates may not master the skills necessary to become functionally literate, thus increasing their likelihood of recidivism. Further, when classes are frequently canceled, the time needed for an inmate to learn the curriculum is increased, and increased class time drives up the cost of providing instruction to that inmate.

The California Legislature clearly intended that the department enroll inmates in academic education programs to reduce recidivism. Declaring that "there is a correlation between prisoners who are functionally literate and those who successfully reintegrate into society upon release," the Legislature stated its intent in enacting the Prisoner Literacy Act was to "raise the percentage of prisoners who are functionally literate, in order to provide for a corresponding reduction in the recidivism rate." This act required the department to offer literacy programs "to ensure that upon parole inmates are able to achieve a ninth-grade reading level." This act, codified in 1989 as California Penal Code section 2053.1, also requires the department to make the programs available to at least 60 percent of eligible inmates by 1996. Under these requirements, SVSP provides an education program consisting of both academic classes and vocational training for inmates.

### **SVSP frequently cancels classes because of security concerns and teacher absences**

Class cancellations occurred during each month for which we examined education reports and in each facility we reviewed at SVSP. In its education reports, SVSP identified either custody reasons, such as security concerns, or education reasons, such as teacher absences, for class cancellations. In fact, for the three months we reviewed (January through March 2008), inmates did not have access to academic classes for nearly 40 percent of the available classroom hours. A full day in the academic education program at SVSP consists of 6.5 hours of instruction. During our review period, however, we found that inmates missed an average of 2.6 hours per day of instruction. A prime example is February 2008, when inmates in C facility did not have access to academic classes for nearly 74 percent of the

available classroom hours. The following table shows the percentage of time SVSP canceled academic classes in each facility during our review period.

**Percentage of Time Education Classes Were Canceled  
January 1, 2008, through March 31, 2008**

	<b>January</b>	<b>February</b>	<b>March</b>	<b>Average for 3-month Period</b>
A Facility	56.6%	53.7%	28.2%	46.2%
B Facility	25.2%	28.8%	40.8%	31.6%
C Facility	22.3%	73.7%	41.2%	45.8%
<b>Weighted Average Percent of Class Time Canceled: 39.9%</b>				

Based on our review of three months of education reports, we identified classroom cancellations due to custody and education reasons at each of the facilities operating academic education programs at SVSP. For example, in March 2008, we found that there was a total of 11,838 hours of class cancellations throughout the prison. Specifically, SVSP reported 7,353 hours of cancellation due to custody reasons and 4,485 hours of cancellation due to education reasons. While there were 33,025 hours available for education for March 2008 throughout the prison, SVSP canceled classes nearly 22 percent of the time because of security concerns and 14 percent of the time because of education concerns. The custody-related cancellations resulted in an average loss of 1.4 hours of instructional time per inmate per day, while the education cancellations resulted in an average loss of 0.9 hours of instructional time per inmate per day.

SVSP reported class cancellations for various reasons, including a lack of teaching staff, concerns of potential violence, and security threats. For example, on March 24 and 25, inmates were unable to attend class because fog on the yard created a security concern. SVSP also reported that in February inmates were unable to attend class on five days because of a threat assessment. Further, SVSP reported that inmates were unable to attend class for six days in March because the teacher was unavailable.

### **Class cancellations almost double the anticipated annual cost of inmate education**

For the 2007–08 fiscal year, SVSP budgeted \$1.79 million for inmate academic education, which translates into an average per-inmate cost of \$6,041 for the education program’s capacity of 297 inmates. But when education time is lost because of program cancellations, the per-inmate cost to provide the equivalent of one year of academic instruction nearly doubles. The higher costs result from the fact that teacher salaries, custody staff salaries, and other fixed costs continue even when classes are canceled. For example, when classes are held regularly, an inmate can expect to progress one grade level for each year of instruction.



However, when classes at SVSP operate only 60 percent of the time, the same inmate will take 20 months to receive the equivalent of one year of instruction—increasing the cost for instruction to \$10,068.

## Despite state law, only a small percentage of eligible inmates are assigned to education classes

California Penal Code section 2053.1, passed in 1989, requires the department to make literacy programs available to at least 60 percent of eligible inmates by 1996. However, only 9.2 percent of the 3,231 eligible inmates,<sup>3</sup> as reported by SVSP in March 2008, are actually assigned to academic education classes. Further, as of May 2008, SVSP had a waiting list of 456 inmates for academic education classes, which represents 160 percent of the number of total seats available at the four facilities we reviewed.

Further, based on our review of education reports for January, February, and March 2008, we calculated the average monthly enrollment for each SVSP facility. With 270<sup>4</sup> seats available for academic education at the four facilities we reviewed, during our three-month review period we found that the average monthly attendance was 269. Therefore, it appears that SVSP fills each of the available academic seats and does not leave the seats open for long.

However, our review of the waiting lists for academic education on each facility revealed that as of May 2008, 456 inmates were on the waiting list for the 270 seats at the four facilities we reviewed. The following table gives a breakdown of the waiting list by facility.

**Waiting List for Academic Education by Facility**

	<b>Number of Inmates on List</b>	<b>Percent of Total Number of Inmates on List</b>	<b>Total Number of Academic Seats Available</b>
A Facility	77	17%	108
B Facility	243	53%	108
C Facility	123	27%	54
D Facility	13	3%	0
<b>Total</b>	<b>456</b>	<b>100%</b>	<b>270</b>

As shown above, two of the facilities (B and C) have more than double the number of inmates on the waiting list than there are seats available. In addition,

<sup>3</sup> The eligible inmate population reported by SVSP is the number of inmates available for programs. This number is calculated by counting the total inmate population and subtracting those inmates housed in administrative segregation and mental health buildings and thus not available to attend the program.

<sup>4</sup> During our review, we focused our testing on the 270 academic education seats where inmates are taught Adult Basic Education. Therefore, we excluded 27 academic education seats on E facility focused on prerelease curriculum.

B facility has the greatest need for seats, housing more than 50 percent of all inmates on the waiting list.

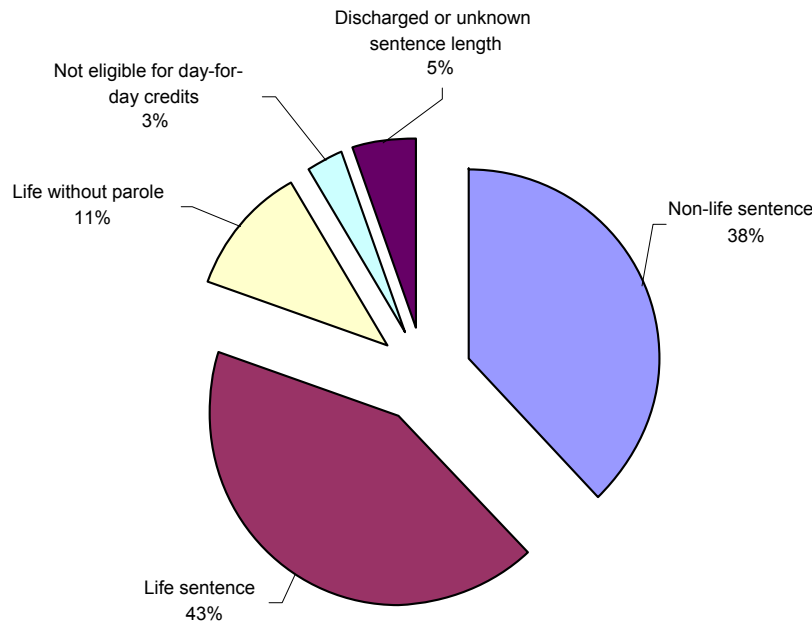
The low number of inmates assigned to academic education is partially caused by space limitations and budget constraints. Based on our review of the prison grounds, we noted that each facility has five classrooms, one of which has been converted to the law library. Therefore, in A and B facilities—where all four classrooms are occupied—no additional classroom spaces are available without major remodeling or construction. One option for expansion would be to open the vocational areas for academic classrooms; however, based on our inspection, much work would be needed to remove unused equipment and make the area safe for inmate academic classes. Further, the principal in charge of academic classes said that expansion into the vocational areas would require additional officers to staff the work change area and supervise the inmates when they are in the vocational buildings.

Another option for increasing the academic classroom seats is using two vacant classrooms in C facility to serve additional inmates since only two classrooms are currently in use. If SVSP receives budget authority to hire more teachers, the prison could open two more academic classrooms in C facility.

### **SVSP frequently assigns inmates serving life sentences to its limited academic education seats while eligible inmates are skipped over**

California Penal Code section 2053.1 requires the department to implement literacy programs to ensure that inmates are able to achieve a ninth grade reading level *upon parole*. Moreover, as detailed in Finding 1 of this report, inmates receive day-for-day time credit for participating in work and education programs. For example, an inmate who is not serving a life sentence and is eligible for day-for-day credit will earn six months of sentence reduction for every six months of full-time performance in a qualifying program, such as academic education. However, based on our review of rosters for three different classes, we found that 53.3 percent of those inmates were serving a life sentence, and another 3.3 percent of the inmates were not eligible for day-for-day credit. Thus, 56.6 percent of the inmates in those classes were not eligible to receive day-for-day credit. The following chart shows each category.

### Academic Education Demographics



Department regulations require that inmates eligible for day-for-day credit always be given priority over inmates who are not eligible for day-for-day credit; however, most inmates assigned to the classes we reviewed were not eligible for day-for-day credit. By not assigning those eligible inmates, SVSP not only fails to comply with regulations—it potentially increases the cost of incarcerating these inmates. Inmates eligible for day-for-day credit may be incarcerated longer than necessary because they were not given the opportunity to earn day-for-day credit for class attendance.

Further, based on California Penal Code section 2053.1, the Legislature intended that SVSP’s academic education programs focus on inmates who will eventually parole. Nevertheless, we found that 10.9 percent of the inmates assigned to academic education are serving sentences of life without the possibility of parole. In one example, we identified an inmate serving life without the possibility of parole who had been enrolled in academic education since March 2004. Thus, SVSP violates state law by assigning inmates to the academic education classes who have no chance of parole, while inmates who may parole linger on the waiting list.

## Recommendations

The Office of the Inspector General recommends that the warden of Salinas Valley State Prison increase the academic educational opportunities available to inmates.

To the extent that the warden is successful in reducing the number and duration of classroom cancellations, the Office of the Inspector General recommends that he expand the number of seats available in academic education classes by:

- Using the two available classroom spaces in C facility for academic education.
- Using two shorter classroom sessions each school day but enroll a larger number of inmates, thus allowing more inmates to participate in academic education while using existing resources.

If limiting class cancellations is not practical because of the nature of the inmate population and facility constraints, the Office of the Inspector General recommends that the warden of Salinas Valley State Prison:

- Reevaluate the academic education program and examine other methods of delivering academic instruction to inmates.
- Limit formal classroom-based instruction and develop in-cell study courses for inmates.

## Finding 3

### **Inadequate oversight by supervisors and managers contributes to custody staff members not performing required cell searches, potentially jeopardizing the safety of the staff and inmates.**

Performing daily random cell searches in a prison's housing units is an effective way to find contraband such as weapons, cellular phones, drugs, money, tobacco, kites,<sup>5</sup> and banned clothing. Despite a requirement to conduct six cell searches daily, most custody employees whose work we reviewed were not doing so. We reviewed the cell search activities in 15 housing units from January through March 2008<sup>6</sup> and found that the officers completed the six required daily cell searches only about one-third of the time. Cell searches provide the officers with an opportunity to uncover contraband that inmates could use to harm other inmates and employees and potentially jeopardize the prison's overall security.

Department Operations Manual section 52050.18 states, "Post orders shall require that a minimum of three cells, rooms, dorms, or living areas, in each housing unit is searched daily on each of the second and third watches by the assigned unit officer." The importance of those cell searches is emphasized in the department academy's *Body, Cell, Area, and Grid Searches Curriculum*, which states:

Remember, when the inmates become aware that you are not serious about conducting searches, they will be more than serious about deceiving you. If you fail to take a serious and thorough approach to searching, it can severely impact you, your fellow staff members, inmates and the Department of Corrections. . . . [I]t is the Department's expectation that you will perform these duties in a responsible and effective manner. If you follow the instruction provided for you, you will be able to conduct a thorough search, in turn, ensuring the safety and security of the institution you are assigned to.

### **Reasons for cell search non-compliance vary**

Custody employees cited several reasons for not performing cell searches, including lockdowns, modified programming, emergencies, staff redirections, mass cell searches, limited staffing, training, incidents, and medical transports. These reasons were also noted on the monthly cell search matrixes as justification for not complying with the cell search requirement. Yet department Operations Manual section 52050.18 does not provide for any exceptions to the cell search

---

<sup>5</sup> Kites are notes sent between inmates that may document illegal prison-related activities, such as drug transactions, money debts, and gang instructions.

<sup>6</sup> For one housing unit, we used the cell search information for October, November, and December 2007 because the housing unit staff stated they were no longer completing the monthly cell search matrixes in 2008.

requirement and, thus, does not excuse officers from their responsibility to conduct cell searches.

All custody employees that we interviewed were aware of the cell search requirement, and we found that the requirement is contained in the floor officer's post orders. During our review, it was apparent that the officers understood the importance of conducting cell searches, yet they incorrectly believed certain reasons, such as those cited above, excused them from following the requirement.

## **Officers use inconsistent methods to document cell searches**

During our review, several supervisors and managers told us that officers recorded their cell searches in various logs. The officers, supervisors, and managers stated that, theoretically, the cell searches should be documented in three logs: the monthly cell search matrix, the housing unit log, and the individual cell search sheets. The monthly cell search matrix lists all the cells by day for a specific month, which allows supervisors and managers to quickly determine which cells were searched and whether the officers are performing the required six cell searches a day. The housing unit log normally documents all activity that occurs in the housing unit, including cell searches. The individual cell search sheet notes the date the specific cell was searched and whether officers discovered any contraband during the search.

While each housing unit we visited varied in how its officers documented their cell searches, most custody employees we interviewed agreed that the cell searches should be documented in the monthly cell search matrix. Further review of some housing units showed that even management's understanding of how cell searches are supposed to be documented is not consistent with what is actually occurring. In one housing unit, we found that, although the officers said they were supposed to document the cells searched in the housing unit log, there were many instances where the cells searched were noted in the housing unit log but not on the monthly cell search matrix. And there were even more instances where the cell search was noted in the monthly cell search matrix but not in the housing unit log.

In another housing unit, we compared the program sergeant's daily checklist to the monthly cell search matrix because the lieutenant said the sergeant's daily checklist should have the cell search information. We found many instances where the cells were noted on the sergeant's daily checklist but not on the monthly cell search matrix. Also, some cells identified on the monthly cell search matrix were not on the sergeant's daily checklist. Further, some cells identified in the daily checklist were different from those identified in the monthly cell search matrix. When officers use multiple methods to document cell searches, there is no quick way for supervisors and managers to verify whether the officers performed

the cell searches. In addition, inconsistencies in documentation methods may call into question the information's validity.

## **Inadequate oversight may contribute to lapses in adherence to cell search policy**

Although officers are ultimately responsible for conducting cell searches, their supervisors and managers share responsibility for monitoring adherence to policy and ensuring that officers are held accountable. All the supervisors and managers we talked with about the cell search policy were well aware of their oversight functions, but we found a lapse in what they thought was happening versus what was actually taking place. For example, one manager guaranteed that his officers were conducting cell searches, but when we went to one of his housing units to confirm the officers' compliance with cell search policy, he found few documents to support his position.

Also, the results of our review of the monthly cell searches disclosed large discrepancies in compliance among housing units. As noted earlier, of the 15 housing units tested during a three-month period, documents showed that staff members conducted the required six cell searches a day only 36 percent of the time. The highest compliance rate for an individual housing unit was just under 75 percent, while the lowest compliance rate was 14 percent. On average, officers did not perform any cell searches on 25 percent of the days we reviewed. When faced with these discrepancies, one lieutenant explained that the discrepancies could result from miscommunication—when the sergeant calls the housing unit to find out which cells officers have searched, the officers tell him the cells they plan to search, but they then search different cells. Conversely, when we talked with a sergeant at the same facility, he said the officers are supposed to report which cells they have searched when the sergeant calls for the information.

Overall, conducting cell searches *and* documenting the searches is vital because supervisors and managers can ensure officers are following proper procedures. Without consistent oversight, SVSP cannot guarantee the effectiveness of its cell searches as demonstrated by the fact that officers did not conduct cell searches on 25 percent of the days reviewed.

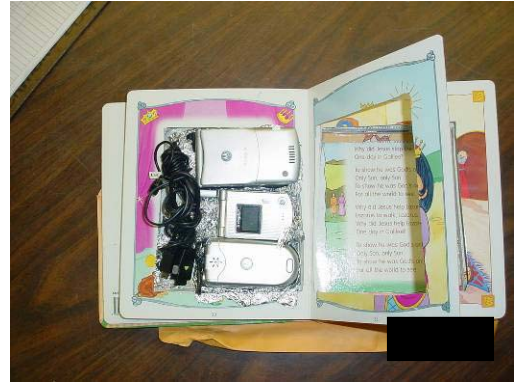
## **Lack of cell searches jeopardizes the safety of employees and inmates and the security of the prison**

The goal of cell searches is to discover contraband and reduce its threat to inmates and prison employees. By not performing the required cell searches or enforcing compliance with cell search policy, officers and their supervisors potentially jeopardize the safety and security of the prison.

The following photographs illustrate recent contraband found at SVSP.



**Contraband found in cell light fixture: cellular phones, money, kites, and weapons**



**Cellular phones found in a religious book**



**Contraband found in a typewriter: cellular phones, weapons, lighters, and tobacco**

Although we recognize that housing unit officers have many responsibilities during the day, they need to make cell searches a priority and find the time to do them. In addition, supervisors and managers need to take an active role in providing accountability over the cell search requirement. Detection of contraband is critical to protecting the safety and security of the prison's staff and helps to reduce or prevent illicit inmate activity.

## **Recommendations**

The Office of the Inspector General recommends that the warden of Salinas Valley State Prison:

- Immediately enforce the department's cell search policy, requiring supervisors and managers to provide appropriate oversight of that function.
- Implement one standardized procedure for documenting cell searches.
- Initiate progressive discipline for non-compliance with the department's cell search policy.



## **Finding 4**

### **Salinas Valley State Prison does not review its use-of-force incident packages on time.**

For the four-month period we reviewed (January through April 2008), SVSP's use-of-force committee did not review any of the 2008 use-of-force incident packages<sup>7</sup> within the required 30 days from the incident date. Further, as of April 29, 2008, the use-of-force committee had only reviewed four of the 136 use-of-force incidents that occurred in 2008—a review rate of only 3 percent.

When the use-of-force committee does not review the use-of-force packages on time, delays could occur in officers' corrective training, thus increasing the possibility that the deficiencies in following use-of-force rules could recur. Also, long delays in review may jeopardize the department's ability to take adverse action against peace officers because such actions must be initiated within one year of the incident.

### **Policy clearly establishes that incidents must be reviewed within 30 days**

SVSP's use-of-force handbook dated August 21, 2000, notes that any use-of-force will be reviewed "by the IHUOF [Institution Head Use of Force] within 30 days from the date the incident occurred." Although the use-of-force coordinator and the warden's administrative assistant/public information officer said the use-of-force handbook is no longer in effect, they were unable to provide us with an alternate policy. Because there was no other handbook to replace the August 2000 version, and lacking any better guidance, we used that version as a standard to assess how SVSP should review use-of-force incidents.

The 30-day timeline established in the August 2000 handbook is further supported by the federal court, which recently approved and adopted the department's statewide use-of-force policy. The new use-of-force statewide policy uses the same 30-day timeline and states:

The Use of Force Coordinator shall normally schedule all logged use of force cases for review within 30 days of their logged occurrence. Any use of force incident or allegation review that is over 31 days old, and has not received an initial review, shall be scheduled for review at the next scheduled IERC [Institutional Executive Review Committee] meeting. Unless there are outstanding issues or a corresponding investigation, this review will be both an initial/final review.

---

<sup>7</sup> A use-of-force incident package consists of the incident report involving use of force and supplemental documents, such as the manager's review, the incident commander's review, the staff's synopsis of the incident, and any reports of injury to staff members and inmates.

## **Huge backlogs, late incident package submittal, and limited staffing contribute to delays in use-of-force committee review**

According to SVSP's use-of-force coordinator, when she started in 2004, the use-of-force staff was still reviewing use-of-force incidents that occurred in 2000. Since then, the use-of-force coordinator has decreased the backlog by working overtime and by redirection of staff members. Now there is only a backlog of a few months instead of years.

A contributing reason to the use-of-force committee's delayed reviews is the late submission of use-of-force incident packages by staff members to the use-of-force coordinator. According to the use-of-force coordinator, staff members are supposed to submit the use-of-force incident packages to her within ten days of the incident occurrence. However, we found that only 15 percent of the use-of-force packages were submitted within ten days (19 of 123 use-of-force incidents). Over 30 percent of the 2008 use-of-force incident packages were not even submitted within 30 days of the incident date, making it impossible to schedule use-of-force cases for review within 30 days, as required by the federal court order.

According to the use-of-force coordinator, a staffing shortage may be another reason for the backlog. She told us that there used to be two full-time use-of-force coordinators (analysts) at SVSP until one position was cut 3½ years ago, leaving only one position. Also, during the OIG's quadrennial audit of the California Institution for Women, we noted that the California Institution for Women had 33 use-of-force incidents from January 1, 2007, to May 13, 2007, while SVSP had 197 use-of-force incidents during the same period. Both institutions have one full-time use-of-force coordinator, yet SVSP has six times the workload of the California Institution for Women.

For comparison, we contacted four other High Security Transitional Housing prisons (Level IV) to learn their staffing levels. We found that two of the prisons had one full-time analyst dedicated to processing use-of-force incident packages, while the other two prisons had two full-time analysts dedicated to processing use-of-force incident packages. According to the department's third quarter 2007 COMPSTAT<sup>8</sup> report, SVSP had the most use-of-force incidents and the highest number of incidents for the High Security Transitional Housing prisons. Although SVSP had the highest number of use-of-force incidents, other prisons with fewer use-of-force incidents have a higher use-of-force staffing level.

---

<sup>8</sup> Short for comparative statistics, COMPSTAT tracks organizational data to determine increases or decreases in performance in the areas of safety, security, programs, finance, and operations.

## **Late submissions and reviews can lead to legal and safety concerns**

The use-of-force committee may recommend job training to prevent recurrence of a staff member's improper use of force. However, any delay increases the possibility of that staff member's repeated improper use of force, which could endanger other staff members or inmates, as well as increase the potential for litigation. Also, if the use-of-force committee reviews the incident packages promptly, the committee members can quickly identify any recurring problems that need to be addressed throughout the prison.

In addition, delayed review of use-of-force packages may erode the one-year time limit that the department has to review the use-of-force committee findings, investigate possible excessive use of force, and initiate adverse action against peace officers. Any delay in the investigation of an incident can also lead to the degradation of evidence and the inability of staff members to recall the details of the incident.

## **Recommendations**

The Office of the Inspector General recommends that the warden of Salinas Valley State Prison:

- Immediately implement and monitor compliance with a use-of-force policy that aligns with the department's statewide policy ordered by the federal court to review all use-of-force incident packages within 30 days of the incident date.
- Require timely submission of use-of-force incident packages by staff members to the use-of-force coordinator.

The Office of the Inspector General also recommends that the secretary of the California Department of Corrections and Rehabilitation perform an analysis of the use-of-force staffing levels at its adult prisons, including SVSP, to determine whether appropriate use-of-force staffing levels exist to ensure that each prison processes its use-of-force packages within 30 days, considering the annual number of use-of-force incidents at each prison.

## **Finding 5**

### **Salinas Valley State Prison does not ensure that peace officers permanently assigned to armed posts remain current in quarterly weapons qualifications.**

Despite a department requirement that only peace officers who have completed quarterly firearms training and are currently qualified be assigned to armed posts, we found 15 peace officers assigned to armed posts as of March 28, 2008, who had not maintained current qualifications. The 15 officers, or 23 percent of the 65 officers we reviewed, were assigned to such armed posts as yard gun towers and housing unit control booths.<sup>9</sup> We also found that the training staff was not tracking peace officers' compliance with the quarterly requirement, which prevents verification of officers' compliance.

### **California law and the department's Operations Manual clearly require quarterly weapons qualifications for peace officers assigned to armed posts**

California Penal Code section 830.5(d) stipulates that peace officers "permitted to carry firearms...shall qualify with the firearm at least quarterly." Similarly, California Code of Regulations, Title 15, section 3276(a) states that "only peace officers...who are currently qualified in the firing of departmental firearms shall be assigned to armed posts or otherwise be authorized to possess, carry, or use a departmental firearm." The regulations further state that exceptions are only authorized in extreme emergencies.

Department Operations Manual section 32010.19.5 states that the "facility training manager shall review the minimum firearm qualification/requalification requirements of all personnel covered by this section on a quarterly basis" and "[f]irst-line supervisors shall work with the training manager to ensure that their subordinates meet these minimum qualification/requalification requirements." Department Operations Manual section 32010.19.7 also requires that "[a]ll departmental peace officers who are issued a departmental weapon...shall complete a proficiency course on a quarterly basis prior to assuming the post."

Finally, department Operations Manual section 32010.19.10 adds that peace officers designated to requalify at least annually "shall notify the supervisor at the time of assignment to an armed position if the requalification or quarterly proficiency requirement has not been met within the preceding 90 days."

---

<sup>9</sup> In these posts, officers are issued a firearm as part of their assignment.

## **Some officers were several months out of compliance with quarterly weapons qualifications**

We reviewed the qualification status of 65 of the 298 peace officers assigned to armed posts during the week of March 24–28, 2008. We found that 15 of the 65, or 23 percent, were not current in their quarterly requirement for firearms proficiency. Ten of the 15 peace officers were assigned to relief positions (meaning they could be assigned to any vacant armed post), three officers were assigned to control towers, and the remaining two officers were assigned to yard gun towers. All 15 officers were permanently assigned to armed posts and required to qualify quarterly as of March 28, 2008.

We also found that ten of the peace officers were one to three months behind in their requalification dates, one was four months behind, one was seven months behind, and three officers were eight months behind. We identified these exceptions by comparing data on the selected officers from SVSP's custody staff roster, personnel assignment histories, and corresponding training records as of March 28, 2008.

## **SVSP did not have a system to track peace officers' compliance with quarterly qualifications**

The lack of a formal method to track peace officers' quarterly compliance led SVSP to place into armed posts officers who had not demonstrated weapons proficiency. According to the training manager, the training office does not centrally track officers' compliance because it does not have post assignment information readily available, and peace officers change post assignments too often to compile a comprehensive list. Consequently, the training manager told us it is the responsibility of the individual officer and his or her supervisor to stay current in quarterly qualifications. As our review results show, some officers and their supervisors were not fulfilling the department's requirements. Further, the training staff failed to meet the department requirement to monitor completion of quarterly qualifications.

According to the training manager, following our inquiries and identification of problems in this area, the in-service training employees reviewed their processes and determined that they needed a method to identify and track peace officers required to maintain quarterly qualifications. As a result of their review, the manager told us the in-service training unit activated a tracking system and can now identify noncompliant peace officers. The training manager also told us his unit now notifies officers if they are due for quarterly qualifications, and he notifies the watch commander if an officer is noncompliant and excluded from working in an armed post. In addition, the training manager told us that noncompliant officers will be redirected into an unarmed post until qualified. Finally, Warden Evans issued a memorandum to all officers on May 12, 2008,

outlining weapons qualification requirements and emphasizing his expectation that all officers fully comply with the requirements.

We did not confirm that these changes will adequately track and ensure officers' compliance with quarterly weapons qualifications. However, we will evaluate the implementation of these changes during our routine follow-up procedures in next year's accountability audit to determine whether peace officers are complying.

## **Noncompliance with weapons qualifications could jeopardize safety and security at SVSP**

Regularly qualifying with a firearm helps to keep an officer's weapons skills fresh in case they are ever needed. The absence of current qualifications in weapons proficiency could place SVSP employees and inmates in danger and put the surrounding community at risk. Moreover, SVSP and the department could be exposed to litigation if an incident occurs involving the inappropriate or incorrect firing of a weapon by an officer not current in quarterly qualifications. Therefore, it is imperative that peace officers assigned to armed posts demonstrate their weapons proficiency at the required intervals.

## **Recommendations**

The Office of the Inspector General recommends that the warden of Salinas Valley State Prison:

- Ensure that all correctional peace officers permanently assigned to armed posts and issued a department firearm as part of their assignment remain current in quarterly weapons qualification.
- Continue to develop and implement a tracking system to identify peace officers who are not currently qualified.
- Continue to notify the watch commander and supervisors of noncompliant peace officers.
- Ensure that noncompliant peace officers are not assigned to armed posts until compliant with the qualification requirements.

## **Finding 6**

### **The California Department of Corrections and Rehabilitation risks the safety and security of its prisons and the public by not requiring quarterly weapons training for peace officers temporarily assigned to armed posts.**

A department practice exempts some peace officers from quarterly weapons proficiency requirements even though other peace officers performing the same duties are required to demonstrate quarterly weapons proficiency. This difference in application of policy for armed peace officers is inconsistent with requirements published in laws, regulations, and the department Operations Manual. As a result of implementing the policy outlined in a November 2004 departmentwide memorandum, we found that there were 26 occasions out of the 117 reviewed where armed posts at SVSP were staffed by peace officers who were granted this exemption. Allowing some officers to work armed posts without completing required quarterly weapons qualifications could jeopardize the safety and security of prison employees and inmates, as well as the public.

### **California law and the department's Operations Manual clearly require quarterly weapons qualifications for peace officers staffing armed posts**

California Penal Code section 830.5(d) states that peace officers “permitted to carry firearms... shall qualify with the firearm at least quarterly.” California Code of Regulations, Title 15, section 3276(a) states that “only peace officers who have satisfactorily completed firearms training and who are currently qualified in the firing of departmental firearms shall be assigned to armed posts *or otherwise be authorized to possess, carry or use a departmental firearm.*” The regulations state that exceptions are only authorized in extreme emergencies. Finally, department Operations Manual section 32010.19.7 adds that “[a]ll departmental peace officers who are issued a departmental weapon as part of their regular or special assignment such as armed posts... shall complete a proficiency course on a quarterly basis prior to assuming the post.”

### **Peace officers temporarily assuming armed posts are allowed to follow different rules**

The department allows peace officers to swap—or trade—work assignments, or serve overtime, without regard to the qualifications of the officer staffing an armed post. The deputy director of the department's Institutions Division (now called the Division of Adult Institutions) issued a November 4, 2004, memorandum to all regional administrators and wardens describing the department's expectations regarding quarterly firearms qualifications. The

memorandum states that officers who work an armed position because of a swap or overtime are not doing so as part of their regular assignment. Therefore, these officers will not be required to be quarterly qualified before working an armed post. The effect of this exemption is that peace officers temporarily working in armed posts have less frequent (annually versus quarterly) weapons qualification requirements. In our April 2008 accountability audit,<sup>10</sup> we took exception to the practice of allowing officers not qualified quarterly to temporarily assume armed posts. However, in our accountability audit we did not quantify the number of times an armed post was temporarily staffed by a non-qualified officer. Therefore, we evaluated data at SVSP.

### **Many armed posts at SVSP were temporarily filled by peace officers who had not qualified quarterly**

Because SVSP implemented qualification requirements consistent with the department's 2004 memorandum, we found numerous occasions where armed posts were staffed by temporarily assigned peace officers on the dates we reviewed (the week of March 24–28, 2008). These temporarily assigned officers were not required to complete quarterly qualification training compared to permanently assigned officers. We found 26 instances<sup>11</sup> out of 117 reviewed (22 percent) where armed posts at SVSP were temporarily filled by peace officers who had not completed a quarterly qualification course. Armed posts were staffed 26 times by officers whose qualifications on average occurred more than seven months before the March 2008 dates we reviewed. On six occasions (23 percent), armed posts were staffed by officers who had not completed qualifications for almost 12 months. (These officers were due for annual qualifications the month following our review.) Officers who had not completed qualifications for more than six months filled armed posts an additional nine times (35 percent). We identified these exceptions by comparing data on the selected armed posts from SVSP's custody staff roster, officer daily activity report, and corresponding training records as of March 28, 2008.

### **The department's interpretation of regulations and policy jeopardizes the safety and security of its prisons and the public**

When a peace officer who has not qualified regularly or has otherwise failed to recently demonstrate weapons proficiency fills an armed post, even temporarily,

---

<sup>10</sup> *Accountability Audit: Review of Audits of the California Department of Corrections and Rehabilitation, 2000-2006* (April 2008) may be found on the OIG's Web site:

[http://www.oig.ca.gov/reports/pdf/2008\\_Accountability\\_Audit\\_WEB\\_FINAL.pdf](http://www.oig.ca.gov/reports/pdf/2008_Accountability_Audit_WEB_FINAL.pdf)

<sup>11</sup> We found an additional 13 instances out of 117 where armed posts were staffed by officers who had completed an annual qualification course within the most current qualifying period, but not a quarterly course.



prison employees, inmates, and the surrounding community are at risk. For example, tower officers and control booth officers periodically use lethal and less-lethal weapons to control inmate riots or disturbances. Also, a recent incident in which an inmate from a northern California prison escaped from his assigned bed at an outside hospital illustrates this risk. The inmate escaped through a fire exit door, and a department officer drew his state-issued weapon and ordered the inmate to stop. The inmate refused to comply and ran into the hospital's parking lot. Officers captured the inmate without firing a weapon; however, the situation could have ended with the officer firing his weapon in a public area. In such situations, shooting accuracy is critical to protect innocent bystanders.

In summary, the department's current practice produces conflicting qualification levels for each peace officer issued a weapon while on duty, depending on whether the officer is permanently or temporarily assigned to an armed post. This inconsistency appears to violate the intent of the California Penal Code and state regulations and could expose the department to litigation following an incident that involves an unqualified officer firing—or failing to fire—a weapon.

### **An opportunity exists for the department to mitigate qualification training costs**

In its response to our April 2008 accountability audit, the department identified a deterrent to implementing our recommendation that every officer assigned to an armed post complete quarterly qualifications. The department “estimated the annual cost of overtime and ammunition to quarterly qualify all relevant staff would be in excess of \$13,245,447.” However, the department may be able to mitigate these costs by filling temporary staffing needs for armed posts with peace officers who recently completed an annual firearms qualification course. For example, in this review we found several officers staffing an armed post who had recently completed an annual firearms qualification session and therefore were qualified to fill an armed post for the following three-month period. Specifically, we identified 13 instances out of 117 (11 percent) where a recent annually qualified peace officer temporarily staffed an armed post. However, officers who staffed these posts will only be current for one quarterly period. For the remaining three quarters of the year, these officers will not be proficient and should not temporarily staff an armed post. The department can avoid the cost of providing additional quarterly firearms training to its peace officers by filling temporary staffing needs for armed posts with those officers who have completed their annual firearms training within the preceding three months.

## **Recommendations**

The Office of the Inspector General recommends that the secretary of the California Department of Corrections and Rehabilitation:

- Ensure that (except in extreme emergencies) all peace officers assigned to armed posts, either permanently or temporarily, meet the quarterly qualification requirements as specified in the California Penal Code, the California Code of Regulations, and the California Department of Corrections and Rehabilitation's Operations Manual.
- Rescind the November 4, 2004, memorandum allowing peace officers who are not qualified quarterly to assume armed posts that require quarterly qualifications.

# **California Department of Corrections and Rehabilitation's Response**

**OFFICE OF THE SECRETARY**

P.O. Box 942883  
Sacramento, CA 94283-0001



October 9, 2008

Mr. David R. Shaw  
Inspector General  
Office of the Inspector General  
P.O. Box 348780  
Sacramento, CA 95834-8780

Dear Mr. Shaw:

We were pleased to meet with representatives from the Office of the Inspector General (OIG) on Wednesday, September 24, 2008, to preview and discuss a preliminary draft of your Quadrennial and Warden Audit at Salinas Valley State Prison (SVSP). We appreciate the time your staff set aside for the Department's consideration of the draft. Your acknowledgement of Warden Evans as a knowledgeable and effective leader is recognized, and we concur with this assessment. Warden Michael S. Evans has been praised for his leadership and administrative skills in managing one of the more complex and difficult institutions in the system.

During the meeting, both the OIG and the California Department of Corrections and Rehabilitation (CDCR) identified several areas where operational improvement is needed. The mission of the OIG to identify deficiencies is of great value to us, and while we do not dispute the facts contained within the report, it is unfortunate your report cannot portray the unpredictable prison setting, the disruptions that affect day-to-day operations, and the decisions to maintain a safe and secure balance which can have a negative effect on institutional programs. However, your identification of deficiencies assists CDCR and its facilities in the refinement of processes and furthers compliance with applicable laws, rules, and regulations. SVSP has either corrected or implemented steps to remediate the discrepancies noted in your report.

Your report states that SVSP does not appropriately place inmates in work and education assignments, resulting in ill-prepared parolees and prolonged periods of costly incarceration. Notwithstanding the information technology (IT) challenges addressed in your report, steps have been taken to ensure compliance with the California Penal Code, the California Code of Regulations, and the CDCR Department Operations Manual (DOM) in placing inmates into education and work assignments. SVSP is currently in compliance with all applicable legal and policy directives. The IT component is being addressed by the development of the Strategic Offender Management System, a comprehensive computer program designed to integrate departmental records functions statewide that is scheduled for implementation in 2011.

An additional concern is that only a small percentage of inmates are assigned to academic education classes, and those classes are often canceled because of security concerns and

other disruptions. We realize it is important to ensure available education programming meets the needs of the population and acknowledge there are a significant number of inmates on educational waiting lists. However, SVSP currently has inmates in all authorized education positions, and the assignments are consistent with legal and policy directives for credit earning. Recognizing education training is a viable component of recidivism reduction and successful social re-integration, CDCR is working to expand educational opportunities for all SVSP inmates. Higher functioning inmates (those with reading levels above 9.0 but who do not have a GED) may participate in Independent Study programs that do not utilize traditional classroom space or assignments. In addition, many inmates may still meet mandates by having access to volunteer literacy programs. Literacy programs often occur in institutional spaces such as the library, dining halls, and dayrooms. Custodial lockdowns and modified programs impact programming the most and new processes for maintaining programming during these times are being evaluated. Steps have been taken to ensure any program closures driven by custodial needs are consistent with current regulations and are monitored by management staff. Closures due to educator vacancies and absences have been addressed by aggressive hiring and education management oversight.

You raised a concern that not all required cell searches are being performed, potentially jeopardizing the safety of staff and inmates. A few factors cited for not performing cell searches include lockdowns, modified programming, mass cell searches, inconsistent methods to document cell searches, and inadequate oversight in adherence to policy. SVSP has reviewed the local directives and tracking methodology to refine the process and ensure consistent application with supervisor monitoring and management oversight. Staff will be trained on the policy and expectations, and will be held accountable for deficient performance. Policy decisions relative to potential exemptions from the DOM mandate will be considered at the CDCR level.

Your report also recognized that SVSP does not review its use-of-force incident packages on time. While SVSP has made consistent and substantial progress in reducing the total number of delinquent use-of-force reviews over the past four years, we agree with you that further improvement is needed in this area. We will continue to work with the Bureau of Independent Review to reduce the backlog of cases and gain compliance with current and future time frame mandates.

An additional deficiency identified was that SVSP did not ensure peace officers permanently assigned to armed posts remain current in their quarterly weapons qualifications. We agree the lack of a formal method to track quarterly compliance led to the placement of officers into armed posts who had not demonstrated appropriate weapons proficiency. To mitigate this issue, SVSP has developed a tracking system to monitor compliance requirements and all staff permanently assigned to armed posts are compliant with current departmental policy.

Mr. David R. Shaw

Page 3

We would like to thank the OIG for allowing us the opportunity to provide comment on the deficiencies identified in your preliminary report, and appreciate your continued professionalism and guidance in CDCR's efforts to improve its operations. All deficiencies identified will be addressed in a corrective action plan submitted to CDCR's Office of Audits and Compliance for follow-up and monitoring. If you should have any questions or concerns, please call my office at (916) 323-6001.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Kernan', with a large, sweeping flourish extending to the right.

SCOTT KERNAN  
Undersecretary (A),  
Operations and Administration

cc: Michael S. Evans, Warden, Salinas Valley State Prison