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# OIG | OFFICE *of the* INSPECTOR GENERAL

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Independent Prison Oversight

March 2025

Monitoring Internal Investigations and  
the Employee Disciplinary Process  
of the California Department  
of Corrections and  
Rehabilitation

*Semiannual Report  
July–December 2024*



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March 26, 2025

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

Dear Governor and Legislative Leaders:

Enclosed find the Office of the Inspector General's report titled *Monitoring Internal Investigations and the Employee Disciplinary Process of the California Department of Corrections and Rehabilitation*. This 40th semiannual report, which is pursuant to California Penal Code section 6126 (a) et seq., summarizes the department's performance in conducting internal investigations and handling employee discipline cases that we monitored and closed from July 1, 2024, through December 31, 2024.

We assessed the overall performance of the three entities within the department responsible for conducting internal investigations and managing the employee disciplinary process: hiring authorities (such as prison wardens), the Office of Internal Affairs, and department attorneys. We used three performance indicators, one for each entity, to determine the department's overall performance rating. The OIG's assessment is based on the department's adherence to laws, its own policies, and the OIG's opinion of what constituted sound investigative practice and appropriate disciplinary processes and outcomes.

We rated each entity *sufficient*, *sufficient with recommendations*, or *insufficient*. Of the 212 cases we monitored and closed, we rated the department's overall performance *sufficient* in 44 cases, *sufficient with recommendations* in 92 cases, and *insufficient* in 76 cases.

We rated hiring authorities' performance *sufficient* in 83 cases, *sufficient with recommendations* in 75 cases, and *insufficient* in 54 cases. We found that hiring authorities usually referred misconduct allegations to the Office of Internal Affairs timely, but they could improve in this area. We also found that hiring authorities too often delayed making investigative and disciplinary findings and made unreasonable decisions in too many cases.

We rated the Office of Internal Affairs' performance in investigating deadly force incidents during the reporting period *sufficient* in 10 cases, *sufficient with recommendations* in three cases, and *insufficient* in one case. In criminal cases not involving deadly force, we found the Office of Internal Affairs' performance to be either *insufficient* or *sufficient with recommendations* in



15 out of 30 cases during this reporting period. Among the 168 administrative investigations of staff misconduct that did not involve deadly force we found that the Office of Internal Affairs performed sufficiently in most cases. We assigned an *insufficient* rating in only 14 of 168 cases, or 8 percent. The Office of Internal Affairs earned a *sufficient* rating in 94 cases and a rating of sufficient with recommendations in 60 cases.

During this reporting period, we assigned the Employment Advocacy and Prosecution Team a *sufficient* rating in 124 cases, a *sufficient with recommendations* rating in 52 cases, and an *insufficient* rating in 36 cases. We found 30 instances in which department attorneys had failed to handle the disciplinary process without undue delay. Department attorneys made poor recommendations to hiring authorities during investigative and disciplinary findings conferences in 19 cases. We monitored 11 cases that had been submitted to the State Personnel Board for a decision after a full evidentiary hearing. However, of those 11 cases, the State Personnel Board either modified the penalty or did not uphold all allegations in six cases.

During this reporting period, administrative misconduct was alleged in 174 cases, including cases in which a full investigation was conducted, the subject of the investigation was interviewed, and the department determined there was enough evidence to take direct action without an investigation. The remaining 38 cases involved alleged criminal misconduct.

We encourage feedback from our readers and strive to publish reports that not only meet our statutory mandates but also offer concerned parties a tool for improvement. For more information about the Office of the Inspector General, including all our published reports, please visit our website at [www.oig.ca.gov](http://www.oig.ca.gov).

Sincerely,



Amarik K. Singh  
Inspector General

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LADY JUSTICE

## The Inspector General

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

*(California Penal Code section 6126(a))*

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

*(California Penal Code section 6133(a))*

The **Office of the Inspector General** shall also issue regular reports, no less than semiannually, summarizing its oversight of Office of Internal Affairs investigations pursuant to subdivision (a).

*(California Penal Code section 6133(b)(1))*

— State of California  
Excerpted from Penal Code sections



## Discipline Monitoring

California Penal Code sections 6126 and 6133 mandate that the Office of the Inspector General (the OIG) provide oversight to the California Department of Corrections and Rehabilitation (the department). Our office monitors internal affairs investigations, both criminal and administrative, as well as the disciplinary process conducted by the department. OIG attorneys are responsible for monitoring these processes. The OIG is staffed by attorneys who hold the classifications of Special Assistant Inspector General (SAIG) or of Senior Assistant Inspector General (SrAIG). SAIGs have a minimum of eight years of experience practicing law, and these attorneys come from diverse legal backgrounds including but not limited to criminal prosecution and defense, administrative law, prosecution and defense of peace officer disciplinary actions, and civil litigation in State and federal courts. OIG attorneys have a wealth of experience and can provide valuable, real-time feedback and recommendations to the department about its investigative and disciplinary processes.

### The Discipline Monitoring Report

California Penal Code section 6133 (a) requires that our office advise the public about the adequacy of the department's internal affairs investigations we monitor and whether discipline in those cases was warranted. The mandate requires that we issue regular reports, no less than semiannually, summarizing our oversight of the department's Office of Internal Affairs' investigations. We satisfy these statutory requirements by publishing our discipline monitoring reports twice a year. Per our mandate, we report on the following:

1. A synopsis of each matter we review
2. An assessment of the quality of the investigation
3. The appropriateness of the disciplinary charges
4. Our recommendations regarding the disposition and level of discipline in each case and the extent to which the department agreed with us
5. A report of any settlement in a case and whether we agreed
6. The extent to which discipline was modified after it was imposed

Each month, we publish our findings on our website as they pertain to individual cases. These findings and assessments can be found at [www.oig.ca.gov](http://www.oig.ca.gov) by accessing the Data Explorer tab, followed by Case Summaries.

## The Department's Investigative and Disciplinary Process

The department's investigative process begins when the department discovers allegations of misconduct.

If the hiring authority discovers an allegation of misconduct and determines there is a reasonable belief that misconduct occurred, he or she must refer the allegations to the Office of Internal Affairs' Central Intake Panel for review. The Central Intake Panel includes representatives of the Office of Internal Affairs, a department attorney from the department's Employment Advocacy and Prosecution Team (EAPT), and an attorney from the OIG. The Office of Internal Affairs processes the allegations and determines whether to open an investigation. If the Office of Internal Affairs does not open an investigation, it returns the case to the hiring authority either to reject it because no misconduct was found or to take direct action in the form of discipline or corrective action.

If the Office of Internal Affairs approves an investigation, the case is referred to a regional office, where it is assigned to a special agent who conducts interviews and gathers evidence. The special agent consults with an OIG attorney on cases that the OIG monitors and consults with a department attorney on cases EAPT designates for assignment. The special agent completes a report when the investigation concludes and forwards it to the hiring authority for review. The hiring authority meets with both the OIG attorney and the department attorney to discuss the disciplinary findings. The hiring authority makes a finding of **sustained**, **not sustained**, **exonerated**, **no finding**, or **unfounded** for each allegation.

When the hiring authority sustains at least one allegation, he or she determines the appropriate discipline by referring to guidelines listed in the department's disciplinary matrix. The department attorney drafts a disciplinary action, and the department serves the disciplinary action on the employee who committed misconduct. The employee can then request a predeprivation hearing, otherwise known as a Skelly hearing, which provides the employee with the opportunity to present facts or arguments in favor of reducing or revoking discipline. After the disciplinary action takes effect, the employee can file an appeal with the State Personnel Board, through which an evidentiary hearing is later conducted. At the hearing, the department has the burden of proving the allegations in the disciplinary action by a preponderance of evidence.

## Assessing Departmental Stakeholders

The OIG uses three performance indicators, to assess the department's performance in investigating and disciplining employees for misconduct.

The OIG continues to use standardized assessment questions to assess the three departmental stakeholders. We summarize our findings for each stakeholder holistically. The three indicators we use are listed below:

**Indicator 1:** Hiring Authority

**Indicator 2:** Office of Internal Affairs

**Indicator 3:** Employment Advocacy and Prosecution Team

The OIG assigns each stakeholder a rating of *sufficient*, *sufficient with recommendations*, or *insufficient* to each applicable indicator, and an overall rating to each case.

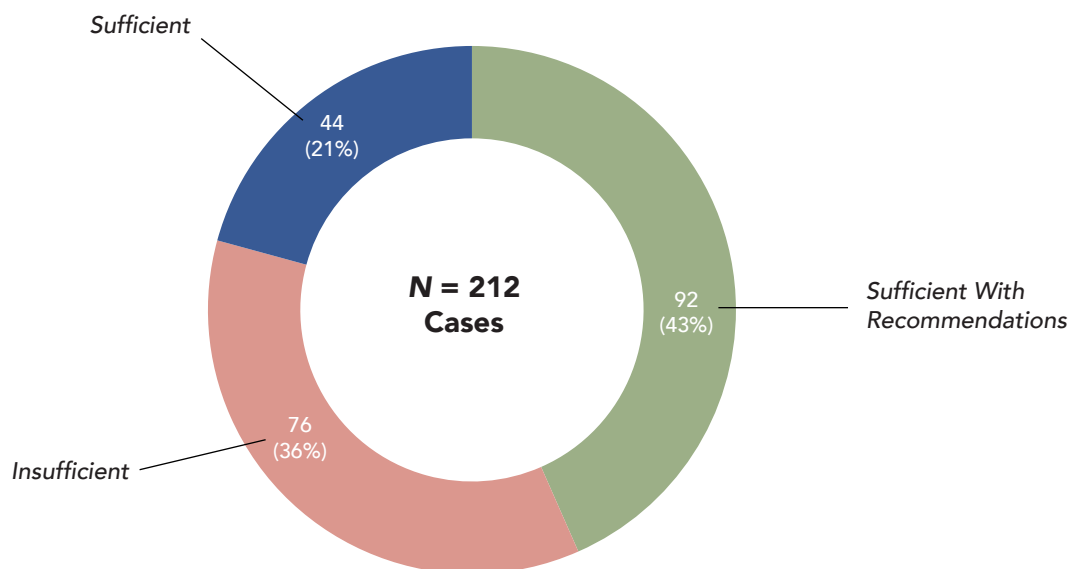
In general, a *sufficient* rating means that the OIG did not identify any significant deficiencies. A *sufficient with recommendations* rating means the OIG found significant deficiencies, but the deficiencies did not appear to cause a negative outcome for the department or for the cases. An *insufficient* rating means the OIG found significant deficiencies that caused a negative outcome for either the department or the cases.

Examples of a negative outcome might be that the department allowed the deadline to take disciplinary action to expire before disciplinary action could be taken; failed to dismiss an employee who should have been dismissed; or delayed an investigation or service of a disciplinary action, thereby causing an employee who had committed serious misconduct to either spend an excessive amount of time on administrative time off or be redirected from a post within the secure perimeter of a prison to the mail room. The OIG determines an overall rating for each case we monitor after considering the ratings for each indicator.

The overall rating of a case is equal to the worst performance indicator. For example, if any of the three performance indicators is rated *insufficient*, we rate the entire case *insufficient*. Likewise, if the lowest rated performance indicator is *sufficient with recommendations*, we rate the entire case *sufficient with recommendations*.

In this reporting period we monitored and closed 212 cases. Of these, 174 involved administrative allegations, and 38 involved criminal allegations. We rated 21 percent of the cases (44 cases) *sufficient*, 43 percent (92 cases) *sufficient with recommendations*, and 36 percent (76 cases) *insufficient*. This means most cases—about two out of three—were not *insufficient*. On the other hand, it also means that we identified significant deficiencies in almost four out of five cases, or 79 percent. See Figure 1 below.

**Figure 1. Ratings for Cases the OIG Monitored During the Period From July Through December 2024**



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

## The Hiring Authority

Hiring authorities are individuals within the department who are authorized to hire, dismiss, and discipline employees. Wardens are the hiring authorities in most cases we monitor. Hiring authorities are responsible for timely referring discovered allegations to the Office of Internal Affairs when they have a reasonable belief misconduct occurred. Hiring authorities are also responsible for reviewing the investigation and evidence gathered by the Office of Internal Affairs, making findings regarding the allegations of misconduct, determining the appropriate level of discipline, and deciding whether to enter into a settlement with the disciplined employee. The OIG assesses the performance of hiring authorities throughout this process.

### Hiring Authorities Referred Allegations to the Office of Internal Affairs in a Timely Manner in Most Cases, but Demonstrated Room for Improvement

Whenever hiring authorities reasonably believe employee misconduct occurred, they are responsible for conducting a preliminary inquiry into the matter and timely requesting an investigation or approval for direct action from the Office of Internal Affairs' Central Intake Unit. The Central Intake Unit determines whether to assign the case to an investigator, return it to the hiring authority without any investigation, or reject the case entirely.

The hiring authority is required to review each case and conduct initial inquiries to ensure that enough information exists to determine whether there is reasonable belief the alleged misconduct occurred. *Staff misconduct* is behavior that results in a violation of law, regulation, policy, or procedure, or actions contrary to an ethical or professional standard. *Reasonable belief* is established when known facts and circumstances make a reasonable person of average caution believe staff misconduct occurred.

The OIG monitors both the thoroughness of a hiring authority's inquiry of alleged misconduct and the timeliness of referrals sent to the Office of Internal Affairs. Departmental policy requires that hiring authorities refer suspected misconduct to the Office of Internal Affairs within 45 days of discovering the alleged misconduct. Delayed referrals can have serious consequences because 1) they can result in lost evidence and faded witness memory and, 2) the department might be legally barred from imposing discipline. Expedient referrals help ensure that statements are taken from witnesses before they forget, evidence is secured before it is lost, and the department is more likely to discipline staff before the legal deadline to impose discipline has passed.

The OIG provides interactive features in this report. Click on the small blue boxes labeled with the **OIG Case No.**, and you can access the complete case summary text on our website. The first occurrence is seen on this page, *right*.

We found that from July through December 2024, hiring authorities failed to conduct an inquiry into alleged misconduct and refer matters to the Office of Internal Affairs without undue delay in 25 percent of cases (54 cases). This is an improvement from the last reporting period when we found hiring authorities timely referred allegations in 31 percent of cases. However, hiring authorities delayed referring allegations in about one of four cases. Of the 54 cases in which we rated the hiring authority *insufficient*, 20—nearly half—involved untimely referrals of allegations. Below are three examples demonstrating the problem.

#### OIG Case No. 23-0053247-DM

From May 1, 2019, through July 31, 2021, a maintenance mechanic sent an office technician discourteous text messages, used his departmental email address to send her nonwork-related messages, followed her as she drove to the prison, stalked her in the prison’s parking lot, and left 12 unwanted voice messages on her personal mobile phone, including a message threatening to expose details of her sex life and damage her reputation. From July 14, 2021, through July 26, 2022, the maintenance mechanic stalked the office technician at a public beach in violation of a court-issued protection order and mailed an unwanted letter to her attempting to rekindle their previous romantic relationship. On February 1, 2023, the maintenance mechanic stalked and harassed the office technician as she drove to the prison.

The hiring authority sustained the allegations and imposed a 75-working-day suspension. The OIG concurred. The maintenance mechanic filed an appeal with the State Personnel Board. At a prehearing settlement conference, the hiring authority entered into a settlement agreement with the maintenance mechanic reducing the penalty to a 64-working-day suspension based on his remorse, acceptance of responsibility, and potential evidentiary issues if the matter proceeded to an evidentiary hearing. The OIG concurred with the settlement.

We rated the hiring authority’s performance *insufficient*. The hiring authority referred the matter to the Office of Internal Affairs more than 19 months after policy required. The department learned of the alleged misconduct on June 16, 2021, but the hiring authority did not refer the matter to the Office of Internal Affairs until March 10, 2023. At the time of the hiring authority’s referral, there was a reasonable belief a warden, a chief deputy warden, and a lieutenant failed to intervene when the maintenance mechanic continually harassed the office technician. Because of the hiring authority’s delay in referring the matter, the deadline to impose discipline on these individuals had already expired.

**OIG Case No. 23-0065124-DM**

On January 20, 2023, two officers allegedly grabbed and forced an incarcerated person's arms through a cell door food port. One of the officers closed the cover of the food port on the incarcerated person's arms. The incarcerated person suffered injuries to her arms and hands. The hiring authority found insufficient evidence to sustain the allegations but provided training to the officers. The OIG concurred.

We rated the hiring authority's performance insufficient because the hiring authority delayed referring the matter to the Office of Internal Affairs for investigation until 250 days after discovery of the potential misconduct and 205 days after policy required. Furthermore, the hiring authority delayed holding the investigative and disciplinary findings conference 77 days after policy required, which resulted in the deadline to take disciplinary action expiring. Therefore, the hiring authority was legally precluded from imposing discipline.

**OIG Case No. 22-0044427-CM**

In a final example, the hiring authority significantly delayed referring serious criminal allegations. On November 15, 2021, an officer allegedly allowed an incarcerated person to assault a second incarcerated person. Between November 15, 2021, and July 13, 2022, the officer conspired with incarcerated persons to introduce mobile phones, tobacco, and marijuana wax into the prison for financial gain.

The Office of Internal Affairs conducted an investigation, which found sufficient evidence for a probable cause referral to the district attorney. The district attorney filed criminal charges. The OIG concurred with the probable cause determination. The Office of Internal Affairs also opened an administrative investigation, which the OIG accepted for monitoring.

We rated the hiring authority's performance insufficient because the hiring authority unduly delayed referring the matter to the Office of Internal Affairs. The department learned of the alleged misconduct on November 16, 2021, but the hiring authority did not refer the matter to the Office of Internal Affairs until August 16, 2022, 273 days thereafter and 228 days after policy required.

## Hiring Authorities Too Often Delayed Making Investigative and Disciplinary Findings and Made Unreasonable Decisions in Too Many Cases

After the Office of Internal Affairs completes an administrative investigation or returns a case to the hiring authority to address the misconduct allegation or allegations without an investigation or interview of the employee, the hiring authority must make findings concerning the allegations, identify the appropriate penalty, and serve the disciplinary action if discipline was ordered.

Before holding the investigative and disciplinary findings conference, a hiring authority is required to review available evidence regarding the misconduct allegations.<sup>1</sup> At the conference, the hiring authority consults with the department attorney, if one is assigned, and the OIG attorney. The hiring authority then determines whether there is enough evidence to make decisions regarding the allegations, and if the Office of Internal Affairs submitted a report, whether the report is sufficient or if additional investigation is necessary. If the hiring authority determines there is sufficient evidence or the investigative report is sufficient, the hiring authority makes findings regarding the allegations. If the hiring authority sustains any allegation, the hiring authority determines whether to impose corrective action or discipline and, if so, the specific action to be taken.

Hiring authorities' overall performance was either *sufficient* or *sufficient with recommendations* in 158 of 212 cases, which is 74 percent of cases. This was worse than the last reporting period, in which we rated hiring authorities' overall performance either *sufficient* or *sufficient with recommendations* in 79 percent of cases. However, in 54 cases rated *insufficient*, 12 involved cases in which we disagreed with the hiring authorities' decisions regarding the allegations and penalties, 16 involved penalty modifications or settlements we disagreed with, and 42 involved delays in handling the investigative and disciplinary process. As explained below, there remains significant room for improvement.

### Hiring Authorities Often Delayed Investigative and Disciplinary Findings Conferences

Departmental policy requires that the hiring authority conduct the investigative and disciplinary findings conference no more than 14 calendar days after receipt of the final investigative report.<sup>2</sup> If the hiring authority sustained any allegations, the hiring authority also

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1. Department Operations Manual, Section 33030.5.2 (hereafter: DOM), defines the hiring authority's disciplinary responsibility.

2. Cited in the department's operations manual, Section 33030.13.



determined whether to impose discipline and, if so, determined the type of discipline to impose.<sup>3</sup>

In this reporting period, hiring authorities failed to handle the investigative and disciplinary process without undue delay in 106 of 174 administrative cases, which is 61 percent of administrative cases. As usual, one of the most common types of delays we observed was that hiring authorities delayed conducting the investigative and disciplinary findings conference. The following are examples of cases in which the department delayed holding these conferences.

#### OIG Case No. 22-0044891-DM

On January 4, 2022, a sergeant allegedly deactivated his body-worn camera during encounters with incarcerated people and officers. The hiring authority sustained the allegation and provided training to the sergeant. The OIG did not concur that training was a sufficient penalty but did not seek a higher level of review because the department was barred from taking disciplinary action after allowing the deadline to impose discipline to expire.

We rated the hiring authority's performance *insufficient*. The hiring authority significantly delayed conducting the investigative and disciplinary findings conference. The Office of Internal Affairs returned the matter to the hiring authority to consider disciplinary action without an investigation on October 19, 2022. However, the hiring authority did not conduct the investigative and disciplinary findings conference until May 3, 2024, 562 days thereafter, 548 days after policy required, and 267 days after the deadline to impose discipline had expired. The OIG made five requests of the employee relations officer to schedule the investigative and disciplinary findings conference before the deadline to impose discipline expired, and the employee relations officer did not respond to any of the requests.

#### OIG Case No. 23-0068038-DM

On September 18, 2023, an officer allegedly used force to restrain an incarcerated person and failed to report it. The hiring authority found sufficient evidence to sustain the allegation and provided training to the officer. The OIG concurred.

The hiring authority's performance was *insufficient* because the hiring authority delayed conducting the investigative and disciplinary findings conference for 197 days after policy required. The Office of Internal Affairs referred the matter to the hiring authority on February 1, 2024. However, the hiring authority did not conduct the investigative and

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3. Discipline includes a letter of reprimand, salary reduction, suspension, demotion, or dismissal.

disciplinary findings conference until August 30, 2024, 211 days thereafter and 197 days after policy required.

#### OIG Case No. 23-0048361-DM

In the third example, on November 9, 2022, an officer allegedly instructed a second officer to sign the first officer's name on a shift swap authorization form. The second officer signed the first officer's name on the form and forged a supervisor's signature on the form. A third officer signed the first and the second officers' signatures on a swap authorization form, forged a supervisor's signature on the form, and dated and submitted the form without first obtaining supervisor approval. On November 15, 2022, the first officer failed to follow written instructions from the Office of Internal Affairs to report for an interview.

The hiring authority sustained the allegations that the first officer failed to report for an interview and that the third officer dated and submitted the form without first obtaining supervisor approval, but not the remaining allegations. The hiring authority imposed a 10 percent salary reduction for 10 months on the first officer and determined that a 5 percent salary reduction for two months for the third officer was the appropriate penalty. The hiring authority determined the investigation conclusively proved the second officer was not involved in the misconduct. The OIG concurred with the hiring authority's determinations. However, the department failed to serve the disciplinary action on the third officer, and the deadline to impose discipline on the third officer expired. Therefore, the third officer received no penalty for his misconduct. The first officer filed an appeal with the State Personnel Board. Prior to the State Personnel Board proceedings, the department entered into a settlement agreement with the first officer reducing his penalty to a 10 percent salary reduction for six months. The OIG concurred.

We found the hiring authority's performance to be *insufficient*. The Office of Internal Affairs completed its investigation on May 16, 2023. However, the hiring authority did not schedule the investigative and disciplinary findings conference until October 20, 2023, because the prison prioritized a backlog of investigations involving dismissals and impending deadlines to impose discipline, even though two of the officers were alleged to have been dishonest. The conference was postponed because the hiring authority was not prepared to discuss the investigation. The conference was finally completed on October 25, 2023, more than five months after the Office of Internal Affairs completed its investigation, and less than one month before the deadline to impose discipline on the first officer.

In addition, the hiring authority and the employee relations officer did not adequately consult with the OIG. After the hiring authority decided to impose discipline, the OIG repeatedly requested the status of the

disciplinary actions until finally learning that the deadline to impose discipline for the third officer had expired. The OIG first requested information on December 19, 2023, but did not receive a response until January 11, 2024, at which time the employee relations officer could only locate a letter of intent for the first officer. On March 20, 2024, 69 days later, the OIG again requested an update and expressed concern that the department had abandoned the imposition of discipline because the department's case management system did not show that any disciplinary actions had been served or that the investigative and disciplinary findings paperwork for the third officer had even been signed. By the time the prison provided a definitive answer on April 22, 2024, it became apparent that the department had not served the disciplinary action on the third officer and had allowed the deadline to impose discipline to expire.

### Poor Disciplinary Decisions Played a Significant Role in Negative Assessments of Hiring Authority Performance

A hiring authority's decision to sustain allegations, whether to impose discipline, and the type of discipline to impose are perhaps the most critical functions that the hiring authority performs in the disciplinary process. In this reporting period, unreasonable decisions played a significant role in negative assessments. In the 54 cases in which we rated hiring authority performance *insufficient*, 12 involved instances in which we found hiring authorities failed to make appropriate decisions about sustaining allegations and imposing penalties. Below are three examples.

#### OIG Case No. 24-0073382-DM

On January 6, 2024, a control booth officer allegedly failed to ensure floor officers were present before opening doors of cells assigned to two incarcerated people. A second officer and a third officer failed to be present on the floor before the control booth officer opened the cell doors. The first officer and the second officer also failed to conduct routine security inspections and activate their body-worn cameras when incarcerated people were present. After the cell doors were opened, one of the incarcerated people entered the cell of the other incarcerated person and killed him. The hiring authority found insufficient evidence to sustain the allegations against the three officers. The OIG concurred with the hiring authority's decision regarding the floor officers, but did not concur with the decision regarding the control booth officer.

We found the hiring authority's performance to be *insufficient*. The hiring authority should have sustained the allegations that the control booth officer failed to ensure floor officers were present before opening doors of cells assigned to two incarcerated people. Although there was evidence the officer was inexperienced and undertrained, the investigation also showed the officer chose to open cell doors from a control booth

knowing that officers tasked with ensuring safety and security were absent from the floor, which was inherently dangerous. However, the hiring authority indicated that before the investigation concluded, he had provided training to the control booth officer and other staff regarding the opening of the cell doors to prevent future incidents.

#### OIG Case No. 23-0053773-DM

On December 16, 2022, an officer allegedly raised an incarcerated person's arm to shoulder height during an escort and pushed the incarcerated person into a cell when there was no imminent threat and failed to report that he had pushed the incarcerated person into a cell. A second officer and a third officer failed to report that they had observed the first officer use force. On November 6, 2023, the first officer lied to the Office of Internal Affairs about the incarcerated person's actions before the officer pushed him.

The hiring authority sustained the allegations against the first officer, except that the officer had lied to the Office of Internal Affairs, and imposed a 10 percent salary reduction for 45 months. The OIG did not concur with the hiring authority's decision not to sustain the dishonesty allegation and not to dismiss the first officer, but did not seek a higher level of review. The hiring authority sustained the allegation against the second officer and imposed a 5 percent salary reduction for two months. The OIG concurred. However, the second officer retired before the disciplinary action took effect. The hiring authority placed a letter in the second officer's official personnel file indicating he had retired pending disciplinary action. The hiring authority sustained the allegation against the third officer and imposed a 5 percent salary reduction for two months. The OIG concurred. The first officer and the third officer each filed appeals with the State Personnel Board. Before the State Personnel Board proceedings, the hiring authority entered into settlement agreements with the first officer and the third officer, reducing the first officer's penalty to a 10 percent salary reduction for 31 months, and removing the disciplinary action from the third officer's official personnel file upon request after 18 months. The OIG did not concur with the settlement agreements that reduced the penalty for the first officer and added the ability for early removal of the disciplinary action from the third officer's official personnel file, but did not seek a higher level of review.

We rated the hiring authority's performance *insufficient*. The hiring authority should have sustained the allegation that the first officer was dishonest in his Office of Internal Affairs' interview and should have dismissed the first officer. Furthermore, the hiring authority entered into settlement agreements without sufficient justification and delayed serving the disciplinary actions. The OIG did not concur with the settlement to reduce the penalty for the first officer because there were no new facts to suggest mitigation, and a reduction in penalty was not

justified. In addition, the OIG did not concur with the portion of the settlement that allowed for the early removal of the disciplinary action from the third officer's official personnel file.

#### OIG Case No. 23-0056113-DM

On March 5, 2023, an officer in a control booth allegedly fired a less-lethal round at an incarcerated person without an imminent threat. The incarcerated person had attacked a second officer in a building and was running in an exercise yard toward a gate with no other people present. The round did not strike the incarcerated person. The officer who fired the round and a third officer allegedly engaged in unprofessional conduct by slapping hands, signifying congratulations, after the round was fired. The hiring authority found insufficient evidence to sustain the allegations. The OIG concurred, except for the decision not to sustain the allegation that the officer had fired a less-lethal round at an incarcerated person without an imminent threat, but did not seek a higher level of review.

We rated the hiring authority's performance *insufficient* because the hiring authority failed to sustain the allegation that the officer had fired a less-lethal round at an incarcerated person without an imminent threat. The incarcerated person was running away from the officer in an exercise yard where there were no other people present, toward a closed and locked gate at the other side of the yard. The hiring authority also delayed conducting the investigative and disciplinary findings conference. The Office of Internal Affairs completed its investigation and referred the matter to the hiring authority on November 27, 2023, but the hiring authority did not conduct the investigative and disciplinary findings conference until February 8, 2024, 73 days thereafter and 59 days after policy required.

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## The Office of Internal Affairs

The Office of Internal Affairs is a unit within the department responsible for investigating allegations of staff misconduct. When a hiring authority discovers allegations of staff misconduct and has a reasonable belief misconduct occurred, the hiring authority is required to refer the matter to the Office of Internal Affairs. When the Office of Internal Affairs approves an investigation, it assigns a special agent to conduct the investigation, interview witnesses and the employee accused of misconduct, and submit a report to the hiring authority summarizing the evidence and statements gathered during the investigation. The OIG monitors this process contemporaneously, provides real-time feedback to the special agent, and assesses the Office of Internal Affairs' performance.

### Central Intake Panel

Whenever the department has a reasonable belief that an employee committed administrative or criminal misconduct, the hiring authority must timely request an investigation or approval of a direct action from the Office of Internal Affairs. The hiring authority refers these matters to the Office of Internal Affairs' Central Intake Unit. Pursuant to departmental policy, Office of Internal Affairs special agents, department attorneys from EAPT, and OIG attorneys comprise a Central Intake Panel, which meets weekly to review the misconduct referrals from hiring authorities. The Office of Internal Affairs leads the meetings to ensure that the evaluation of referrals is consistent, and department attorneys provide legal advice to the Office of Internal Affairs. The OIG monitors the process on a weekly basis, provides recommendations to the Office of Internal Affairs regarding decisions on referrals, and determines which cases the OIG will monitor. The Office of Internal Affairs' special agent-in-charge—not the panel—makes the final decision regarding the action the Office of Internal Affairs will take on each hiring authority referral.

The options for decision are as follows:

- Conduct an administrative investigation;
- Conduct a criminal investigation;
- Authorize the hiring authority to take direct action against the employee regarding the alleged misconduct without an investigation or interview of the employee (or employees) suspected of misconduct;
- Reject the referral without further action concerning the allegation or allegations because there is no reasonable belief misconduct occurred;

- Reject the referral and return it to the hiring authority to conduct further inquiry; or
- Refer the matter to the Office of Internal Affairs' Allegation Inquiry Unit (AIU) when the alleged misconduct falls under AIU's purview (e.g., involves the use of force).

The Office of Internal Affairs approves certain types of cases without a Central Intake Panel presentation, including deadly force investigations, exigent investigations, appeals for reconsideration after a previous decision, and administrative investigations that follow a criminal investigation.

Table 1 on the next page presents the OIG's guide for determining which cases to accept for monitoring.



**Table 1. Monitoring Criteria Used by the Office of the Inspector General**

<i>Madrid</i> -Related Criteria *	OIG Monitoring Threshold
<b>Abuse of Position or Authority</b>	Unorthodox punishment or discipline of an incarcerated person, ward, or parolee; or purposely or negligently creating an opportunity or motive for an incarcerated person, ward, or parolee to harm another incarcerated person, ward, parolee, staff, or self, i.e., suicide.
<b>Criminal Conduct</b>	Trafficking of items prohibited by the California Penal Code or criminal activity that would prohibit a peace officer, if convicted, from carrying a firearm (all felonies and certain misdemeanors or “wobblers” such as those involving domestic violence, brandishing a firearm, and assault with a firearm).
<b>Dishonesty</b>	Perjury; material misrepresentation in an official law enforcement report; failure to report a use of force resulting in, or which could have resulted in, serious injury or death; or material misrepresentation during an internal investigation.
<b>High Profile</b>	Cases involving alleged misconduct by high-ranking departmental officials; misconduct by any employee causing significant risk to institutional safety and security, or for which there is heightened public interest, or resulting in significant injury or death to an incarcerated person, ward, or parolee (excluding medical negligence).
<b>Obstruction</b>	Intimidating, dissuading, or threatening witnesses; retaliation against an incarcerated person or against another person for reporting misconduct; or the destruction or fabrication of evidence.
<b>Sexual Misconduct</b>	Sexual misconduct prohibited by California Penal Code, section 289.6.
<b>Use of Force</b>	Use of force resulting in, or which could have resulted in, serious injury or death or discharge of a deadly weapon.

\* *Madrid v. (Gomez) Cate* (N.D. Cal. 1995) 889 F.Supp. 1146) (citation (URL) accessed on 4-3-24).

In this reporting period, the OIG monitored 84 percent of cases that we identified as falling within these criteria and that the Office of Internal Affairs approved at the Central Intake Panel. Because the seven above-listed categories typically constitute the most serious cases, the OIG strives to monitor as many of such cases as possible while taking into account staffing and attorney caseloads. For example, toward the end of this reporting period, we reduced the number of cases we accepted for monitoring in anticipation of increased workload after our office decided to merge two of our units: the Discipline Monitoring Unit and the Staff Complaints Monitoring Unit. This single unit has been renamed as the Staff Misconduct Monitoring Unit. The department has indicated that in the future, the Central Intake Panel will no longer convene, but it continues to do so as of the publication of this report.

On occasion, we monitor cases that fall outside these criteria. However, about 30 years ago, in the class-action lawsuit, *Madrid v. Gomez*, the federal court found, among other things, that department officials had failed to investigate and discipline employees who had committed serious misconduct. As a result, we focus our efforts and resources on monitoring cases that meet the above-listed criteria instead of ordinary or low-level misconduct. The OIG is committed to monitoring such cases at a very high level.

In the six-month reporting period of July through December 2024, the Office of Internal Affairs made decisions concerning 1,196 referrals involving potential staff misconduct, which the OIG also reviewed (see Figure 2 on the next page). In reviewing cases analyzed by the Office of Internal Affairs' Central Intake Unit and presented to the Central Intake Panel, the OIG disagreed with the Office of Internal Affairs' initial review in 211 cases. Of those 211 cases, the OIG found that the Office of Internal Affairs ultimately made a decision with which we disagreed in 164 of those cases, 78 percent of the time, which is a poorer result than the previous reporting period. In the previous reporting period, we disagreed in 67 percent of cases.

### **The Office of Internal Affairs' Central Intake Panel Processed Most Cases Timely, but Did Not Always Make Appropriate Determinations**

In this reporting period, the OIG found fault with the Office of Internal Affairs' performance during the central intake process in 53 of the 212 cases we monitored and closed. In only four of the cases, we found the Office of Internal Affairs delayed processing cases. However, in the remaining 49 cases, we found the Office of Internal Affairs made inappropriate determinations.

We do not always agree with the Office of Internal Affairs' decisions concerning hiring authority referrals. We disagreed with the Office of Internal Affairs' initial determination in 23 percent of cases that our office monitored during this reporting period. This is the same percentage found in the last period. Disagreements were often due to the OIG's position that the Office of Internal Affairs conducted a faulty, speculative, or ill-informed analysis. Examples included the Office of Internal Affairs' failure to properly define the scope of an investigation or to identify all appropriate subjects. Disputes also included our disagreement with the department's decisions not to open full investigations and to instead return matters to hiring authorities to address misconduct allegations without conducting an interview or an investigation.

Figure 2.

**Decisions the Office of Internal Affairs Made  
on Referrals Involving Potential Staff Misconduct  
From July Through December 2024**

<b>1,269</b>	Total number of referrals OIA received
<b>1,196</b>	Total number of decisions OIA made on the 1,269 referrals
<i>Distribution of the 1,196 decisions OIA made that the OIG also reviewed . . .</i>	
<b>558</b>	Approved for administrative investigations
<b>330</b>	Direct action without any interviews
<b>227</b>	Approved for criminal investigations
<b>25</b>	Rejected and returned to the hiring authority for further inquiry
<b>18</b>	Rejected for no misconduct
<b>38</b>	Transferred to OIA's Allegations Investigations Unit

Notes: In this figure, the abbreviation **OIA** refers to the department's Office of Internal Affairs.

Of the 1,196 referrals, the OIG disagreed with OIA's initial review in 211 cases. The OIG disagreed with OIA's final decision in 164 those cases.

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

## The Office of Internal Affairs Sufficiently Investigated Deadly Use-of-Force Incidents in All but One Case

The Office of Internal Affairs opens a deadly force investigation when an employee fires a deadly weapon with the intent to strike a person, or in some cases, an animal, or when an officer uses a tool such as a baton or a less-lethal round to intentionally strike a person in the head. The Office of Internal Affairs also occasionally opens a deadly force investigation when an employee fires a warning shot or unintentionally discharges a deadly weapon. The Office of Internal Affairs assigns special agents from the Deadly Force Investigation Team to conduct these investigations.

One special agent is responsible for conducting a criminal investigation, and another special agent is responsible for conducting an administrative investigation. The OIG monitors all deadly force investigations.

The department defines deadly force as any force that is likely to result in death. Any discharge of a firearm other than a lawful discharge during weapons qualification, firearms training, or other legal recreational use of a firearm is considered deadly force. Employees are only authorized to use deadly force when it is necessary to do one of the following:

1. Defend the employee or other people from an imminent threat of death or great bodily injury;
2. Apprehend a fleeing person for any felony that threatened or resulted in death or great bodily injury if the officer reasonably believes the person will cause death or great bodily injury to another person unless immediately apprehended; and
3. Dispose of seriously injured or dangerous animals when no other disposition is practical.

Officers are not to use deadly force on a person believed to pose a threat to themselves if an objectively reasonable officer would believe the person does not pose a threat of death or great bodily injury to anyone else. A firearm may only be discharged from or at a moving vehicle if the criteria for deadly force are met and it is reasonable to believe that such actions are intended to end an imminent threat to human life.

Between July and December 2024, the OIG monitored and closed eight criminal cases and six administrative cases that the Office of Internal Affairs investigated concerning the use of deadly force. We rated the Office of Internal Affairs' performance in investigating deadly force incidents in the current reporting period *sufficient* in 10 cases, *sufficient with recommendations* in three cases, and *insufficient* in one case. Below

is a summary of the one case in which we rated the Office of Internal Affairs' performance *insufficient*.

#### OIG Case No. 24-0072319-CM

On January 20, 2024, an officer allegedly struck an incarcerated person on the head and back with a baton multiple times and wrapped his hands around the incarcerated person's head and neck to stop the incarcerated person's assault on a second officer. The Office of Internal Affairs conducted an investigation and, although it did not find sufficient evidence for probable cause, it referred the matter to a district attorney's office for review pursuant to policy. The OIG concurred with the probable cause determination. The Office of Internal Affairs also opened an administrative investigation, which the OIG accepted for monitoring.

We rated the Office of Internal Affairs' performance *insufficient* because the special agent failed to advise the incarcerated person of her right against self-incrimination and right to counsel before asking the incarcerated person questions about the incident in which she had punched an officer in the face, and slammed, kicked, and bit a second officer's head. The special agent also failed to consult with a prosecutor during the investigation, in violation of the Office of Internal Affairs' policy on deadly force investigations.

### Employees Violated the Deadly Use-of-Force Policy in Two Cases

The department found that employees violated the department's deadly use-of-force policy in two of the six administrative cases we monitored and closed. We concurred with the department's findings in both cases, discussed below.

#### Case No. 23-0066239-DM

On October 26, 2023, an off-duty officer allegedly discharged his personal firearm in a negligent manner at a firing range while holstering the firearm. The round struck the officer in his foot. The officer also failed to immediately report the incident as required.

The hiring authority sustained the allegation that the officer had negligently discharged his firearm, but not the remaining allegation, and imposed a 10 percent salary reduction for seven months. The OIG concurred. After a *Skelly* hearing, the hiring authority determined the officer took responsibility for his actions. Therefore, the department entered into a settlement agreement with the officer reducing the penalty to a 5 percent salary reduction for six months. The OIG concurred.

Case No. 23-0063832-DM

On September 12, 2023, an officer allegedly discharged his personal firearm four times into the wall of his residence causing damage to his neighbor’s house and vehicle. The hiring authority dismissed the officer. The OIG concurred. However, the hiring authority nonpunitively terminated the officer before the disciplinary action could be served. The officer filed an appeal with the State Personnel Board, but later withdrew the appeal.

## The Office of Internal Affairs Could Improve Its Performance in Investigating Criminal Misconduct

In criminal cases not involving deadly force, we found the Office of Internal Affairs' performance to be *insufficient* in seven cases and *sufficient with recommendations* in eight of 30 cases during this reporting period. Most deficiencies we identified pertained to inadequate preparation or delays during the investigation. Below are two examples of cases found to have been *insufficient*.

### OIG Case No. 23-0058537-CM

Between June 15, 2021, and August 7, 2022, an officer allegedly engaged in unauthorized communications and multiple acts of sexual misconduct with six female incarcerated people and introduced controlled substances into a prison. The Office of Internal Affairs conducted an investigation and found sufficient evidence for a probable cause referral to a district attorney. The OIG concurred with the probable cause determination. The Office of Internal Affairs also opened an administrative investigation, which the OIG accepted for monitoring.

We rated the Office of Internal Affairs' performance *insufficient* because the special agent failed to adequately consult with the OIG during the investigation. The special agent failed to inform the OIG about an interview with a parolee witness. The OIG learned of the interview after reviewing the case management system. On another occasion, the special agent failed to inform the OIG about scheduled interviews until the morning of the day the interviews were scheduled. The special agent also unduly delayed completing the investigation. The Office of Internal Affairs assigned the special agent to the matter on June 22, 2023, but the special agent did not conduct the first interview until August 29, 2023, 68 days thereafter. After interviewing the officer on September 18, 2023, the special agent did not attempt another interview until February 13, 2024, 148 days thereafter.

### OIG Case No. 22-0044427-CM

On November 15, 2021, an officer allegedly allowed an incarcerated person to assault a second incarcerated person. Between November 15, 2021, and July 13, 2022, the officer conspired with incarcerated people to introduce mobile phones, tobacco, and marijuana wax into the prison for financial gain. The Office of Internal Affairs conducted an investigation, which found sufficient evidence for a probable cause referral to the district attorney. The district attorney filed four felony counts against the officer. The OIG concurred with the probable cause determination. The Office of Internal Affairs also opened an administrative investigation, which the OIG accepted for monitoring.

The Office of Internal Affairs' performance was *insufficient* because the special agent took more than two years to complete the investigation. The special agent was assigned to the matter on September 14, 2022, but did not complete the investigation and report until October 4, 2024, 751 days later. The special agent first discussed serving a search warrant for the officer's financial records on November 10, 2022, but did not serve the search warrant until February 22, 2024, 469 days later. The special agent failed to check on the status of the search warrant until June 5, 2024, when it was discovered the search warrant had been improperly served. The special agent had to serve the search warrant a second time on June 25, 2024, and obtained the officer's financial records on July 17, 2024, 615 days after first discussing the search warrant. The special agent also failed to approach the officer to request a voluntary interview while the officer was off work for more than 17 months until the officer contacted the special agent regarding the search warrant for his financial records. The OIG recommended that the special agent obtain the officer's financial records with a search warrant, which provided sufficient evidence for the probable cause referral to the district attorney.



## The Office of Internal Affairs Performance Was *Sufficient* When Conducting Administrative Investigations

Among the 168 administrative investigations of staff misconduct that did not involve deadly force, we found that the Office of Internal Affairs performed sufficiently in most cases. We assigned an *insufficient* rating in only 14 of those 168 cases, or 8 percent. The Office of Internal Affairs earned a *sufficient* rating in 94 cases and a rating of *sufficient with recommendations* in 60 cases. Other than criticisms of the Office of Internal Affairs' Central Intake Unit discussed previously in this report, the most frequent deficiency we noted in administrative investigations pertained to delays in completing them. Below we summarize two cases that involved *insufficient* performance by the Office of Internal Affairs.

### OIG Case No. 22-0045353-DM

From August 1, 2021, through August 19, 2022, a counselor and a sergeant allegedly made more than 1,000 personal calls to each other while on duty. From January 5, 2022, through August 5, 2022, the sergeant brought his personal mobile phone into the prison. From January 6, 2022, through August 2, 2022, the sergeant sent romantic emails to 26 female officers. From April 1, 2022, through August 2, 2022, the sergeant showed an incarcerated person nude photographs of female staff on his personal mobile phone. From June 21, 2022, through August 8, 2022, the sergeant threatened the incarcerated person not to report the sergeant's misconduct to the prison's investigative services unit.

The hiring authority sustained the allegation against the counselor and imposed a salary reduction of 5 percent for six months. The OIG concurred. The hiring authority sustained the allegations against the sergeant except for a poorly worded allegation that he had shown the incarcerated person photographs and threatened the incarcerated person. The hiring authority demoted the sergeant to an officer position and imposed a 90-working-day suspension. The OIG concurred. After the counselor's *Skelly* hearing, the department entered into a settlement agreement reducing her penalty to a letter of reprimand. The OIG did not concur because the counselor neither accepted responsibility nor expressed remorse. The sergeant filed an appeal with the State Personnel Board, but the appeal was withdrawn because he failed to appear at the prehearing settlement conference.

We rated the Office of Internal Affairs' performance *insufficient*. The special agent did not conduct a thorough investigation because he failed to interview the incarcerated person to whom the sergeant had allegedly shown nude photographs and whom the sergeant had threatened. Instead of interviewing this critical witness, the special agent simply relied on a memorandum written by another a sergeant who had previously

questioned the incarcerated person. The special agent also failed to ask the sergeant when and how often he brought his personal mobile phone into the prison. In addition, the Office of Internal Affairs' Central Intake Unit delayed processing the case five days after policy required and failed to approve a dishonesty allegation against the sergeant for falsifying a rules violation report.

#### OIG Case No. 23-0064340-DM

On August 22, 2023, an officer allegedly brought tobacco, excess personal medication, synthetic urine, and a synthetic urine kit into the prison. The officer submitted synthetic urine during a drug and alcohol screening test, lied when he denied tampering with the urine sample, and tested positive for marijuana.

The Office of Internal Affairs' performance was *insufficient* because the Office of Internal Affairs' Central Intake Unit failed to approve an administrative investigation to interview a witness who had identified the officer's urine sample as synthetic and a second witness who had discovered an synthetic urine sample kit that the officer asked the second witness to retrieve on his behalf. The interviews of witnesses were necessary because the synthetic urine sample the officer had provided was not tested against the synthetic urine found in the officer's belongings to confirm they matched. Moreover, the special agent conducted the interview of the officer without informing the OIG and failed to include all relevant exhibits in the investigative report, including the officer's positive laboratory test results for marijuana, documents signed by the officer stating the urine sample was unaltered, and photographs showing the synthetic urine sample was found in the officer's backpack.

The hiring authority sustained the allegations and determined dismissal was the appropriate penalty. The OIG concurred. The officer resigned before the investigation was completed. Therefore, the hiring authority did not serve the officer with the disciplinary action. The hiring authority placed a letter in the officer's official personnel file indicating he had resigned pending disciplinary action.

Although we found the Office of Internal Affairs sometimes delayed completing investigations, we also found that some investigations were handled, not merely without delay, but with speed. In one case, we observed an Office of Internal Affairs' special agent complete an investigation very quickly.

#### OIG Case No. 24-0079372-DM

On July 23, 2023, an officer allegedly drove his car under the influence of alcohol and made a series of false statements to outside law enforcement when questioned regarding how much he had had to drink. The hiring

authority sustained the allegations, except for a poorly worded allegation, and imposed a 10 percent salary reduction for 31 months. The OIG concurred. The officer filed an appeal with the State Personnel Board but subsequently withdrew it.

We rated the Office of Internal Affairs' performance *sufficient*. The misconduct was not discovered for several months after the incident. However, the Office of Internal Affairs expeditiously approved an investigation on April 24, 2024. The special agent efficiently reviewed the evidence and arranged an interview of the officer. Impressively, the special agent completed the investigation on May 23, 2024, less than one month after the investigation was approved.

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## The Employment Advocacy and Prosecution Team

The Employment Advocacy and Prosecution Team (EAPT) is the third stakeholder that we monitor during the investigative and disciplinary processes. EAPT attorneys, known as *vertical advocates*, provide legal recommendations to both the Office of Internal Affairs and to hiring authorities. Generally, the same vertical advocate represents the department throughout the entire investigative and disciplinary process. The OIG monitors the vertical advocate's performance, provides real-time feedback during the investigation and litigation processes, and assesses the vertical advocate's performance.

### Vertical Advocates Could Improve Their Performance by Avoiding Delays and by Making Appropriate Recommendations to Hiring Authorities

During this reporting period, we assigned EAPT a *sufficient* rating in 124 cases, a *sufficient with recommendations* rating in 52 cases, and an *insufficient* rating in 36 cases. Once again, our single most common criticism of department attorneys was their failure to handle the disciplinary process without undue delay. We found 30 instances in which department attorneys had failed to handle the disciplinary process without undue delay. Our second most common criticism was that department attorneys made poor recommendations to hiring authorities during investigative and disciplinary findings conferences. Examples of cases illustrating some of the above deficiencies are detailed below.

#### Failure to Handle the Disciplinary Process Without Undue Delay

Disciplinary process includes consulting at the investigative and disciplinary findings conference, drafting the disciplinary action for service, and attending *Skelly* hearings. Even though it is of the utmost importance to complete these steps, department attorneys delayed the disciplinary process, often by taking too long to draft and provide the disciplinary action to the hiring authority. Below are two examples.

##### OIG Case No. 22-0045297-DM

On August 14, 2022, an officer allegedly failed to pay her bill at a restaurant, battered restaurant employees, was discourteous and lied to outside law enforcement officers, resisted arrest, failed to cooperate with outside law enforcement during its investigation, and caused injury to a private citizen.

The hiring authority sustained the allegations except for the allegation that the officer had failed to pay her restaurant bill and dismissed the officer. The OIG concurred. The officer filed an appeal with the State Personnel Board. Before the State Personnel Board proceedings, the department entered into a settlement agreement with the officer. Pursuant to the settlement agreement, the officer resigned in lieu of dismissal and agreed to never seek employment with the department in the future. The department agreed to remove the dismissal action from the officer's official personnel file. The OIG did not concur with the settlement term of removing the action from the official personnel file.

We rated the department attorney's performance *insufficient*. The department attorney was responsible for an undue delay in conducting the investigative and disciplinary findings conference. The Office of Internal Affairs referred the investigation to the hiring authority on July 14, 2023. The investigative and disciplinary findings conference was originally scheduled for September 13, 2023, but the department attorney requested that the conference be postponed. On October 19, 2023, the OIG recommended that the investigative and disciplinary findings conference be held as soon as possible. The conference was finally held on November 17, 2023, 126 days after the hiring authority received the investigation and 112 days after policy required. In addition, the department attorney did not provide a draft disciplinary action to the OIG until February 14, 2024, 89 days after the investigative and disciplinary findings conference and 59 days after policy required service of the action. The department attorney did not send the disciplinary action to the hiring authority for signature until February 29, 2024, 74 days after the disciplinary action was required to be served according to policy. The officer, who was ultimately dismissed, continued to receive her full salary during the delay.

#### OIG Case No. 23-0068397-DM

On November 11, 2022, a youth counselor allegedly conspired with four wards to have a fifth ward assaulted. The hiring authority found insufficient evidence to sustain the allegation. The OIG concurred.

The department attorney's performance was *insufficient* because the department attorney delayed drafting a memorandum to the Office of Internal Affairs requesting additional investigation after the hiring authority determined more interviews were needed. At the first investigative and disciplinary findings conference on May 21, 2024, the OIG recommended further investigation, and the hiring authority and department attorney agreed. The department attorney volunteered to draft a memorandum for the hiring authority's review requesting additional investigation from the Office of Internal Affairs.

The department attorney unnecessarily delayed drafting the memorandum until July 12, 2024, 52 days later and 20 days before the

deadline to take disciplinary action had expired. This left insufficient time for the Office of Internal Affairs to investigate the matter further. The department attorney also failed to provide any feedback to the special agent on the draft investigative report, failed to respond to the OIG regarding the review of the draft investigative report, and, in documents to the department during critical case meetings, incorrectly assessed the deadline to take disciplinary action as August 12, 2024, 12 days after the deadline to take disciplinary action would have expired.

### Inappropriate Recommendations to the Hiring Authority

In addition to delaying the disciplinary process, we found department attorneys sometimes did not provide appropriate recommendations or legal advice to hiring authorities during investigative and disciplinary findings conferences or when settling cases. Hiring authorities depend on department attorneys to counsel them about crucial disciplinary decisions concerning employees who work under them. Nevertheless, in 19 cases, we found department attorneys made inappropriate recommendations during investigative and disciplinary findings conferences. Below are two examples.

#### OIG Case No. 23-0062074-DM

On June 15, 2023, an officer allegedly failed to properly count incarcerated people in a housing unit by failing to observe that one of the incarcerated people was unresponsive. A sergeant failed to ensure that counts in the housing unit were completed properly. The hiring authority found insufficient evidence to sustain the allegations. The OIG concurred with the hiring authority's decision regarding the sergeant, but did not concur with the finding that there was insufficient evidence to support the allegation against the officer.

The department attorney's performance was *sufficient*. However, the OIG found the department attorney should have recommended the hiring authority sustain the allegation that the officer had failed to observe that an incarcerated person was unresponsive. The department attorney submitted a memorandum to the hiring authority before the investigative and disciplinary findings conference, which recommended sustaining the allegation that the officer had failed to observe an incarcerated person was unresponsive. The recommendation was appropriate because responding nurses stated the incarcerated person was found dead after rigor mortis had set in, which meant the evidence showed the officer had failed to notice the incarcerated person had died before the officer conducted his final count. However, at the investigative and disciplinary findings conference, the department attorney first recommended the hiring authority sustain the allegation yet concluded by recommending that the allegation be sustained. The department attorney withdrew the initial recommendation even before receiving input from the hiring authority or the OIG.

## OIG Case No. 23-0068391-DM

On May 26, 2023, an off-duty officer was arrested after he allegedly twisted his girlfriend's wrist and caused her pain. The hiring authority sustained the allegations, except for a poorly worded allegation, and imposed a 5 percent salary reduction for six months. The OIG did not concur with the hiring authority's decision not to add and sustain an allegation that the officer lied about the incident. The officer did not file an appeal with the State Personnel Board.

The department attorney's performance was *insufficient*. The department attorney failed to recommend that the hiring authority add and sustain an allegation of dishonesty based on the officer's statements to outside law enforcement when he denied any physical contact with his girlfriend, but then later claimed she pushed him. Outside law enforcement asked the officer several times whether he or his girlfriend became physically violent with each other, but the officer denied having done so. The department attorney also failed to provide the OIG with an initial case conference memorandum before the meeting and delayed providing the disciplinary action to the hiring authority for service on the officer.



## Vertical Advocates Could Improve Their Performance by Consulting With the OIG More Consistently

As discussed previously in this report, the OIG is tasked with, among other things, overseeing the department's investigative and disciplinary process. To that end, it is of the utmost importance that we are afforded opportunities to monitor and review departmental entities' actions during that process and for those entities to cooperate with our office by providing documents to review and giving notice and updates on the status of disciplinary cases. However, during this reporting period, we found that among the cases in which we rated the department's performance *insufficient*, 12 involved failures to adequately consult with our staff during the disciplinary process. Two such cases are discussed below.

### OIG Case No. 23-0070494-DM

Between October 1, 2023, and November 1, 2023, a parole agent allegedly failed to update case files for 12 parolees and failed to contact a member of the community on behalf of a 13th parolee as required. On October 31, 2023, the parole agent falsely documented that she had completed residence visits for four of the parolees and completed a substance abuse test on one of the parolees when she had not.

The hiring authority sustained the allegations, except for the allegations that the parole agent falsely documented one of the residence visits and falsely entered that she had completed a substance abuse test on a parolee, and dismissed the parole agent. The OIG concurred. The parole agent filed an appeal with the State Personnel Board. Before the State Personnel Board proceedings and based on information witnesses had provided to the department attorney, the department entered into a settlement agreement with the parole agent that removed the dishonesty allegation from the disciplinary action, reduced the penalty to a six-month suspension, and required that the parole agent receive training. The OIG concurred with the settlement.

We rated the department attorney's performance *insufficient* because the department attorney failed to adequately consult with the OIG during the State Personnel Board process. The department attorney failed to include the OIG in witness preparation meetings despite the OIG's request to attend and monitor the meetings in preparation for the State Personnel Board hearing. After meeting with the witnesses, the department attorney relayed to the OIG that the witnesses, who were not interviewed during the investigation, stated that the parole agent made a mistake and did not intend to deceive based on their review of the records. Based on these witness statements, the department attorney recommended the hiring authority enter into a settlement agreement with the parole

agent removing dishonesty from the disciplinary action and reducing the penalty from a dismissal to a suspension for six months and an agreement for the parole agent to attend training. The OIG did not have an opportunity to independently evaluate the witnesses' statements.

#### OIG Case No. 24-0071882-DM

On July 2, 2023, an off-duty officer allegedly operated a privately owned vehicle while under the influence of alcohol and had an argument with his girlfriend during which he pulled her hair, slapped her mouth, and threw her mobile phone out of the vehicle.

The hiring authority sustained the allegation that the officer drove his vehicle while under the influence of alcohol, but not the remaining allegations, and imposed a 5 percent salary reduction for two months. The OIG concurred. After the *Skelly* hearing, the department entered into a settlement agreement with the officer and agreed to remove the disciplinary action from the officer's official personnel file after 24 months. The OIG did not concur with the settlement but did not seek executive review.

We found the department attorney's performance to be *insufficient*. The department attorney failed to involve the OIG in settlement discussions until after the department and the officer had reached a settlement agreement, and the settlement agreement had been sent to the officer's representative for signature. The department attorney did not provide the OIG with an opportunity to review the draft settlement agreement before sending the agreement to the officer's representative.

## In the Majority of Litigated Cases, Vertical Advocates Were Unable to Secure Decisions From the State Personnel Board That Left the Original Allegations and Penalty Intact

In general, we found that EAPT adequately represented the department in cases in which a settlement agreement was not reached, and when a department attorney had to litigate cases before an administrative law judge at the State Personnel Board. During this reporting period, we monitored 11 cases that had been submitted to the State Personnel Board for a decision after a full evidentiary hearing. However, of those 11, the State Personnel Board either modified the penalty or did not uphold all allegations in six cases.

Below is an example of a case in which the State Personnel Board did not uphold the allegations and penalty as imposed. We rated the department attorney's performance *insufficient* because the department attorney did not adequately prepare for the State Personnel Board meeting.

### OIG Case No. 21-0039867-DM

On April 2, 2021, a sergeant allegedly argued with a private citizen about a traffic incident while off duty, followed the citizen to his house, pulled out a handgun and loaded it while arguing with the citizen, and pushed the citizen in the chest. On April 5, 2021, the sergeant lied to outside law enforcement about the incident. On April 7, 2021, the sergeant lied in a memorandum to a supervisor about the incident. On October 5, 2021, the sergeant lied to the Office of Internal Affairs when he denied pushing the citizen.

The hiring authority sustained the allegations except for two poorly worded allegations and that the sergeant had loaded his handgun in front of the citizen. The hiring authority dismissed the sergeant, and the OIG concurred. The sergeant filed an appeal with the State Personnel Board. Following a hearing, the State Personnel Board revoked the dismissal and imposed a one-year suspension on the sergeant. The department appealed the State Personnel Board decision in a petition for writ of mandate to the Superior Court. However, the court denied the petition.

The complainant brought notes with him to the hearing that he said he had written the day of the incident while he waited for outside law enforcement to respond about what had occurred. At the evidentiary hearing, the department attorney tried to admit the notes into evidence. However, when the sergeant's attorney objected to the admission of the evidence, the department attorney responded that he had just learned the notes existed. Therefore, it appeared the department attorney had not thoroughly prepared the complainant because if he had, he would have likely learned about the notes, discussed them with the complainant,

and obtained a copy of them before the hearing. The complainant had not seen the surveillance video footage prior to his testimony and did not recall having been shoved by the sergeant until after he had watched the footage while testifying. The department attorney explained that he had intentionally avoided showing the footage to the complainant before his testimony because the Office of Internal Affairs interviewed the complainant telephonically, and the department attorney did not want to be the one to show the complainant the video footage.

## Critical Incidents

The OIG assesses the department’s response to critical incidents such as uses of deadly force, unexpected deaths, and hunger strikes. In the six-month reporting period of July through December 2024, the following types of critical incidents, set forth in the table below, required OIG notification.

### Figure 3. The OIG’s Criteria for Critical Incidents During the Reporting Period From July Through December 2024

- Any staff member’s use of deadly force (i.e., any use of force that is likely to result in death, including any discharge of a firearm, including warning shots and unintended discharges) or if an incarcerated person is struck in the head with a baton or impact munitions regardless of the extent of injury.
- Death of an incarcerated person or any serious injury to an incarcerated person that creates a substantial risk of death or results in a loss of consciousness, concussion, or protracted loss or impairment of function of any bodily member or organ. (Note: The OIG does not require that the department report to our office incarcerated person injuries—apart from death—resulting from or connected with incarcerated people engaging in athletic activities.)
- Death or great bodily injury to any departmental staff member if the death or injury occurs in the performance of his or her duties or if the death or great bodily injury has a connection to his or her duties.
- Suicide by any individual in the legal custody or physical control of the department.
- All allegations of sexual misconduct or sexual harassment an individual in the legal custody or physical control of the department makes against a departmental staff member.
- Any time the department places or extends an incarcerated person on, or removes from, contraband surveillance watch, or any time the department transports an incarcerated person who is on contraband surveillance watch to an outside hospital.
- Any riot or disturbance within a prison that requires assistance from multiple facilities or yards or from anyone designated as a “Code 3” responder or any riot or disturbance within a prison that requires the assistance of off-duty staff, neighboring prisons, or mutual aid.
- Any time the department determines an incarcerated person to be on hunger strike, any time an incarcerated person concludes a hunger strike, or any time the department transports an incarcerated person on hunger strike to an outside hospital.
- Incidents of notoriety or significant interest to the public, including incarcerated-person escapes.
- Any other significant incident identified as such by the Inspector General or the Chief Deputy Inspector General.

Source: The Office of the Inspector General.

The OIG does not monitor every critical incident the department reports to us, but we do monitor serious incidents that are more likely to give rise to allegations of misconduct. The OIG reviews critical incidents by evaluating potential causes, assessing the department's response, and determining whether the incidents involved potential employee misconduct. The OIG may recommend that a hiring authority refer allegations from the incidents to the Office of Internal Affairs for investigation. If a hiring authority identifies potential misconduct and refers the matter to the Office of Internal Affairs, the OIG typically monitors the case.

During the reporting period, the OIG monitored and closed 117 critical incident cases, 43 of which (37 percent) were critical incidents involving the death of an incarcerated person due to a drug overdose. The next two largest categories of critical incidents involved incarcerated people who were struck in the head by a foreign object such as a baton or projectile (20), and suicides (12). We rated 57 of 117 critical incidents, almost half, *insufficient* due to significant deficiencies that occurred before, during, or after the critical incidents.

One noteworthy incident we monitored (23-0064635-CI) occurred in September 2023. An officer found an incarcerated person hanging from a noose in a cell. A sergeant and three officers removed the incarcerated person from the cell. One of the officers, a second officer, and five nurses performed life-saving measures and administered five doses of an opiate antidote. The department transported the incarcerated person to the triage and treatment area, where life-saving measures continued until a paramedic pronounced the incarcerated person dead.

The hiring authority identified potential staff misconduct because the control booth officer allegedly documented that he had completed an inventory of tools at the beginning of his shift, but did so improperly because he failed to account for presence of the cut-down tool. As a result, the control booth officer provided responding officers with an emergency bag that did not contain a cut-down tool. When responding officers informed the control booth officer that the cut-down tool was not inside the bag, he delayed opening the cell door for approximately two minutes while he searched for the tool. It was this delay that prevented staff from entering the cell to assess the incarcerated person and provide possibly life-saving measures after releasing the noose from the incarcerated person's neck. It was not until a sergeant ordered the cell door be opened that the control booth officer opened the door, despite not yet having found the tool. Nursing staff arrived shortly thereafter, and the responding officers used medical shears to remove the noose from the incarcerated person's neck. The hiring authority referred the matter for investigation, and the OIG concurred. However, the hiring authority refused to provide all requested video evidence of the incident to the OIG.

The department's performance was *insufficient* because a control booth officer failed to account for the cut-down tool, which delayed the opening of the cell door to allow staff to enter the cell and assess the incarcerated person after releasing the noose from the incarcerated person's neck. Moreover, a nurse allegedly failed to apply the cervical collar and oropharyngeal airway to the incarcerated person before transporting him to the triage and treatment area, and another nurse allegedly administered four doses of an opiate antidote at one-minute intervals instead of two to three minutes apart as required by policy. In addition, the hiring authority delayed referring the incident for investigation 264 days after the incident occurred. Despite our multiple requests for evidence, the hiring authority delayed providing the requested documents until November 29, 2023. Then, the department provided only some of the requested video recordings on December 11, 2023. On February 12, 2024, the OIG discovered that the department had failed to provide the complete video footage and, therefore, requested it again. As of the date of this publication, the hiring authority has yet to provide the video recordings we had requested. Although the deficiencies were enough to determine an *insufficient* rating, the hiring authority's refusal to provide the OIG with the requested evidence impeded the OIG's ability to thoroughly assess the department's actions.

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## The OIG Makes Recommendations in Several Ways

As demonstrated throughout this report, the OIG provides recommendations to the department in real time as we monitor cases from inception to conclusion. For example, in any given case, SAIGs may recommend that the Office of Internal Affairs approve certain allegations and interview certain witnesses. SAIGs may also recommend that department attorneys include or exclude certain language in a disciplinary action or in documents filed with the State Personnel Board. Finally, SAIGs may recommend that the hiring authority sustain or not sustain certain allegations and impose certain penalties. These examples constitute only a sampling of the types of contemporaneous recommendations and feedback we offer as any case progresses through the investigative and disciplinary phases. Moreover, as mentioned earlier and as part of our rating methodology, we have included a rating of *sufficient with recommendations*. When a case merits that rating, we articulate recommendations to the department as part of our rating and assessment that we publish on our website. Doing so allows us to provide contemporaneous recommendations monthly throughout the reporting period.

We also make recommendations in reports when we identify a systemic problem or serious issue that we believe merits additional attention or scrutiny. As we observe trends across several cases or relating to a specific stakeholder, the OIG may provide recommendations for the department to consider in addressing the issue. We may also provide recommendations pertaining to a single case that may cause issues in the future. We discuss our recommendations in the following section.

## The OIG Recommends That the Department Advise Employees of Their Rights and Obligations Before They are Interviewed in Criminal Investigations, and Especially Before Contemplating Discipline for Failure to Cooperate

The Fifth Amendment to the United States Constitution protects a person's right not to incriminate himself or herself. This right applies to witnesses, victims, and anyone who is suspected of a crime. A witness statement in a criminal investigation is voluntary. However, the department has a policy requiring employees to cooperate with investigators conducting investigations, including criminal investigations. Moreover, the Department Operational Manual (DOM), Section 31140.5.1, states the following:

### Employee Duty to Cooperate

- If requested to make a statement in any official internal investigation conducted by the Department, employees shall make full, complete, and truthful statements. Failure or refusal to make statements or making false statements during the Department Internal Affairs investigations may result in disciplinary action.
- Employees shall not take any action which would interfere with, delay, distort, or unduly influence any official investigation conducted by the Department or any other government agency. Any employee who knowingly gives false evidence, withholds evidence, or interferes in any way during such an investigation, or requests or encourages another to do so, may be subject to disciplinary action.
- *Employees have a duty to cooperate with investigators of the Department and with officials from other law enforcement agencies who are conducting criminal investigations. Employees shall make full, complete, and truthful statements. Failure to cooperate may result in disciplinary action.* (emphasis added)

The duty to cooperate may include providing statements to investigators. However, in criminal investigations, the protections of the Fifth Amendment dictate that all individuals have the constitutional right not to provide a statement, if they so choose. In this reporting period, the OIG found the department pursued administrative investigations of alleged misconduct for employees who attempted to cooperate but declined to provide a voluntary statement during a department criminal investigation.

Historically, when conducting criminal investigations, the Office of Internal Affairs solicits voluntary criminal statements from witnesses and, if the witness refuses to provide one, the Office of Internal Affairs then provides a *Lybarger* admonishment under *Lybarger v. City of Los Angeles* (1985) 40 Cal.3d 822. The California Supreme Court's *Lybarger* decision stands for the proposition that an employer may compel an employee to provide a witness statement, and the employee's continued refusal to do so may result in disciplinary action being taken against the employee. The statement collected by the employer, however, cannot subsequently be used in a criminal proceeding against the witness who provided the statement. Therefore, the department is aware of the procedure for obtaining compelled witness statements and the notice that must be provided to employees, yet it failed to follow the procedure twice during the reporting period.

In one case (OIG No. 24-0084820-DM) the department pursued disciplinary action against three officers and one sergeant after they declined to provide a voluntary criminal statement during the department's criminal investigation into an officer's use of deadly force. When the attorney representing the witnesses during the criminal investigation asked the special agent whether the witnesses were being compelled to provide statements, the special agent stated the admonishment given to the witnesses did not use the word "compelled." Accordingly, the witnesses' attorney concluded that the department had been asking the witnesses to provide a voluntary criminal statement, but the witnesses declined to do so. Immediately thereafter, another special agent assigned to investigate administrative allegations of misconduct, provided each witness with a *Lybarger* admonishment and ordered the witnesses to provide a statement, (i.e., compelled the witnesses to provide a statement as a part of the department's administrative investigation into the officer's use of deadly force). In each instance, the witnesses cooperated and provided a compelled statement.

The department later opened an administrative disciplinary investigation against the three officers and the sergeant for not providing witness statements during the criminal investigation. The department attorney who attended the Central Intake Panel meeting concurred with approving an administrative disciplinary investigation against the three officers and the sergeant. The OIG recommended not pursuing disciplinary proceedings against the employees. When the matter was referred to the hiring authority for disciplinary findings, a different department attorney assigned to the case recommended that the hiring authority exonerate the officers and the sergeant, to which the hiring authority agreed. The hiring authority determined the facts, which provided the basis for the complaint or allegation did in fact occur; however, the investigation revealed the actions were justified, lawful, and proper. The OIG concurred.

Not long after the above interviews, the department again approved an administrative investigation against departmental staff for failure to cooperate in a criminal case (OIG Case No. 24-0080373-DM). The department initiated a criminal investigation after two officers were suspected of fabricating evidence against an incarcerated person who allegedly spit in the face of one of the officers. After the Office of Internal Affairs assigned two special agents to the case, the special agents identified seven officers, two sergeants, and two lieutenants as witnesses to the incident and noticed each for a witness interview. The special agents advised each witness that the department was conducting an investigation and that each was a witness. The witnesses all stated they were present and willing to fully cooperate with the department. However, in each instance the attorney representing the witnesses asked the special agents whether the interviews were “voluntary.” Each time, the special agents were either unable or unwilling to answer. When the attorney asked whether the witnesses were compelled to provide an interview under DOM Section 31140.5.1, the special agents again refused to provide clarification. In one instance, the special agent advised that “upper management” had instructed the special agent specifically not to answer whether the interview was voluntary.

The department thus put the witnesses in an untenable position. The witnesses could not make an informed decision as to whether to provide a criminal witness statement. All 11 witness interviews were continued to allow time for the special agents to obtain more guidance from their supervisors and the Office of Legal Affairs. Approximately four months later, the special agents renotified the 11 witnesses of a continuation of their interviews. When the witnesses’ attorneys asked the special agents whether the interviews were voluntary, the agents simply responded that the word “voluntary” was not used in the notice of interview nor the provided admonishment. The witnesses’ attorney then noted on the record that based on the admonishment as phrased, they would interpret the special agents’ actions as a mere request for a voluntary criminal statement—not an order—and that a voluntary criminal statement would not be provided.

Once again, the department then initiated disciplinary proceedings against the 11 witnesses for failing to cooperate in the criminal investigation, under DOM Section 31140.5.1. At the Central Intake Panel meeting, the department attorney concurred with approving an administrative disciplinary investigation against the 11 witnesses. Again, the OIG recommended not pursuing disciplinary proceedings against the employees. Only after the OIG recommended that the department refrain from initiating discipline against the 11 witnesses did the department withdraw the 11 witnesses from the disciplinary investigation. Notably, the Office of Legal Affairs indicated that the reason for withdrawing the 11 witnesses from the disciplinary investigation was because it was unclear at the time of the attempted interviews whether the witnesses were aware of their duty to cooperate under DOM Section 31140.5.1.

However, the problem was not that the witnesses did not know they had a duty to cooperate. Instead, the problem was the Office of Internal Affairs refused to order the witnesses to answer. Each witness was represented by an attorney at the time of the interviews and, in several cases, the special agent was specifically asked whether the witness was being compelled to cooperate by providing a statement under the duty of DOM Section 31140.5.1.

In both above-discussed cases, the witnesses were subjected to disciplinary investigations. The department expended resources and incurred unnecessary costs associated with the investigations despite all stakeholders' knowledge that the special agents in the criminal investigations failed to provide clarification to the witnesses upon request. As of the date of this publication, there has been no clear guidance from the department as to whether witnesses in criminal investigations are subject to disciplinary proceedings if they are forced to choose between their constitutional right against self-incrimination and the department's requirement that employees cooperate under DOM Section 31140.5.1.

The OIG recommends that the department clearly advise its employees of their rights, obligations, and duties in criminal investigations, before subjecting them to administrative disciplinary proceedings. If asked, the department should clearly answer whether the employee's interview is being compelled or whether participation in the interview is voluntary. Employees should not be left to guess whether exercising their constitutional rights will later expose them to administrative disciplinary proceedings, including potential termination of their employment.

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## Recommendations

For this reporting period, we offer one recommendation to the department:

- We recommend that the department establish a policy or guideline requiring special agents to advise employees as to whether they are required to cooperate with criminal investigations, including whether they are compelled to provide a statement.

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**Monitoring  
Internal Investigations and  
the Employee Disciplinary Process of  
the California Department of  
Corrections and Rehabilitation**

*Semiannual Report  
July–December 2024*

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STATE *of* CALIFORNIA  
March 2025

**OIG**