



Amarik K. Singh, Inspector General

Neil Robertson, Chief Deputy Inspector General

OIG | OFFICE *of the* INSPECTOR GENERAL

Independent Prison Oversight

May 2022

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

*Semiannual Report
July–December 2021*



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May 19, 2022

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

Dear Governor and Legislative Leaders:

Enclosed please 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 is the Office of the Inspector General's 34th semiannual report, as mandated by California Penal Code sections 6126 (a) and 6133 (b) (1), and summarizes the California Department of Corrections and Rehabilitation's (the department) performance in conducting internal investigations and handling employee discipline cases we monitored and closed between July 1, 2021, and December 31, 2021.

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 six performance indicators, two for each entity, to determine the overall performance rating for the department. During this reporting period, each of the three entities performed in a *satisfactory* manner for one performance indicator, but a *poor* manner for the other. Overall, the department's performance in conducting internal investigations and handling employee discipline cases was *poor*. Of the 101 cases we monitored and closed, we rated 62 cases *satisfactory* and 39 *poor*. We did not find any cases with overall *superior* performance.

Hiring authorities' performance was *satisfactory* in discovering allegations of employee misconduct and referring those allegations to the Office of Internal Affairs. However, hiring authorities' performance was *poor* when making decisions regarding Office of Internal Affairs' investigations and serving disciplinary actions.

Inversely, the Office of Internal Affairs performed poorly in processing referrals from hiring authorities but performed in a *satisfactory* manner when investigating allegations of employee misconduct. Of the 101 cases the OIG monitored and closed during this reporting period, we disagreed with 37 of the Office of Internal Affairs' initial decisions concerning the referrals from hiring authorities. However, in the 87 cases that the Office of Internal Affairs determined an interview or investigation was necessary and that the OIG monitored, the OIG found the Office of Internal Affairs performed overall in a *satisfactory* manner. For example, in 84 of the 87 cases, or 97 percent, the Office of Internal Affairs special agent addressed all appropriate allegations discovered during the investigation.



Department attorneys performed in a *satisfactory* manner in providing legal advice to the department when the Office of Internal Affairs processed employee misconduct referrals and conducted investigations. In 74 of 101 cases, the department attorney provided legal advice to hiring authorities concerning the sufficiency of investigations and disciplinary findings and, in the majority of these cases, performed in a *satisfactory* manner doing so. However, department attorneys performed poorly in providing legal representation during litigation. Department attorneys did not ensure that the department timely served disciplinary actions on peace officers, which led to a *poor* assessment for this performance indicator.

Finally, during the past five reporting periods, we reported on the unnecessary salary and benefits the department paid to employees it ultimately dismissed during delays in the employee disciplinary process. For this reporting period, we found the department unnecessarily paid approximately \$181,262 in salary and benefits to employees during those delays. Over the past three years, the department has paid approximately \$1,495,751 in salary and benefits to employees during those delays.

Sincerely,

A handwritten signature in blue ink that reads "Amarik Singh". The signature is written in a cursive, flowing style.

Amarik Singh
Inspector General

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

“Lady Justice” (page viii): Adapted from an illustration at www.vecteezy.com



California Department of Corrections and Rehabilitation Institutions and Parole Regions



CDCR Headquarters



Department of Corrections and Rehabilitation
1515 "S" St.
Sacramento, CA 95811

CDCR Training Center



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

Parole Regions

North Parole Region

South Parole Region

Adult Institutions

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

Juvenile Institutions

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

Community Correctional Facilities

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

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

Terms Used in This Report	
Case Management System	The California Department of Corrections and Rehabilitation’s computer program and database that staff use to enter and maintain information regarding internal investigations and employee discipline cases.
Corrective Action	A documented nonadverse action such as verbal counseling, training, written counseling, or a letter of instruction that a hiring authority takes to assist the employee in improving work performance, behavior, or conduct. Corrective action cannot be appealed to the State Personnel Board.
Disciplinary Action	A documented action that is punitive in nature and intended to correct misconduct or poor performance or which terminates employment and may be appealed to the State Personnel Board. It is also the “charging” document served on an employee who is being disciplined, advising the employee of the causes for discipline and the penalty to be imposed. Also referred to as an “adverse action” or a “notice of adverse action.”
Department Operations Manual	The department’s operations manual. The full title is <i>California Department of Corrections and Rehabilitation Adult Institutions, Programs, and Parole Operations Manual</i> (Sacramento: State of California, 2020). Commonly known as the DOM, it is available on the internet at https://www.cdcr.ca.gov/Regulations .
Employee Relations Officer	A person, who is not an attorney, employed by a California Department of Corrections and Rehabilitation institution, facility, or parole region responsible for coordinating disciplinary actions for the hiring authority and for representing the department at the State Personnel Board in cases not designated by the Employment Advocacy and Prosecution Team.
Employment Advocacy and Prosecution Team	A team of attorneys in the California Department of Corrections and Rehabilitation’s Office of Legal Affairs assigned to provide legal advice during internal investigations and to litigate employee discipline cases.
Executive Review	A supervisory- or management-level review conducted by a hiring authority, department attorney, and OIG attorney to resolve a significant disagreement regarding investigative findings, proposed discipline, or lack thereof, or a proposed settlement.
Hiring Authority	An executive, such as a warden, superintendent, or regional parole administrator, authorized by the Secretary of the California Department of Corrections and Rehabilitation to hire, discipline, and dismiss staff members under his or her authority.
Investigative and Disciplinary Findings Conference	A meeting at which the hiring authority makes decisions regarding the findings and penalty in an employee discipline case.
Office of Internal Affairs	The entity within the California Department of Corrections and Rehabilitation responsible for investigating allegations of employee misconduct.
Office of Internal Affairs’ Central Intake Unit	A unit of the Office of Internal Affairs consisting of special agents assigned to review referrals from hiring authorities regarding alleged employee misconduct.
Office of Internal Affairs’ Central Intake Panel	A collection of stakeholders led by the Office of Internal Affairs that reviews hiring authority referrals regarding allegations of employee misconduct and which is responsible for ensuring the referrals are appropriately evaluated. Although a department attorney and an OIG attorney provide input at Office of Internal Affairs’ Central Intake Panel meetings, a manager from the Office of Internal Affairs’ Central Intake Unit is the individual who makes decisions at the meetings regarding the disposition of hiring authority referrals.
Special Agent	In the context of this report, a special agent is an investigator employed by the California Department of Corrections and Rehabilitation assigned to investigate alleged employee misconduct.
State Personnel Board	A quasi-judicial board established by the California State Constitution that oversees merit-based job-related recruitment, selection, and disciplinary processes of State employees.

Source: The Office of the Inspector General.



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))

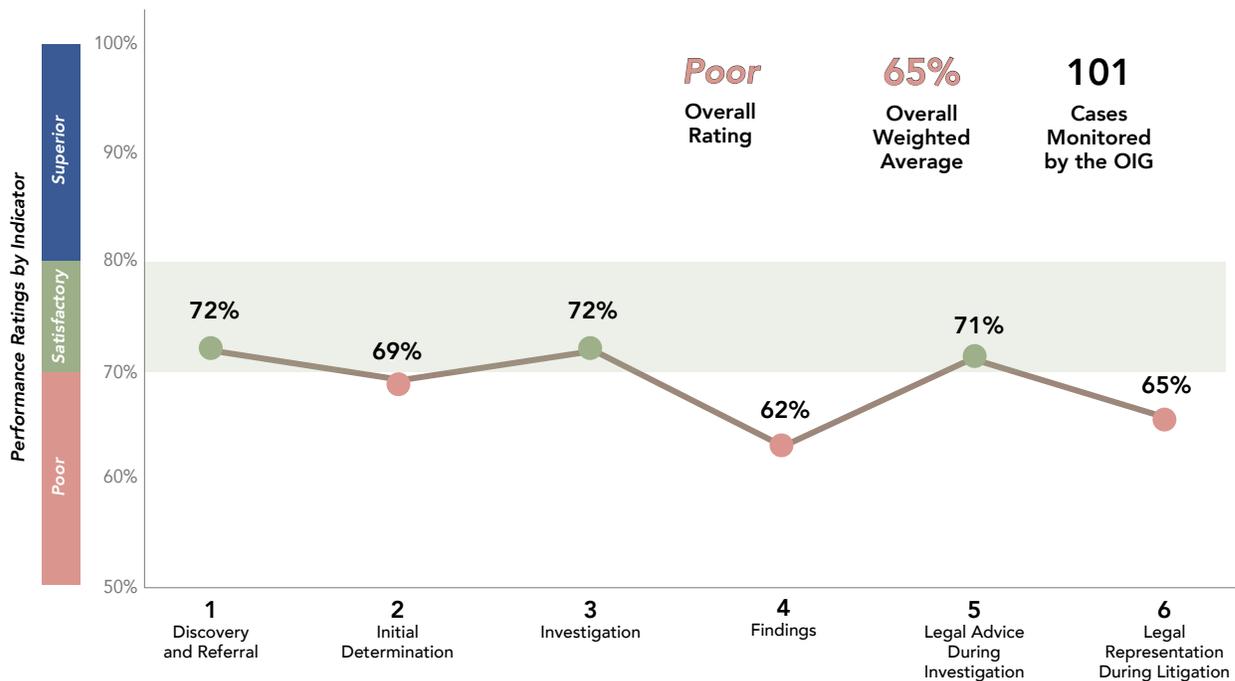
— *State of California*
Excerpted from Penal Code sections

Summary

California Penal Code sections 6126 (a) and 6133 mandate that the Office of the Inspector General (the OIG) monitor and report on the internal investigations and employee disciplinary process of the California Department of Corrections and Rehabilitation (the department). The OIG has been monitoring and reporting on this process since 2005. This report, which addresses our monitoring activities between July 1, 2021, and December 31, 2021, is our 34th semiannual report in which we provide our assessment of 101 employee misconduct cases OIG attorneys monitored and closed during the reporting period. Our monitoring activities resulted in an assessment of the department's overall performance as *poor* for the 101 cases we monitored and closed.

The department's performance was *satisfactory* in three of the six performance indicators we used to assess performance: discovering and referring misconduct cases; performing investigations; and providing legal advice during the investigation. However, we found the department's performance *poor* when making initial determinations regarding the referrals; making and processing investigative and disciplinary findings regarding alleged misconduct; and providing legal representation during litigation. Figure 1 below depicts each assessment area and the corresponding percentages.

Figure 1. The OIG's Overall Rating of the Department's Investigative and Discipline Process During the Period From July Through December 2021



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

Unlike the previous reporting period, we found that the Office of Internal Affairs performed poorly when making initial determinations regarding a hiring authority's referral, with a 69 percent overall rating for this performance indicator. We disagreed with the Office of Internal Affairs' initial decisions concerning such referrals in 37 of 101 cases, or 37 percent.

Further, the department's performance in addressing the investigative and disciplinary findings after the Office of Internal Affairs completed its investigation was *poor* overall for the July 1, 2021, through December 31, 2021 reporting period. Of the 101 cases OIG attorneys monitored and ultimately closed during the reporting period, 79 cases were first processed by a hiring authority for determination of an appropriate outcome. The department's performance was *poor* in 41 of 79 cases, 52 percent, and *satisfactory* in the remaining 38 cases. The department's failure to timely serve disciplinary actions on peace officers was the most significant factor affecting this *poor* assessment. The department did not timely serve disciplinary actions on peace officers in 25 of 48 cases, or 52 percent. The other factor contributing to this *poor* assessment was the department's failure to timely conduct investigative and disciplinary findings conferences. We found that in 33 of 79 cases, 42 percent, the department did not timely conduct investigative and disciplinary findings conferences.

Some of the 101 cases OIG attorneys monitored and closed during the reporting period involved cases in which a hiring authority imposed discipline and the affected employee filed an appeal with the State Personnel Board. We found department attorneys' legal representation during litigation to be *poor* overall in this reporting period. Of the 51 cases to which the department assigned an attorney, the department attorney's performance was *poor* in 20 cases, 39 percent.

We used six specific units of measurement, referred to as performance indicators (indicators), to assess the department's performance during the investigative and disciplinary process. Each indicator is designed to provide a more specific assessment of each of the three departmental entities we monitor: hiring authorities, the Office of Internal Affairs, and department attorneys from the Office of Legal Affairs' Employment Advocacy and Prosecution Team.

Using the six indicators, we measured the following activities: the hiring authorities' performance in discovering and referring employee misconduct cases to the Office of Internal Affairs, how well hiring authorities made investigative and disciplinary findings regarding the alleged misconduct, and how well they processed the cases; the Office of Internal Affairs' performance in processing employee misconduct referrals submitted by hiring authorities and its performance investigating misconduct allegations; and department attorneys' legal advice during the Office of Internal Affairs' handling of the cases, as well

as the performance of department advocates, such as department attorneys and employee relations officers, in litigating employee disciplinary cases.

When monitoring a case, OIG attorneys answered numerous compliance- and performance-related questions pertaining to each of the six indicators. At the conclusion of each case, the OIG attorney assigned a rating to each of the applicable indicators: *superior*, *satisfactory*, or *poor*. The OIG attorney then analyzed each case to determine an overall rating for each case, using the same descriptors. The OIG has assigned a point value to each indicator rating and case rating (discussed in detail in the *Methodology* section of this report), resulting in a percentage figure we used to arrive at an overall rating of each departmental unit's performance using the six indicators. We also used the same method to assess the department in its handling of a matter from the time a hiring authority referred an employee misconduct allegation to the Office of Internal Affairs to the conclusion of any employee misconduct litigation for the period of July 1, 2021, through December 31, 2021. Using this methodology, we concluded the department's overall performance was *poor* when conducting internal investigations and handling employee misconduct cases for the cases we monitored and closed in this reporting period.

For more details concerning the cases the OIG monitored and closed during this reporting period, individuals may directly access our discipline monitoring case summaries on the OIG website (www.oig.ca.gov). If viewing this report on our website, click on the image below to be taken to our interactive dashboard. Once there, to review the case summaries, choose the following settings:

- From the pull-down menu in the Reporting Period field, choose **2021-2**
- For the other filters, choose **ALL**; these include
 - Case Number, Case Type, Division or Mission, Region, Allegation, Finding, Penalty, and Case Rating
 - Leave date delimiter fields empty (Incident Start Date and Incident End Date)

Filter Selection Panel

Case Summaries

Reporting Period: 2021-2 (M) | ALL

Case Number: (ALL) | (ALL) | (ALL)

Case Type: (ALL) | (ALL) | (ALL)

Division or Mission: (ALL) | (ALL) | (ALL)

Region: (ALL) | (ALL) | (ALL)

Allegation: (ALL) | (ALL) | (ALL)

Finding: (ALL) | (ALL) | (ALL)

Penalty: (ALL) | (ALL) | (ALL)

Case Rating: (ALL) | (ALL) | (ALL)

Incident Start Date: | Incident End Date: | **Reset Filters** | Filtered Cases: 202

Incident Date
June 2, 2009

OIG Case Number
21-004008-04

Incident Summary
Beginning on June 2, 2009, a sergeant allegedly unlawfully communicated with an incarcerated person. Between June 2, 2009, and August 27, 2017, the sergeant allegedly engaged in several misconducts with an incarcerated person. On July 15, 2021, the sergeant allegedly possessed multiple knives on prison grounds. 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 decided to return the matter to the hiring authority to address administrative allegations after an interview of the sergeant. The OIG accepted the matter for monitoring.

Allegations
Other Criminal Act

Case Type
Criminal Investigation

Indicator Ratings*
Indicator 1-6: (ALL) | (ALL) | (ALL)

Case Rating
The department's performance was satisfactory.

Incident Date
April 2, 2010

OIG Case Number
19-0011725-DM

Incident Summary
On April 2, 2010, January 1, 2014, and April 2, 2017, an officer allegedly engaged in sexual activity with his underage daughter. On August 16, 2018, outside law enforcement arrested the officer for the alleged offenses. On June 17, 2021, the officer was convicted of three felony counts for the alleged offenses.

Allegations
CRIMINAL, Other Failure of Good Behavior

Case Type
Administrative Investigation

Disposition
The hiring authority sustained the allegations, except for a poorly worded allegation, and determined dismissal was the appropriate penalty. The OIG concurred. However, the officer resigned prior to completion of the investigation. Therefore, the hiring authority did not serve the officer with a disciplinary action. The hiring authority placed a letter in the officer's official personnel file indicating his resignation pending disciplinary action.

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Hiring Authorities

During the July 1, 2021, through December 31, 2021, reporting period, hiring authorities' performance in discovering and referring allegations of employee misconduct to the Office of Internal Affairs was *satisfactory*. During the July through December 2021 reporting period, hiring authorities timely referred 76 percent of cases, and did not timely refer 24 percent of cases. This is a slight decline in performance compared with the prior reporting period. For the January through June 2021 reporting period, hiring authorities timely referred 79 percent of cases, with 21 percent being untimely. Delayed referrals can impact the Office of Internal Affairs' ability to conduct thorough investigations before the deadline to take disciplinary action. Moreover, delays could impact the timely service of disciplinary actions on employees found to have committed misconduct, which for officers,¹ is within one year of the discovery of the alleged misconduct.²

Hiring authorities also did not perform well in making timely decisions regarding Office of Internal Affairs' investigations, determining the allegations, processing cases, or serving disciplinary actions. Hiring authorities performed poorly in these areas in part because they timely conducted investigative and disciplinary findings conferences in only 58 percent of the cases. Hiring authorities made findings in 79 cases and decided to impose discipline in 63 of those 79 cases. Of the 63 cases where the hiring authority decided to impose discipline, the hiring authority did not timely conduct the investigative and disciplinary findings conference in 25 of the 63 cases, or 40 percent. Hiring authorities continued to delay serving disciplinary actions, especially on peace officers. The department did not serve disciplinary actions on peace officers within 30 days of the decision to impose discipline, which departmental policy requires, in 52 percent of the cases. The department served disciplinary actions on peace officers within the required time frame in only 48 percent of the cases. The department improved its performance in this regard, as during the previous reporting period, hiring authorities delayed serving discipline on peace officers in 63 percent of the cases. Despite the improvement, these low percentages show the department still has work to do in improving compliance with its own policy.

However, despite the delays, we concluded hiring authorities made appropriate determinations regarding the allegations in 73 of 79 cases in which they made findings, or 92 percent of the cases. In our opinion, hiring authorities selected the appropriate penalty in 59 of the 63 cases in which they decided to impose discipline, or 94 percent.

1. In this report, we use the word *officer* when referring to departmental peace officers, which include correctional officers, sergeants, lieutenants, parole agents, special agents, and other peace officer classifications.

2. California Government Code section 3304(d)(1).

The Office of Internal Affairs

Once hiring authorities submitted their referrals of alleged employee misconduct, Office of Internal Affairs special agents reviewed and processed those referrals, and conducted internal investigations. For the July 1, 2021, through December 31, 2021 reporting period, we found the Office of Internal Affairs' performance was *poor* overall in processing referrals from hiring authorities and *satisfactory* in conducting investigations. As part of their monitoring activities, OIG attorneys answered up to 55 questions for each investigation we monitored to assess the Office of Internal Affairs' performance.³ These questions measured how well special agents performed in processing hiring authority referrals, conducting investigations, preparing reports, and conducting any follow-up investigations. We assigned a *satisfactory* assessment rating to a case when a special agent conducted a proper, thorough, and timely investigation. Based on our assessment, we found the Office of Internal Affairs timely processed referrals from hiring authorities in 85 percent of the cases, conducted thorough investigations in 95 percent of the cases, and completed investigative reports that included all relevant facts and evidence in 95 percent of the cases.

We determined the Office of Internal Affairs' performance in making initial decisions regarding hiring authority referrals was *poor*. Between July 1, 2021, and December 31, 2021, the Office of Internal Affairs made decisions on 1,289 employee misconduct referrals from hiring authorities, some of which it received before July 1, 2021. Consistent with prior reporting periods, we did not always agree with the Office of Internal Affairs regarding some of its decisions concerning hiring authority referrals. Of the 1,289 referrals, the OIG disagreed with the Office of Internal Affairs' decision in 150 cases, or 12 percent of the cases. In 26 of the 150 cases, we disagreed with more than one decision. Disputes regarding those 150 cases included our disagreement with the Office of Internal Affairs' decisions to not add allegations, such as dishonesty or domestic violence allegations, to investigations and to not add appropriate subjects. The disputes also included our disagreement with the department's decisions to not open full investigations and instead to return matters to hiring authorities to address misconduct allegations without an interview or investigation. Moreover, if we believed the Office of Internal Affairs made an unreasonable decision, we elevated the Office of Internal Affairs' decision to its management. During the January through June 2021 period, we elevated five such cases to Office of Internal Affairs' management. After we elevated those five decisions, the Office of Internal Affairs approved or approved in part the OIG's recommendations in four cases.

3. Not all assessment questions apply to all cases. For example, OIG attorneys answer some questions to assess the effectiveness of criminal investigative techniques; these questions do not apply to Office of Internal Affairs' administrative investigations.

We also assessed the Office of Internal Affairs' performance in completing deadly force investigations and found its performance in timely completing such investigations declined slightly since the January through June 2021 reporting period. For the 10 cases involving the use of deadly force, which the OIG monitored and closed during the July through December 2021 reporting period, the Office of Internal Affairs did not complete deadly force investigations within the department's internal time frame in seven of the 10 cases, or 70 percent. This is a decline in performance compared with the January 1, 2021, through June 30, 2021 reporting period, during which the Office of Internal Affairs did not timely complete deadly force investigations in six of the nine deadly force investigations, or 67 percent.

Department Attorneys

Our monitoring included an assessment of the performance of attorneys from the department's Office of Legal Affairs' Employment Advocacy and Prosecution Team. These attorneys provided legal advice to the Office of Internal Affairs during its decision-making process regarding hiring authority referrals and during investigations in cases in which the department assigned an attorney. In some cases, a department attorney was assigned to provide legal representation to hiring authorities during the employee disciplinary process, including during litigation.

Overall, department attorneys performed in a *satisfactory* manner in providing legal advice to the Office of Internal Affairs while it processed employee misconduct referrals and conducted investigations. For cases we monitored and closed in this reporting period, department attorneys performed in a *satisfactory* manner in 85 cases and performed poorly in 16 cases, with an assessment rating of 71 percent. Department attorneys also provided sound legal advice to the hiring authority regarding the sufficiency of the evidence, investigation, and findings in 66 of the 74 cases in which an attorney provided such advice, or 89 percent. However, we found that department attorneys' performance during litigation was *poor* overall, primarily due to the delayed service of disciplinary actions. According to departmental policy, the department must serve disciplinary actions on officers within 30 days of the hiring authority's decision to take disciplinary action. To do so, the department attorney or employee relations officer must prepare the disciplinary action to allow sufficient time for service of the action within the 30-day time frame. In addition, the department must serve disciplinary actions before the deadline to take disciplinary action expires, which is within one year of the discovery of alleged misconduct for officers.⁴ In 48 of the 74 cases, the department served one or more officers with disciplinary action. In 25 of those 48 cases, or 52 percent, department attorneys did not ensure the department served the disciplinary action within 30 days of the hiring authority's decision to take disciplinary action.

4. California Government Code section 3304 (d) (1).

Introduction

Background

As discussed in the *Summary*, California Penal Code sections 6126 (a) and 6133 mandate the Office of the Inspector General (the OIG) to provide oversight of and report on the California Department of Corrections and Rehabilitation’s (the department) internal investigations and employee disciplinary process. Whenever a hiring authority reasonably believes an employee committed misconduct or engaged in criminal activity, the hiring authority must timely submit a referral to the department’s Office of Internal Affairs’ Central Intake Unit, requesting an investigation or approval to address the allegations without an investigation.⁵ Office of Internal Affairs special agents, department attorneys from the Employment Advocacy and Prosecution Team, 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, and department attorneys provide legal advice to the Office of Internal Affairs. The OIG monitors the process, 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—not the panel—makes the final decision regarding the action it will take on each hiring authority referral. The options are:

- To conduct an administrative investigation;⁶
- To conduct a criminal investigation;
- To conduct only an interview of the employee (or employees) suspected of misconduct and no other investigative activity;
- To 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;
- To reject the referral without further action concerning the allegation or allegations because there is no reasonable belief misconduct occurred; or

5. Department Operations Manual, Section 33030.5.2 (hereafter: DOM). The DOM is defined in the table of terms found at the beginning of this report.

6. Elsewhere in this report, we also refer to an administrative investigation as a full administrative investigation or a full investigation.

- To reject the referral and return it to the hiring authority to conduct further inquiry.⁷

The OIG's activities included monitoring the Office of Internal Affairs' investigations that meet our monitoring criteria, as set forth on the next page, and evaluating the performance of the special agents' investigative work. We also monitored department attorneys' performances during internal investigations, as well as the work of department attorneys or employee relations officers in any subsequent disciplinary and litigation process. Finally, we assessed how well hiring authorities performed in determining allegations of employee misconduct, imposing discipline, and processing misconduct cases.

The information discussed in this report concerns the 101 cases we monitored and closed during the period from July 1, 2021, through December 31, 2021, including assessments of each departmental unit's performance in individual cases. Further, we detail herein the administrative cases in which the Office of Internal Affairs conducted an investigation or interview of an employee suspected of misconduct, cases in which the hiring authority made decisions regarding the investigation and allegations and, if the hiring authority imposed discipline on an employee, any appeal process regarding the disciplinary action.

Our discussion also includes cases in which the Office of Internal Affairs returned referrals to the hiring authority to address the allegation or allegations based on the evidence available without any investigation, as well as cases wherein the Office of Internal Affairs conducted an investigation, but the hiring authority did not sustain allegations. To ensure the integrity of the entire process, we do not report the complete details of a case until all administrative proceedings have been completed.

Finally, because the OIG also monitored cases involving alleged criminal conduct, we included the details of criminal investigations we monitored and closed during the period from July through December 2021. We reported these cases once the Office of Internal Affairs referred its criminal investigation to the appropriate prosecuting agency for filing consideration or determined there was insufficient evidence to refer the matter.

7. An allegation inquiry is the collection of preliminary information concerning an allegation of employee misconduct necessary to evaluate whether the matter shall be referred to the Office of Internal Affairs' Central Intake Unit (DOM, Sections 31140.3 and 31140.14). Generally, a hiring authority conducts an initial inquiry before submitting an employee misconduct referral to the Office of Internal Affairs' Central Intake Unit. The Office of Internal Affairs' Central Intake Unit sometimes requests that hiring authorities conduct an additional inquiry.

Scope and Methodology

Scope

Consistent with prior reporting periods, the OIG monitored and assessed the department’s more serious internal investigations of alleged employee misconduct, such as cases involving alleged dishonesty, code of silence, use of force, and criminal activity. Because officers are held to a higher standard of conduct, which was the core focus of the *Madrid* case (889 F. Supp. 1146 (N.D. Cal. 1995)) pursuant to which we began monitoring the department’s internal investigations and employee discipline cases, we concentrated our efforts on peace officer employee discipline cases. Table 1 below lists criteria we used to determine which cases to monitor.

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

<i>Madrid</i> -Related Criteria*	OIG Monitoring Threshold
Use of Force	Use of force resulting in, or which could have resulted in, serious injury or death or discharge of a deadly weapon.
Dishonesty	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.
Obstruction	Intimidating, dissuading, or threatening witnesses; retaliation against an incarcerated person or against another person for reporting misconduct; or the destruction or fabrication of evidence.
Sexual Misconduct	Sexual misconduct prohibited by California Penal Code section 289.6.
High Profile	Cases involving alleged misconduct by high-ranking department 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).
Abuse of Position or Authority	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.
Criminal Conduct	Trafficking of items prohibited by the California Penal Code or criminal activity that would prohibit an officer, if convicted, from carrying a firearm (all felonies and certain misdemeanors such as those involving domestic violence, brandishing a firearm, and assault with a firearm).

* *Madrid v. (Gomez) Cate* (N.D. Cal. 1995) 889 F.Supp. 1146 (citation (URL) accessed on 4-26-22).

Based on information the Office of Internal Affairs provided, from July 1, 2021, through December 31, 2021, the Office of Internal Affairs received 1,310 referrals, all but two of them with information hiring authorities submitted electronically using a process the department implemented on November 20, 2019. Only two referrals from a hiring authority were submitted using a printed form called the “Office of Internal Affairs’ Confidential Request for Internal Affairs Investigation/ Notification of Direct Adverse Action,” also known as Form 989. However, the Office of Internal Affairs did not make decisions in all 1,310 referrals between July 1, 2021, through December 31, 2021. Between July 1, 2021, and December 31, 2021, the Office of Internal Affairs made decisions concerning a total of 1,289 referrals, some of which it received before January 1, 2021.

Of the 1,289 referrals for which it made decisions, the Office of Internal Affairs found that in 1,204 referrals (93 percent), there was sufficient evidence to approve the hiring authority’s request for investigation or approval to take direct disciplinary action on the misconduct allegations. For the other 85 referrals (7 percent), the Office of Internal Affairs determined there was insufficient evidence of employee misconduct or criminal activity and rejected the referrals. The Office of Internal Affairs may reject a matter because it determined the information provided does not show that an employee engaged in misconduct. The Office of Internal Affairs may also reject a matter because the information does not yet support a reasonable belief that misconduct occurred. In this situation, the Office of Internal Affairs may reject the matter to provide the hiring authority the opportunity to gather further information.

Of the 85 rejected referrals, the Office of Internal Affairs determined that 63 (74 percent) referrals did not amount to misconduct or contained information that did not amount to misconduct. In 22 cases (26 percent) the Office of Internal Affairs returned the matter so the hiring authority could gather further information. In all 22 cases, the hiring authority did not resubmit the matter to the Office of Internal Affairs with more information.

Of the 1,289 referrals for which it made decisions, the Office of Internal Affairs returned 787 referrals (61 percent) to hiring authorities to take direct action on employee misconduct allegations without pursuing a full investigation or an interview of the employee alleged to have engaged in misconduct. The Office of Internal Affairs approved interviews of employees suspected of misconduct, but not full administrative investigations, in 164 of 1,289 cases (13 percent). These are cases in which the Office of Internal Affairs determined that, for a hiring authority to make decisions regarding the allegation, it was only necessary to interview the subject of the investigation and not conduct any other

investigative work. In total, considering both direct action and subject-only interview cases, the Office of Internal Affairs determined that, in 951 of 1,289 referrals (74 percent), it did not need to conduct a full administrative investigation.

The Office of Internal Affairs determined full administrative investigations were warranted in 183 of 1,289 referrals (14 percent). Investigations may include interviewing the employees suspected of misconduct; interviewing percipient witnesses, including incarcerated persons and private citizens, depending on the nature of the alleged misconduct; and obtaining additional documentary evidence. Lastly, the Office of Internal Affairs concluded there was enough evidence to warrant criminal investigations in 70 of 1,289 referrals (5 percent; numbers may not sum to 100 percent due to rounding.).

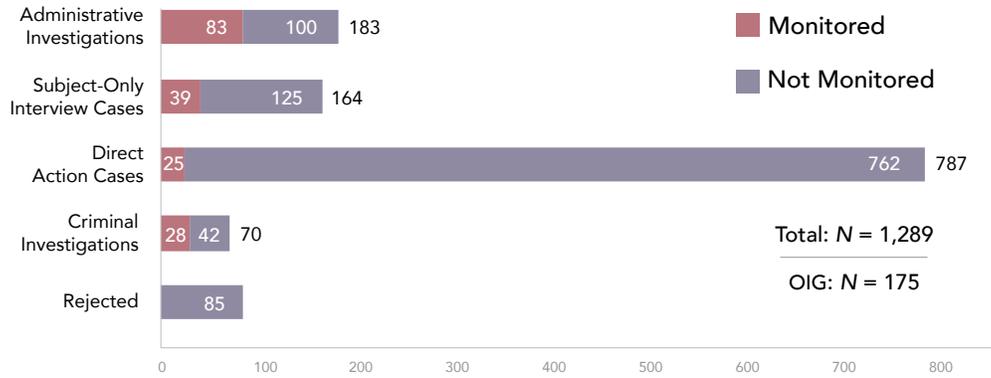
Generally, once the Office of Internal Affairs approved the referrals, the referrals became cases. Cases that required full investigations typically involved the most serious misconduct and, therefore, constituted the highest percentage of cases we monitored. From July 1, 2021, through December 31, 2021, of the 1,204 referrals in which the Office of Internal Affairs approved a hiring authority's request for interview, or approval to directly address employee misconduct, the OIG identified 175 cases (15 percent) for monitoring.

Of the 175 cases the OIG identified for monitoring, 83 cases (47 percent) involved an administrative investigation, and 28 cases (16 percent) involved a criminal investigation. In 25 of the 175 cases (14 percent) the OIG identified for monitoring, the Office of Internal Affairs decided sufficient evidence was available for the hiring authority to address the misconduct allegations without an investigation. In 39 of the 175 cases (22 percent) we identified for monitoring, the Office of Internal Affairs decided the only investigative work needed was an interview of the employee suspected of misconduct.

The OIG began monitoring these 175 cases the Office of Internal Affairs approved for investigation, employee interview, or direct action in the July through December 2021 reporting period. Elsewhere in the report, we mention we are reporting on 101 cases the OIG monitored and closed during the July through December 2021 reporting period.

Figure 2 on the next page presents the number of cases opened by the Office of Internal Affairs from July 1, 2021, through December 31, 2021, the types of cases, and the number of each case type the OIG accepted for monitoring.

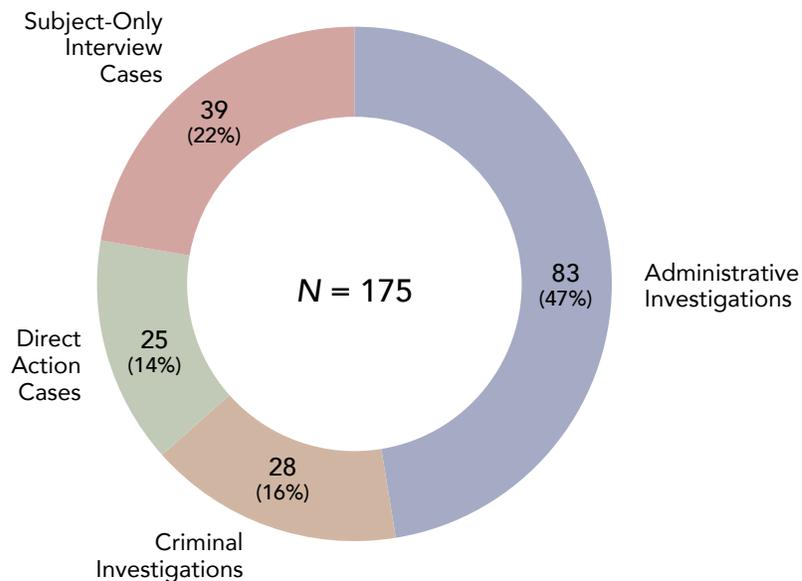
Figure 2. Decisions the Office of Internal Affairs Made Concerning Hiring Authority Referrals and Cases the OIG Accepted for Monitoring During the Period From July Through December 2021



Sources: The California Department of Corrections and Rehabilitation's Case Management System and the Office of the Inspector General Tracking and Reporting System.

Figure 3 below presents the percentages of each case type we accepted during the monitoring period.

Figure 3. Percentages of Each Case Type the OIG Accepted for Monitoring During the Period From July Through December 2021



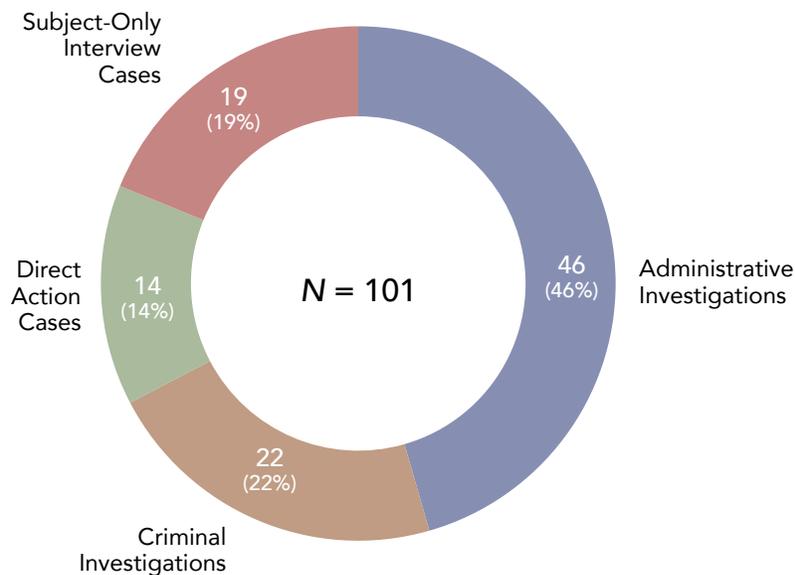
Note: Numbers may not sum to 100 percent due to rounding.

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

The department did not complete and close all the cases we accepted for monitoring during this reporting period before December 31, 2021. We only provide a final assessment of a case once we conclude our monitoring and close it. As noted above, this report provides an assessment of 101 cases the OIG monitored and closed from July 1, 2021, through December 31, 2021, some of which were opened before July 1, 2021. Of the 101 cases the OIG monitored and closed between July 1, 2021, and December 31, 2021, 79 cases involved alleged administrative misconduct. The remaining 22 cases involved alleged employee criminal activity.

Figure 4 below presents the percentages of case types the OIG monitored, closed, and is reporting for the July 1, 2021, through December 31, 2021, reporting period.

Figure 4. Types of Cases the OIG *Monitored* and *Closed* During the Period From July Through December 2021

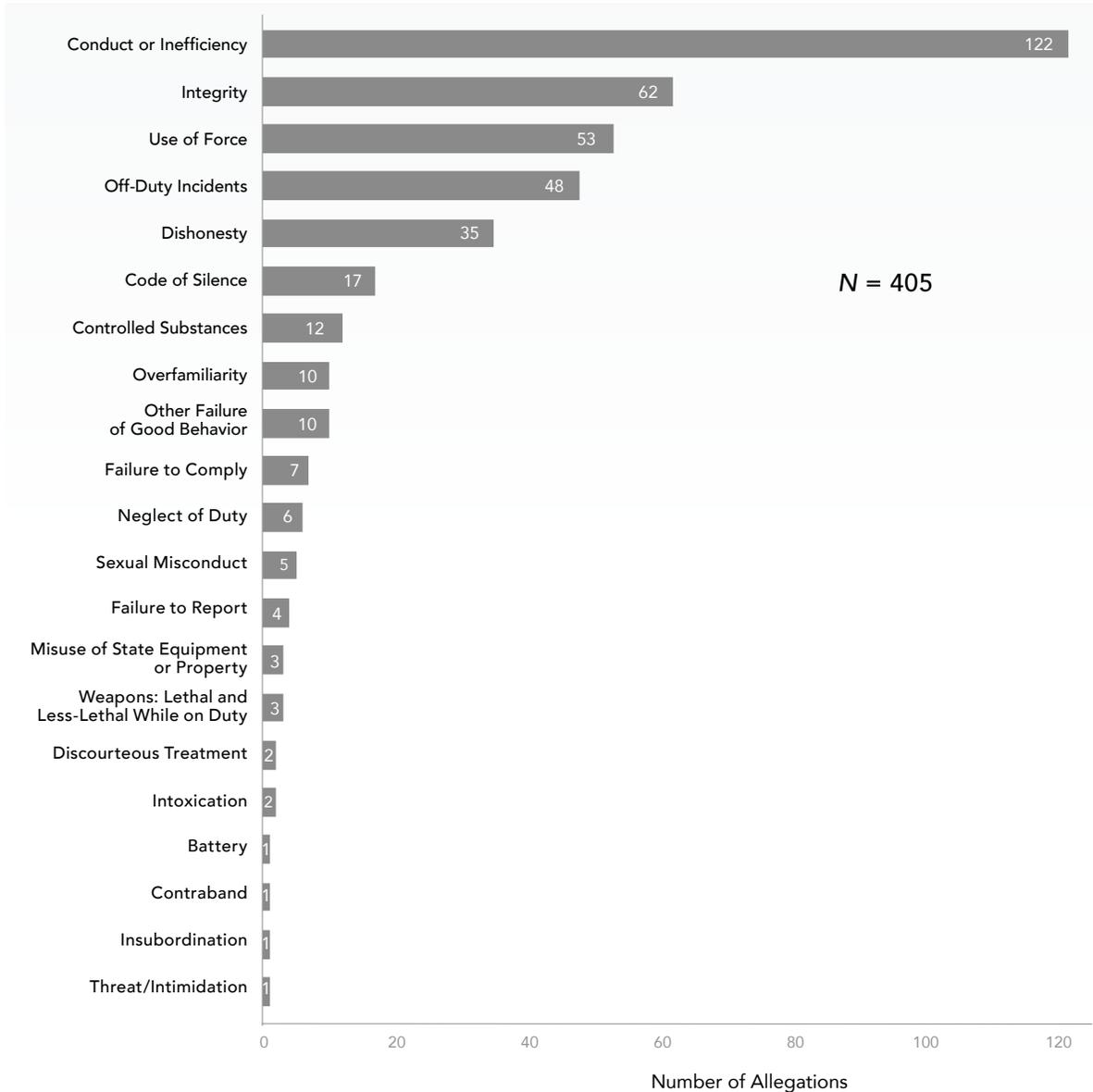


Note: Numbers may not sum to 100 percent due to rounding.

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

Many cases include more than one allegation or allegation type; consequently, the total number of allegations exceeds the number of cases we monitored and closed. For example, in one case, an officer allegedly violated medical screening directives when he entered a prison after self-diagnosing symptoms consistent with the novel coronavirus. The officer also allegedly attempted to dissuade another officer from reporting the officer’s coronavirus symptoms. The officer allegedly brought his personal mobile phone into the secured perimeter of the prison. Finally, the officer allegedly lied during an Officer of Internal Affairs interview. This one case involved six allegations categorized under five allegation types. Figure 5 on the next page includes the number of unique allegations in the cases we monitored from July through December 2021.

Figure 5. Allegation Distribution in Administrative Cases the OIG Monitored and Closed During the Period From July Through December 2021



Note: The total number of allegations exceeds the number of cases we monitored and closed because several cases involve more than one allegation against the subject of the case.

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

Methodology

To assess the department's performance, the OIG uses an assessment tool consisting of six performance indicators, two for each departmental unit: hiring authorities, the Office of Internal Affairs, and department attorneys. The following list describes the six performance indicators:

- **Indicator 1:** How well a hiring authority discovered and referred allegations of misconduct to the Office of Internal Affairs, including the timeliness of the referral and the quality of the inquiry preceding the referral.
- **Indicator 2:** How well the Office of Internal Affairs' Central Intake Unit processed the hiring authority's referral, including the Office of Internal Affairs' Central Intake Unit special agent's analysis of the referral, the Office of Internal Affairs' decision regarding the referral, and the timeliness of the decision.
- **Indicator 3:** The timeliness and effectiveness of the Office of Internal Affairs' performance in conducting investigations.
- **Indicator 4:** The hiring authority's performance after the Office of Internal Affairs returned the case following an investigation or interview, or after authorizing the hiring authority to take direct action on the allegations, including the hiring authority's findings on the allegations, identification of the appropriate disciplinary penalty, and service of any disciplinary action.
- **Indicator 5:** The department attorney's performance in providing legal advice to the Office of Internal Affairs as special agents processed and analyzed hiring authority employee misconduct referrals and conducted investigations.
- **Indicator 6:** How well the department attorney or employee relations officer represented the department during litigation, including the composition of the disciplinary action and advocacy during administrative hearings before the State Personnel Board.

The OIG has developed compliance and performance-related questions concerning each indicator. The OIG attorneys assigned to monitor each case answered the questions, rated each of the six indicators for each case as *superior*, *satisfactory*, or *poor*, and finally, assigned an overall rating for each case, using the same rating terminology.

Although we examined the department’s compliance with its own policies and procedures in arriving at the rating for each indicator, we also used our own judgment as to the quality of the department’s performance from the time a hiring authority referred the allegation, during any subsequent investigation, and upon the completion of any appeal process if a hiring authority took disciplinary action. In addition, significant or numerous departures from policy usually resulted in a *poor* assessment. Delayed investigations or discipline could increase costs and even increase the potential for harm by allowing unsuitable employees to continue working. Delays can also have a negative effect on the employees suspected of misconduct due to the stress employees and their family members may endure while waiting for the outcome. Such identifiable harm often results in a *poor* assessment rating.

The OIG assigned numerical point value to each of the individual indicator ratings and to the overall rating for each case. The point system is as follows:

Superior	4 points
Satisfactory	3 points
Poor	2 points

The collective value of the assigned points is divided by the total number of points possible to arrive at a weighted average score. The following hypothetical example consisting of 10 cases illustrates this system. For 10 cases, the maximum point value (denominator) is 40 points (10 cases multiplied by four points). If the department scored two *superior* results, five *satisfactory* results, and three *poor* results, its raw score (numerator) would be 29 points. The weighted average score is obtained by dividing 29 by 40, yielding a score of 72.5 percent, as given in the hypothetical equation below.

Equation. Scoring Methodology

$$\frac{[(2 \text{ superior} \times 4 \text{ points}) + (5 \text{ satisfactory} \times 3 \text{ points}) + (3 \text{ poor} \times 2 \text{ points})]}{(10 \text{ cases} \times 4 \text{ points})}$$

We assigned the final ratings of *superior*, *satisfactory*, and *poor* to weighted averages as follows:

Superior: weighted averages between 100 percent and 80 percent;

Satisfactory: weighted averages between 79 percent and 70 percent;

Poor: weighted averages between 69 percent and 50 percent.⁸

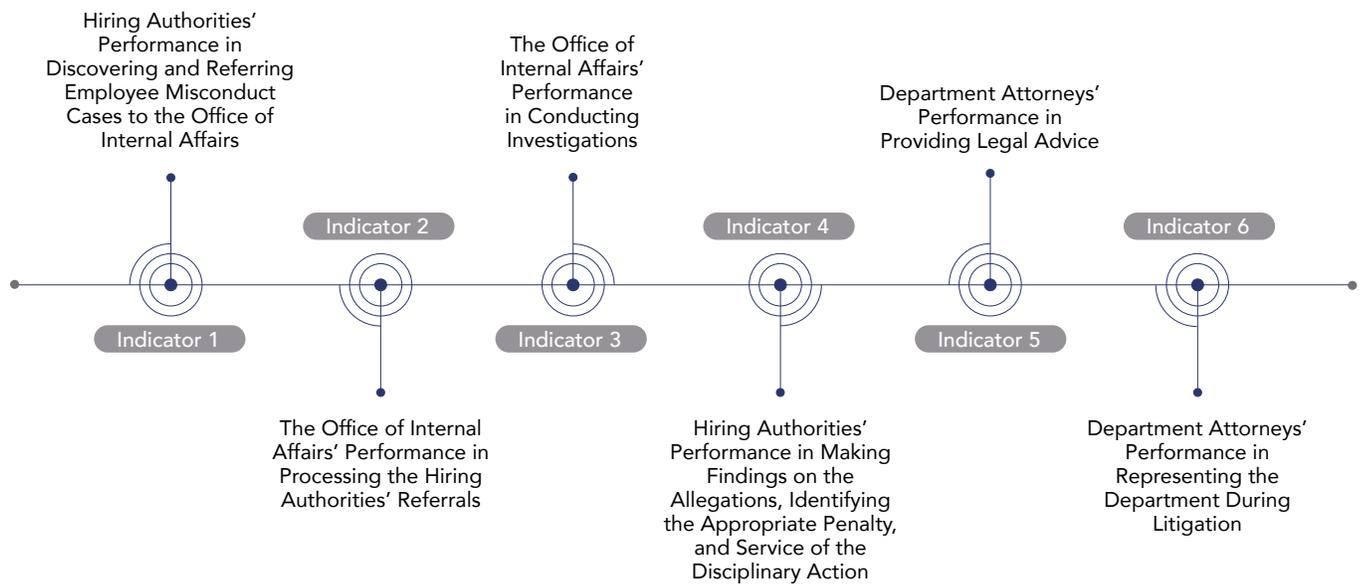
Using the example above, the summary-level rating would be *satisfactory* because the weighted average score of 72.5 percent was between 79 percent and 70 percent.

Results & Percentages		
<i>Superior</i>	<i>Satisfactory</i>	<i>Poor</i>
100%–80%	79%–70%	69%–50%

On the next page, we offer a brief overview of the six indicators and the corresponding performance ratings for the period of this report.

8. As we assign a minimum of two points to each rating, the minimum weighted average percentage value is 50 percent.

Figure 6. The Six Indicators Used to Assess the Department’s Performance, and the Department’s Overall Ratings From July Through December 2021



Overall Rating: *Poor*
Overall Weighted Average: 65%

Results & Percentages

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

Indicator 1 – Hiring Authorities	72%
Indicator 2 – Office of Internal Affairs	69%
Indicator 3 – Office of Internal Affairs	72%
Indicator 4 – Hiring Authorities	62%
Indicator 5 – Department Attorneys	71%
Indicator 6 – Department Attorneys	65%

Source: The Office of the Inspector General.

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Monitoring Results

The Department's Overall Performance in Investigating Employee Misconduct and in Handling Its Employee Disciplinary Process Was Poor

During the July 1, 2021, through December 31, 2021 reporting period, the OIG found the department's overall performance in investigating allegations of employee misconduct and handling its employee disciplinary process to be *poor*. The process began when the hiring authority discovered potential misconduct and referred the allegations to the Office of Internal Affairs. The case concluded when one of the following occurred:

1. The hiring authority sustained an allegation and imposed discipline, and the employee:
 - a. Accepted the penalty; or
 - b. Filed an appeal, and the resulting litigation at the State Personnel Board or in the California courts was resolved; or
 - c. Entered into a settlement regarding the disciplinary action; or
2. The hiring authority sustained an allegation, but later withdrew the discipline; or
3. The hiring authority decided to impose discipline, but the employee resigned or retired before the hiring authority imposed discipline; or
4. The hiring authority determined there was insufficient evidence to sustain the allegations or that the allegations were unfounded.

The department's handling of a criminal case ended when the Office of Internal Affairs completed its criminal investigation and either submitted the investigation for filing consideration to a prosecuting agency or determined there was insufficient evidence for a referral.

The OIG's overall assessment of the department's effectiveness in handling cases involving investigations into employee misconduct and the employee disciplinary process is based on a cumulative assessment of our six identified indicators. Two indicators are assigned to each of three involved departmental units: the hiring authority; the Office of Internal Affairs; and the department attorney. The OIG based its rating for each of the six indicators on the answers to specific compliance- or performance-related questions. To answer the questions, we used the

standards outlined in the Department Operations Manual and other established procedures, such as the Office of Internal Affairs' Field Guide and its deadly force investigations procedures memoranda, as well as our opinion of best practices.

Indicator 1 and Indicator 4 applied to hiring authorities' performances. Answers to the questions in Indicator 1 determined how well the hiring authority discovered and referred allegations of employee misconduct to the Office of Internal Affairs, and the answers to the questions in Indicator 4 assessed how well the hiring authority determined its findings regarding alleged misconduct and processed the misconduct cases. Because hiring authorities do not make any investigative or disciplinary findings in criminal cases, Indicator 4 did not apply in cases involving criminal investigations.

We used information from the answers to Indicator 2 to assess how well the Office of Internal Affairs' Central Intake Unit analyzed hiring authority referrals of employee misconduct, whereas the answers to the questions in Indicator 3 addressed how well the Office of Internal Affairs conducted investigations, interviewed employees suspected of misconduct, and prepared investigative reports. If the Office of Internal Affairs did not investigate or interview the employee suspected of misconduct, Indicator 3 did not apply.

The two remaining indicators applied to department attorneys, if any were assigned to the case. The answers to the questions in Indicator 5 determined our assessment of how well the department attorney provided legal advice to the Office of Internal Affairs when it processed referrals of suspected employee misconduct from the hiring authority and conducted administrative investigations. Because the department does not assign department attorneys to its criminal investigations, only the first six questions in Indicator 5 applied to department attorneys in cases involving criminal investigations. These questions assess how well the department attorney provided legal advice to the Office of Internal Affairs while it addressed hiring authority referrals. For administrative cases, we also used Indicator 5 to assess the department attorney's performance during the investigative and disciplinary findings conference the hiring authority conducted.

Finally, we used Indicator 6 to assess how well the department attorney (or employee relations officer, if the case was not assigned to a department attorney) handled employee discipline litigation.

After considering the ratings for our six indicators, we found the department's overall performance was *poor*. Specifically, we assessed the department's overall performance as *satisfactory* in 62 cases and *poor* in 39 cases. We did not find an overall *superior* performance in any of the cases. Table 2 on the next page shows the department's overall ratings by case type.

Table 2. Ratings by Case Type: Superior, Satisfactory, and Poor

Case Type	Superior	Satisfactory	Poor	Total
Full Administrative Investigation	None	51% (20 cases)	49% (19 cases)	100% (39 cases)
Criminal Investigation	None	84% (16 cases)	16% (3 cases)	100% (19 cases)
Direct Action	None	57% (8 cases)	43% (6 cases)	100% (14 cases)
Direct Action With Subject Interview	None	47% (9 cases)	53% (10 cases)	100% (19 cases)
Administrative Use of Deadly Force	None	86% (6 cases)	14% (1 case)	100% (7 cases)
Criminal Use of Deadly Force	None	100% (3 cases)	...	100% (3 cases)
Totals	None	61% (62 cases)	39% (39 cases)	100% (101 cases)

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

Further, we found the department's overall performance was *poor* in conducting internal investigations and handling employee discipline cases, and the overall percentage score was 65 percent. For the 39 cases we assessed as *poor* overall, the combined assessment score was 50 percent. The indicator ratings for the 39 cases we rated as *poor* can be seen in Table 3 on the next page.

Table 3. Assessment Indicators for 39 Cases Rated as Poor

N = 39

OIG Case Number	Discovery and Referral	Initial Determination	Investigation	Findings	Legal Advice During Investigation	Ratings		Case Rating
						Legal Representation During Litigation		
						Superior	Satisfactory	Poor
						■	■	■
18-0026622-DM	■	■	■	■	■			■
19-0031060-DM	■	■	■	■	■		■	■
19-0031141-DM	■	■	■	■	■		■	■
19-0031703-DM	■	■	■	■	■	■		■
19-0031725-DM	■	■	■	■	■		■	■
19-0031726-DM	■	■	■	■	■		■	■
19-0031804-DM	■	■	■	■	■		■	■
20-0032416-DM	■	■	■	■	■		■	■
20-0032968-DM	■	■	■	■	■		■	■
20-0033564-DM	■	■	■	■	■		■	■
20-0033588-DM	■	■	■	■	■		■	■
20-0033664-DM	■	■	■	■	■		■	■
20-0033816-DM	■	■	■	■	■		■	■
20-0033878-DM	■	■	■	■	■		■	■
20-0033884-DM	■	■	■	■	■		■	■
20-0033953-DM	■	■	■	■	■		■	■
20-0034347-DM	■	■	■	■	■		■	■
20-0034354-DM	■	■	■	■	■		■	■
20-0034416-DM	■	■	■	■	■		■	■
20-0034880-DM	■	■	■	■	■		■	■
20-0034984-DM	■	■	■	■	■		■	■
20-0035613-DM	■	■	■	■	■		■	■
20-0036062-DM	■	■	■	■	■		■	■
20-0036085-DM	■	■	■	■	■		■	■
20-0036088-DM	■	■	■	■	■		■	■
20-0036331-DM	■	■	■	■	■		■	■
20-0036669-DM	■	■	■	■	■		■	■
21-0037521-DM	■	■	■	■	■		■	■
21-0037979-DM	■	■	■	■	■		■	■
21-0039032-DM	■	■	■	■	■		■	■
21-0039038-DM	■	■	■	■	■		■	■
21-0039102-CM	■	■	■	■	■		■	■
21-0039196-DM	■	■	■	■	■		■	■
21-0039197-DM	■	■	■	■	■		■	■
21-0039207-DM	■	■	■	■	■		■	■
21-0039487-DM	■	■	■	■	■		■	■
21-0039659-CM	■	■	■	■	■		■	■
21-0040455-DM	■	■	■	■	■		■	■
21-0040904-CM	■	■	■	■	■		■	■

Note: A gray block in a column indicates this category was not applicable.

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

Indicator 1: The Performance by Hiring Authorities in Discovering and Referring Allegations of Employee Misconduct Was *Satisfactory*

A memorandum the Office of Internal Affairs issued on July 20, 2014, requires hiring authorities to refer matters of suspected employee misconduct to the Office of Internal Affairs within 45 days of discovering the alleged misconduct. We based our assessment of hiring authorities in part on this requirement, as well as on departmental policy that governs hiring authority responsibilities.⁹ For the July 1, 2021, through December 31, 2021, reporting period, we found that hiring authorities performed in a *satisfactory* manner overall in discovering and referring allegations of employee misconduct to the Office of Internal Affairs. We found hiring authorities performed in a *satisfactory* manner in 85 individual cases when discovering and referring misconduct allegations and in two cases, we found hiring authorities performed in a *superior* manner. However, we found that hiring authorities' performance was *poor* in 14 cases.

We also found that, compared with the January through June 2021 reporting period, hiring authorities performed worse in timely referring misconduct allegations. For the July through December 2021 reporting period, hiring authorities submitted untimely referrals in 24 percent of the total referrals, whereas 76 percent were timely. For the 14 cases in which we assessed hiring authorities' performance as *poor* in discovering and referring allegations of employee misconduct to the Office of Internal Affairs, we found untimely referrals in 12 cases, or 86 percent. While a late referral alone does not necessarily lead to a *poor* rating, delayed referrals have been the most common factor in our *poor* ratings of hiring authorities.

However, hiring authorities timely referred matters to the Office of Internal Affairs in the two cases we assessed as *superior* and in 73 of the cases we assessed as *satisfactory* for this indicator. In one of the two cases we assessed as *superior*, an officer allegedly threatened during a phone call to kill his wife and her friend. The hiring authority referred the matter to the Office of Internal Affairs just 12 days after discovering the alleged misconduct. In the second case we assessed as *superior*, an officer allegedly conspired with incarcerated persons to introduce mobile phones, heroin, and methamphetamine into a prison. The officer also allegedly illegally communicated with incarcerated persons. The hiring authority referred the matter to the Office of Internal Affairs just six days after discovering the alleged misconduct.

In contrast, in cases in which a hiring authority delayed in submitting a referral to the Office of Internal Affairs for the cases we closed

Indicator Score
Satisfactory

(72%)

Superior

Two cases

Satisfactory

85 cases

Poor

14 cases

9. Refers to DOM, Section 33030.5.2, which sets forth the requirement that hiring authorities are to submit employee misconduct referrals to the Office of Internal Affairs' Central Intake Unit, and the Office of Internal Affairs' Memorandum dated June 20, 2014, which sets forth the time frames for hiring authorities to submit referrals.

between July and December 2021, the longest delay was eight months and seven days after policy required. The second longest delay was three months and ten days after policy required, and the shortest delay was 47 days after learning of the alleged misconduct, or two days after policy required. Delayed referrals by hiring authorities often occurred in cases that involved allegations of officer integrity or dishonesty. During this reporting period, hiring authorities referred 36 cases involving allegations dishonesty or integrity, 33 of which involved allegations of peace officer dishonesty or integrity. Of the 33 cases involving possible peace officer dishonesty or integrity, hiring authorities did not timely refer nine cases, or 27 percent. The following examples demonstrate significant delays by hiring authorities in referring cases involving possible officer dishonesty.

- In one case, an investigative services unit sergeant allegedly provided his password to a departmental database to other officers. A second sergeant with the investigative services unit allegedly concealed or destroyed evidence of possible misconduct by a lieutenant, and allegedly attempted to prevent an officer from gathering evidence and reporting misconduct concerning the lieutenant. The lieutenant allegedly failed to report her own misconduct and allegedly lied during an Office of Internal Affairs interview. The hiring authority did not refer the matter to the Office of Internal Affairs until 75 days after discovery and 30 days after policy required.
- In a second case, an officer allegedly pushed an incarcerated person in a dining hall without justification and a sergeant allegedly failed to monitor the distribution of evening meals in a dining hall. The officer also allegedly lied about the incident in an interview with the Office of Internal Affairs. The hiring authority did not refer the matter to the Office of Internal Affairs until 81 days after discovery and 36 days after policy required.

Officers hold “a position of trust, and the public has a right to the highest standard of behavior from those they invest with the power and authority of a law enforcement officer. Honesty, credibility, and temperament are crucial to the proper performance of an officer’s duties.”¹⁰ Although sustained allegations of dishonesty or integrity are not the only allegations that lead to an officer’s dismissal, they often result in an officer’s dismissal because “[d]ishonesty is incompatible with the public trust.”¹¹

10. *Talmo v. Civil Service Com.* (1991) 231 Cal.App.3d 210, 231.

11. *Ibid.*

For cases the OIG monitored and closed between July and December 2021, hiring authorities determined dismissal was the appropriate penalty in 33 cases. In six of those 33 cases, or 18 percent, in which hiring authorities initially determined dismissal was the appropriate penalty, the hiring authority did not timely identify and refer the serious misconduct allegations to the Office of Internal Affairs. Five of the six cases involved allegations of peace officer dishonesty or integrity, but in one of the six cases, the officer allegedly tested positive for cocaine. In the prior reporting period of January through June 2021, hiring authorities determined dismissal was the appropriate penalty in 35 cases and did not timely refer the allegations to the Office of Internal Affairs in seven of those 35 cases, or 20 percent. While the department has improved its timeliness in referring cases involving potential dismissal, untimeliness remains a concern.

In one of the six cases in which the hiring authority did not timely refer allegations to the Office of Internal Affairs and ultimately determined dismissal was the appropriate penalty, the hiring authority delayed 112 days after discovering the alleged misconduct and 67 days after policy required in referring the matter to the Office of Internal Affairs. After the investigation, the hiring authority sustained allegations that three officers struck an incarcerated person with their knees and fists, lied about the incident in their reports, and lied during Office of Internal Affairs interviews. The hiring authority dismissed the officers, and they filed appeals with the State Personnel Board. Prior to a hearing, the hiring authority decided to enter into settlement agreements with the officers, reducing their penalties to 187-working-day suspensions and removing language from their disciplinary actions concerning their dishonesty.

In another case, an officer allegedly endangered a sergeant by leaving the sergeant alone at the scene of an ongoing fight involving an incarcerated person and failed to submit a report before being relieved from duty. The officer allegedly submitted a false report indicating no incarcerated persons were fighting when he left the scene when they were, in fact, fighting. The hiring authority delayed 18 days after policy required in referring the matter to the Office of Internal Affairs. The hiring authority dismissed the officer, and the officer filed an appeal with the State Personnel Board, which upheld the dismissal after a hearing.

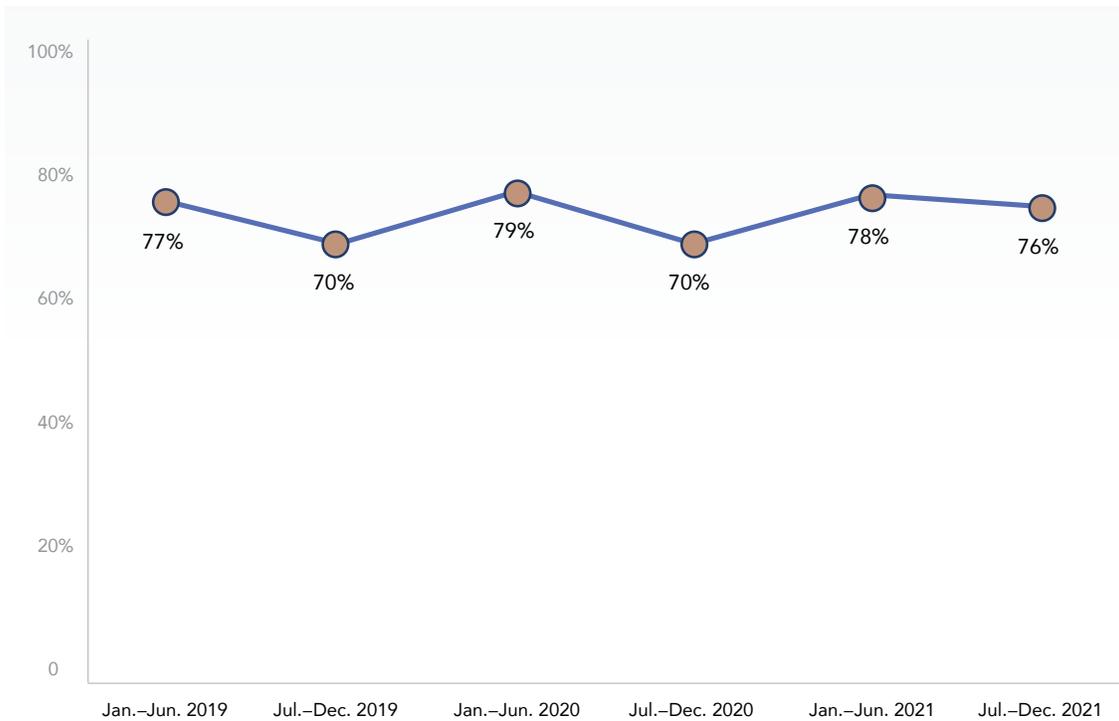
The department is divided into different divisions such as the Division of Adult Institutions, the Division of Adult Parole Operations, and the Division of Juvenile Justice. The department groups hiring authorities from the Division of Adult Institutions into different collectives of prisons, called *missions*, which include *General Population*, *High Security*, *Female Offender Programs and Services/Special Housing*, and *Reception Centers*. The OIG tracks how timely hiring authorities refer matters to the Office of Internal Affairs by mission.

During the July through December 2021 reporting period, we found that some hiring authorities improved their performance in referring matters to the Office of Internal Affairs. Hiring authorities from the Division of Juvenile Justice significantly improved their performance in referring suspected misconduct, as they timely referred suspected misconduct allegations to the Office of Internal Affairs in 100 percent of referrals. During the last reporting period of January through June 2021, hiring authorities from the Division of Juvenile Justice timely referred allegations to the Office of Internal Affairs in only 57 percent of referrals. Hiring authorities from the *High Security* mission also improved their performance. For the July through December 2021 reporting period, hiring authorities from the *High Security* mission timely referred 83 percent of suspected misconduct allegations to the Office of Internal Affairs, an increase from 77 percent during the January through December 2021 reporting period.

However, other hiring authorities' performance in referring matters to the Office of Internal Affairs declined during the July through December 2021 reporting period. Hiring authorities from the *General Population* mission timely referred 67 percent of cases, a decrease from the January through June 2021 reporting period, during which time these hiring authorities timely referred 92 percent of suspected misconduct allegations. Hiring authorities from the *Female Offender Programs and Services/Special Housing* mission referred suspected misconduct during the July through December 2021 reporting period in 67 percent of cases, a decrease from the January through June 2021 reporting period, when they timely referred 79 percent of misconduct allegations to the Office of Internal Affairs.

Figure 7 on the next page presents the percentages of timely hiring authority referrals statewide over the last six reporting periods.

Figure 7. Percentages of Cases Hiring Authorities Referred to the Office of Internal Affairs Within 45 Days

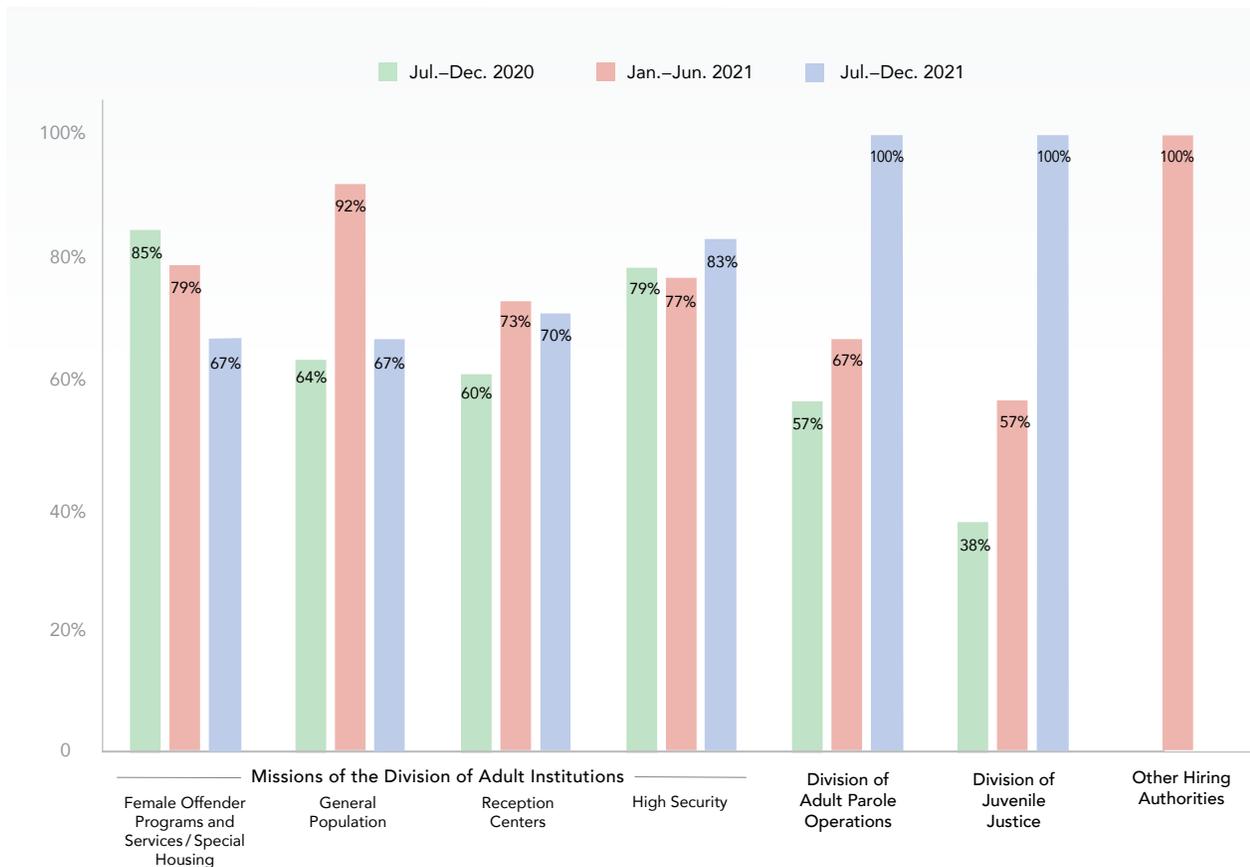


Note: This figure reflects cases that the OIG monitored and closed during the period from January through June 2021 and the five prior reporting periods.

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

Figure 8 on the next page presents specific information regarding hiring authority referrals by division and by the Division of Adult Institutions' missions, as established by the department, for the reporting period of July through December 2021, as well as for the two prior reporting periods. We report the timeliness of hiring authority referrals by division and mission because a separate director is assigned to oversee each division.

Figure 8. Timely Hiring Authority Referrals by Divisions; Division of Adult Institutions' Missions; and Other Hiring Authorities



Note: This figure reflects cases that the OIG monitored and closed during the period from July through December 2021 and the two prior reporting periods.

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

Indicator 2: The Performance by the Office of Internal Affairs in Processing and Analyzing Hiring Authority Referrals of Employee Misconduct Was *Poor*

The Office of Internal Affairs performed in a *poor* manner overall in processing and analyzing referrals it received from hiring authorities for cases we monitored and closed between July and December 2021. We found the Office of Internal Affairs' performance in this indicator was *satisfactory* in 75 cases and *poor* in 26 cases. We did not find any cases with *superior* performance during this reporting period. The OIG's assessment of the decisions made by the Office of Internal Affairs' Central Intake Unit was the most significant factor affecting this *poor* assessment. We found that in 37 of 101 monitored cases, or 37 percent, the Office of Internal Affairs did not make an appropriate initial determination regarding cases.

Departmental policy requires the Office of Internal Affairs decide on a course of action regarding each hiring authority referral within 30 days of receipt and meet weekly to review those referrals. Each week, the Office of Internal Affairs assigned a special agent who reviewed each case before the meeting and prepared a written analysis with his or her recommendations. The special agent determined the subjects and allegations appropriate for each case and recommended which of the following courses of action to take: approve an administrative or criminal investigation; approve only an interview of the subject of the investigation; return the case to the hiring authority to take disciplinary or corrective action without an interview or investigation; or reject the referral. The Office of Internal Affairs led each weekly meeting, which the OIG and department attorneys attended. In addition to attending the weekly meetings, OIG attorneys monitored the entire process, starting with a review of all referrals and the special agents' analyses. They provided recommendations to the department and identified which cases the OIG should monitor. Of the 101 cases we monitored and closed during this reporting period, we disagreed with 37 of the Office of Internal Affairs' initial decisions concerning the referrals from hiring authorities.

We based our assessment for this indicator on the Office of Internal Affairs' Central Intake Unit special agent's analysis and recommendations regarding the hiring authority's referral, the Office of Internal Affairs' final decision regarding the referral, and the timeliness of the Office of Internal Affairs' decision. In our opinion, timeliness is essential, as a timely initial determination can impact the timeliness of any resulting investigation, the hiring authority's determination, and ultimately the service of discipline. Statute sets forth the deadlines by which disciplinary actions must be served, and failure to meet the deadlines could preclude the department from pursuing disciplinary action against an employee.

Indicator Score
Poor
(69%)

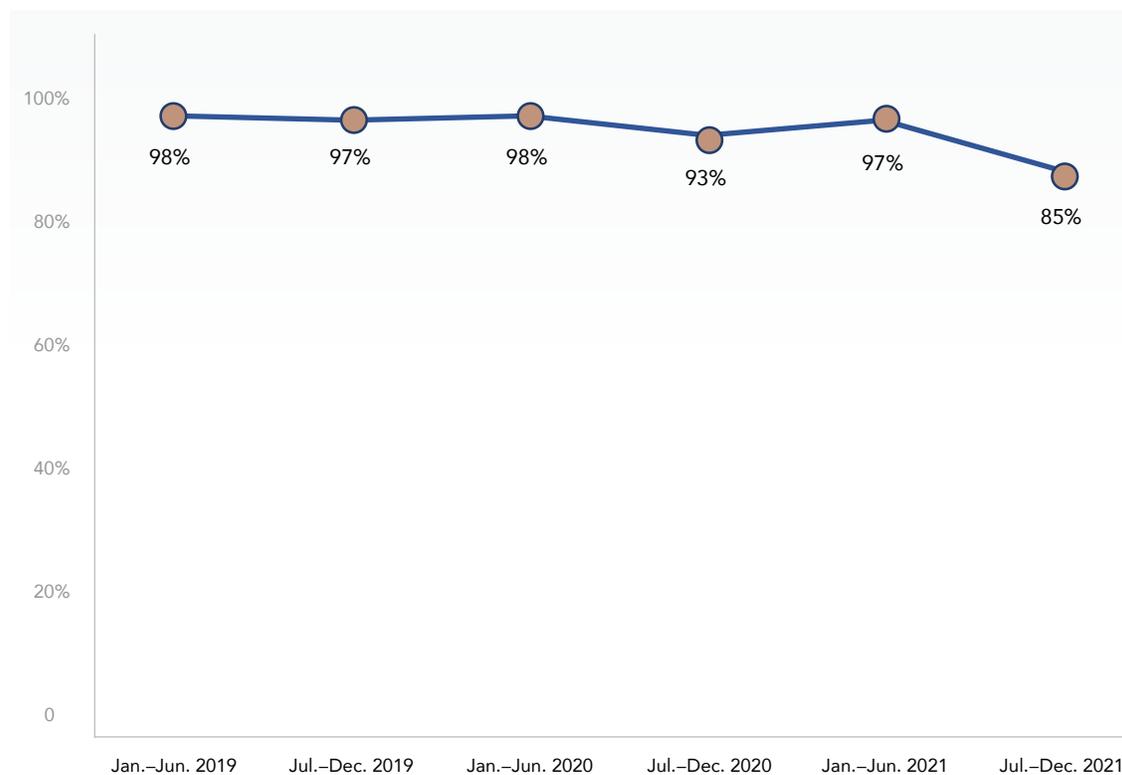
Superior
Zero cases

Satisfactory
75 cases

Poor
26 cases

For cases we monitored and closed between July and December 2021, we found the Office of Internal Affairs made a timely determination regarding hiring authority referrals in 85 percent of the cases (86 of 101 cases). The department’s performance during this reporting period was worse than it was during the January through June 2021 reporting period, in which the Office of Internal Affairs made a timely determination in 97 percent of the cases; nevertheless, the Office of Internal Affairs again performed satisfactorily. Figure 9 below shows the percentages of cases for which the department made timely determinations over the last six reporting periods.

Figure 9. Percentages of Cases With Timely Determinations Made by the Office of Internal Affairs’ Central Intake Unit



Note: This figure reflects cases that the OIG monitored and closed during the period from January through June 2021 and the five prior reporting periods.

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

For the 101 cases the OIG monitored and closed during the period of July through December 2021, the OIG disagreed with decisions made by the Office of Internal Affairs' Central Intake Unit 29 times in 25 cases (25 percent). Figure 10 below lists these disagreements.

Figure 10.
Disagreements With Office of Internal Affairs' Decisions
Regarding Hiring Authority Referrals in the 101 Cases
the OIG Monitored and Closed From July Through December 2021

4	OIA's decision to not open a full administrative investigation (and OIA returned the case to the hiring authority without an investigation or interview of the subject)
3	OIA's decision to not open a full administrative investigation (but approved an interview of the subject)
5	OIA's decision to not add a dishonesty allegation
6	OIA's decision to not add another allegation (not dishonesty)
1	OIA's decision to either remove or not add a subject to a case
4	OIA's decision to not approve an interview of a subject
6	OIA's decision to not open an administrative investigation simultaneously with a criminal investigation
29	Total Disagreements

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

Of the 101 cases, the OIG disagreed with the Office of Internal Affairs in 25 cases. In four of the 25 cases, the OIG disagreed with more than one decision, and in the remaining 21, we disagreed with one decision.

From July through December 2021, the OIA made decisions regarding 1,289 hiring authority referrals and rejected 85 of those referrals. The OIG disagreed with 16 of those decisions.

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

Indicator Score
Satisfactory
 (72%)

Superior
 Three cases

Satisfactory
 69 cases

Poor
 15 cases

Indicator 3: The Performance by the Office of Internal Affairs in Investigating Allegations of Employee Misconduct Was *Satisfactory*

The Office of Internal Affairs assigned a special agent in cases in which it decided to conduct either an administrative or criminal investigation, or an interview of the employee suspected of misconduct. For the cases the OIG monitored and closed from July through December 2021, we found that the Office of Internal Affairs' performance in investigating allegations of employee misconduct was *satisfactory* overall. Of the 101 total cases the OIG monitored and closed during this reporting period, the Office of Internal Affairs conducted interviews or investigations in 87 cases. The Office of Internal Affairs' performance was *satisfactory* in 69 cases, *poor* in 15 cases, and *superior* in three cases.

Several factors contributed to the OIG's assessments for this indicator, including whether the Office of Internal Affairs timely assigned a special agent to the case; the special agent's preparedness for the investigation; whether the special agent completed the investigation with due diligence; the special agent's compliance with departmental policy and the Office of Internal Affairs' field guide; the thoroughness and quality of the investigation and interviews; and whether the special agent adequately consulted with the hiring authority, a department attorney, and an OIG attorney.

As noted in the *Summary* of this report, OIG attorneys answered a series of up to 55 assessment questions to measure the performance of Office of Internal Affairs' special agents. Some assessment questions did not apply to certain cases. For example, some questions only applied to cases in which the Office of Internal Affairs conducted criminal investigations but not administrative investigations. The OIG assigned a *satisfactory* rating when a special agent conducted a proper, thorough, and timely investigation. If the Office of Internal Affairs' special agent went above and beyond what was expected of him or her, the OIG assigned a *superior* rating, and there were three such cases during the July through December 2021 reporting period.

In one of the three cases in which we assessed the Office of Internal Affairs' investigation as *superior*, a parole agent allegedly drove under the influence of alcohol, brandished a firearm, and assaulted her boyfriend. The parole agent also allegedly lied to outside law enforcement and during an Office of Internal Affairs interview. The special agent prepared exceptionally well and made good use of exhibits including photos, body-worn-camera videos, and audio recordings during interviews and in the investigation report.

However, in one of the 15 cases in which we assessed the Office of Internal Affairs' investigation as *poor*, an officer allegedly engaged in sexual activity with his underage daughter. The special agent delayed completing the draft investigation report and further delayed providing it to the OIG.

For cases the OIG monitored and closed between July through December 2021, the OIG concluded that special agents completed all necessary and relevant interviews in 96 percent of cases and asked all relevant questions. Further, special agents thoroughly and appropriately conducted investigations in 95 percent of cases. Special agents included all relevant facts and evidence in 95 percent of their reports and addressed all appropriate allegations in 97 percent of their reports.

The Office of Internal Affairs' performance decreased in its timeliness in completing deadly force investigations.

Between July and December 2021, the OIG monitored and closed 10 cases the Office of Internal Affairs investigated regarding the use of deadly force. Seven of those cases involved administrative investigations, and the remaining three involved criminal investigations. Pursuant to the department's deadly force investigation procedures, Office of Internal Affairs' special agents must complete deadly force investigations within 90 days of assignment or seek an extension from the Office of Internal Affairs Chief of Field Operations.¹²

For the 10 deadly force investigation cases the OIG monitored and closed between July and December 2021, the Office of Internal Affairs did not complete those investigations within 90 days or within an applicable extension period as policy requires in seven of the 10 cases, or 70 percent. In one of the seven cases, the Office of Internal Affairs extended the 90-day period, but the OIG did not agree with the extension. In only three cases, 30 percent, the Office of Internal Affairs completed investigations within 90 days or within an applicable extension period. The department's timeliness in completing deadly force investigations decreased from the January through June 2021 reporting period, during which time the Office of Internal Affairs timely completed deadly force investigations in three of nine cases, or 33 percent. Further, the delays during the July through December 2021 reporting period were significantly longer than policy requires in all but two cases. For the seven cases in which the Office of Internal Affairs took longer than policy requires to complete the deadly force investigation, the length of delay by the Office of Internal Affairs to complete the investigation ranged from 35 days to 280 days.

In one of the deadly force cases, an officer allegedly discharged a firearm through the roof of the garage at his residence. The officer also allegedly lied to outside law enforcement officers who investigated the incident. The prison did not notify the Office of Internal Affairs of the incident and did not notify the OIG until nearly two hours after it occurred. The OIG notified the Office of Internal Affairs of the incident. Furthermore, the Office of Internal Affairs did not initially recognize the need to add

12. Office of Internal Affairs' Deadly Force Investigations Team Procedures, October 1, 2020.

a dishonesty allegation due to the officer's alleged false statements to outside law enforcement. The Office of Internal Affairs ultimately added a dishonesty allegation, but only after the OIG recommended it do so.

Of the 10 deadly force investigation cases we monitored and closed during the July through December 2021 reporting period, three cases involved incidents in which a shooter aimed at or near an individual. In one of those three cases, after officers observed two incarcerated persons stabbing a third incarcerated person with weapons on an exercise yard, an officer allegedly fired two rounds for effect from a Mini-14 rifle, striking one of the attackers on the head and killing him. In the second case, after an incarcerated person attacked another incarcerated person with a weapon on an exercise yard, an officer allegedly fired a shot for effect from a Mini-14 rifle, which struck the attacking incarcerated person in the torso. Finally, in the third case, after three incarcerated persons attacked a fourth incarcerated person on an exercise yard, an officer allegedly fired a warning shot from a Mini-14 rifle. A second officer fired two shots for effect from a Mini-14 rifle, which struck an incarcerated person in the back and killed him.

Two other cases, one administrative and one criminal, arose from the same incident in which an officer allegedly struck an incarcerated person on the head with a baton to stop two incarcerated persons from stabbing a third, incarcerated person. In two other cases, one administrative and one criminal, that arose out of the same incident, as an officer searched an incarcerated person, the incarcerated person ran from the officer. The officer and a second officer pursued the incarcerated person, after which the incarcerated person attacked the first officer, and a second incarcerated person attacked the second officer. A third officer struck the second incarcerated person on the head with a baton, which stopped the attacks. The final three deadly force investigation cases involved officers who allegedly discharged a firearm in a negligent manner, one while under the influence of alcohol at home, one while placing the firearm under the seat of his vehicle, and one during an alleged domestic violence incident.

Figure 11 on the next page presents the numbers and types of deadly force used in the incidents the OIG monitored and closed during the July through December 2021 reporting period. In some cases, departmental staff used more than one instance of deadly force, as described in the incident above in which an officer fired a warning shot and another officer fired two shots for effect, killing an incarcerated person. In four cases, two incidents gave rise to both an administrative and a criminal investigation; however, we count each use of force only once for each incident.



Ruger Mini-14 .223 caliber rifle

Figure 11.

Number and Types of Deadly Force Used in Cases We Monitored and Closed From July Through December 2021

	<i>Totals</i>
Shots for Effect	3
Warning Shots	1
Baton	3
Negligent Discharge	3
Total	10



Source: The Office of the Inspector General Tracking and Reporting System. Figures are for the period from July through December 2021.

Photographs courtesy of the Department of Corrections and Rehabilitation.

Indicator Score
Poor
(62%)
<i>Superior</i>
Zero cases
<i>Satisfactory</i>
38 cases
<i>Poor</i>
41 cases

Indicator 4: The Performance by Hiring Authorities in Determining Findings Regarding Alleged Misconduct and Processing the Misconduct Cases Was *Poor*

After the Office of Internal Affairs returned a matter to the hiring authority without an investigation or after completing an administrative investigation or interview of an employee suspected of misconduct, the hiring authority met with the OIG and the department attorney, if assigned, to determine the appropriate disposition of the misconduct allegations. If the hiring authority made reasonable attempts to schedule the investigative and disciplinary findings conference within 14 days and held the conference within 30 days of receipt of the case, we did not negatively assess a hiring authority for a late conference. If the hiring authority sustained any allegations, the hiring authority also determined whether to impose discipline and, if so, the type of discipline to impose. The hiring authority was also responsible for serving any disciplinary action within the required time frame. Between July and December 2021, the OIG assessed the hiring authority's performance in those areas in 79 cases and determined that the hiring authorities' overall performance in this indicator was *poor*.¹³ We assessed the hiring authorities' performance as *satisfactory* in 38 cases and *poor* in 41 cases. We did not assess any as *superior*.

We used this indicator to assess whether hiring authorities conducted the investigative and disciplinary findings conferences in a timely manner, were adequately prepared for the conferences, made appropriate investigative and disciplinary findings, and served the disciplinary actions in a timely manner.

Untimely investigative and disciplinary findings conferences and delayed service of disciplinary actions on peace officers were the primary reasons for *poor* assessments. Timely investigative and disciplinary findings conferences are crucial because if a hiring authority finds an employee was dishonest, the presumptive penalty would be dismissal from the department. Delays in taking disciplinary action may unnecessarily extend the payment of salary to would-be dismissed employees and enable those employees to remain in positions in which they can continue to inflict harm.

Hiring authorities often did not conduct investigative and disciplinary findings conferences in a timely manner, even in cases involving potential dismissal.

When assessing the hiring authority's timeliness in conducting the investigative and disciplinary findings conference, we rely on our interpretation of the Department Operations Manual. We believe the Department Operations Manual provides that the investigative and

13. This performance indicator did not apply to the 22 criminal cases the OIG monitored and closed.

disciplinary findings conference is to be held within 14 days of receiving the matter from the Office of Internal Affairs.¹⁴ However, if the hiring authority made reasonable attempts to schedule the investigative and disciplinary findings conference within 14 days and held the conference within 30 days of receiving the case, we did not assign a negative assessment for a late conference. For the July through December 2021 reporting period, the OIG found that hiring authorities conducted investigative and disciplinary findings conferences or made reasonable attempts to schedule the conference within 14 days in only 58 percent of the cases (46 of 79). While we highlighted this problem in our last report, the department's performance continues to decline. During our last reporting period, January through June 2021, hiring authorities timely conducted investigative and disciplinary findings conferences in 62 percent of cases.

As previously noted, hiring authorities did not timely conduct the investigative and disciplinary findings conference in 40 percent of cases in which the hiring authority decided to impose discipline. Even when hiring authorities decided to dismiss employees, they still often delayed conducting investigative and disciplinary findings conferences. During the July through December 2021 reporting period, hiring authorities delayed conducting the investigative and disciplinary findings conferences in 13 of the 33 cases involving dismissal, or 39 percent. This reflects a decrease in performance since the January through June 2021 reporting period, when hiring authorities delayed conducting investigative and disciplinary findings conferences in 34 percent of cases involving dismissals.

For example, the longest delay in conducting investigative and disciplinary findings conferences when hiring authorities decided to dismiss employees was 45 days after policy required. In that case, the hiring authority sustained allegations that an officer slept while he was supposed to be observing an incarcerated person on suicide watch, falsified a log form indicating he continuously observed the incarcerated person, lied to a lieutenant during an interview with the Allegation Inquiry Management Section, and lied to a special agent during an interview with the Office of Internal Affairs. The hiring authority dismissed the officer, and the officer filed an appeal with the State Personnel Board. After a hearing, the State Personnel Board upheld the officer's dismissal.

The department did not serve disciplinary actions on officers within the time frame set forth in policy in 52 percent of the cases in which hiring authorities decided to impose discipline.

In cases the OIG monitored and closed between July and December 2021, we found the department delayed serving disciplinary actions on peace

14. DOM, Section 33030.13.

officers. A hiring authority decides whether to impose discipline at an investigative and disciplinary findings conference attended by a department attorney, if assigned to the case, and an OIG attorney in cases the OIG monitors. If a hiring authority decides to impose discipline on a peace officer, policy requires the department serve the disciplinary action within 30 days of the hiring authority's decision to take disciplinary action.¹⁵

For the July through December 2021 reporting period, the department served disciplinary actions on peace officers in 48 cases. Of those 48 cases, the department delayed serving disciplinary actions in 25 cases, or 52 percent. For the previous reporting period of January through June 2021, we found the department delayed serving disciplinary actions on peace officers in 31 of 49 cases, or 63 percent. Thus, the department's performance in serving disciplinary actions on peace officers within the required time frames has improved since the January through June 2021 reporting period. Between July and December 2021, the shortest delay in serving peace officers with a disciplinary action was 31 days after the hiring authority decided to take disciplinary action, which was one day after policy required. The longest delay was 99 days after the decision to take disciplinary action, or 69 days after policy required.

One example of the department's failure to serve disciplinary actions within policy time frames is a case in which outside law enforcement arrested an officer after he allegedly grabbed his girlfriend's throat. The officer also allegedly failed to promptly notify the hiring authority of his arrest and issuance of a protective order prohibiting him from possessing a firearm, lied to outside law enforcement, and was convicted of a misdemeanor for false imprisonment. The hiring authority sustained the allegations and dismissed the officer. However, the department did not serve the disciplinary action until 82 days after the decision to take disciplinary action and 52 days after policy requires. As a result, the officer received 52 days of salary and benefits that he should not have received based on his misconduct.

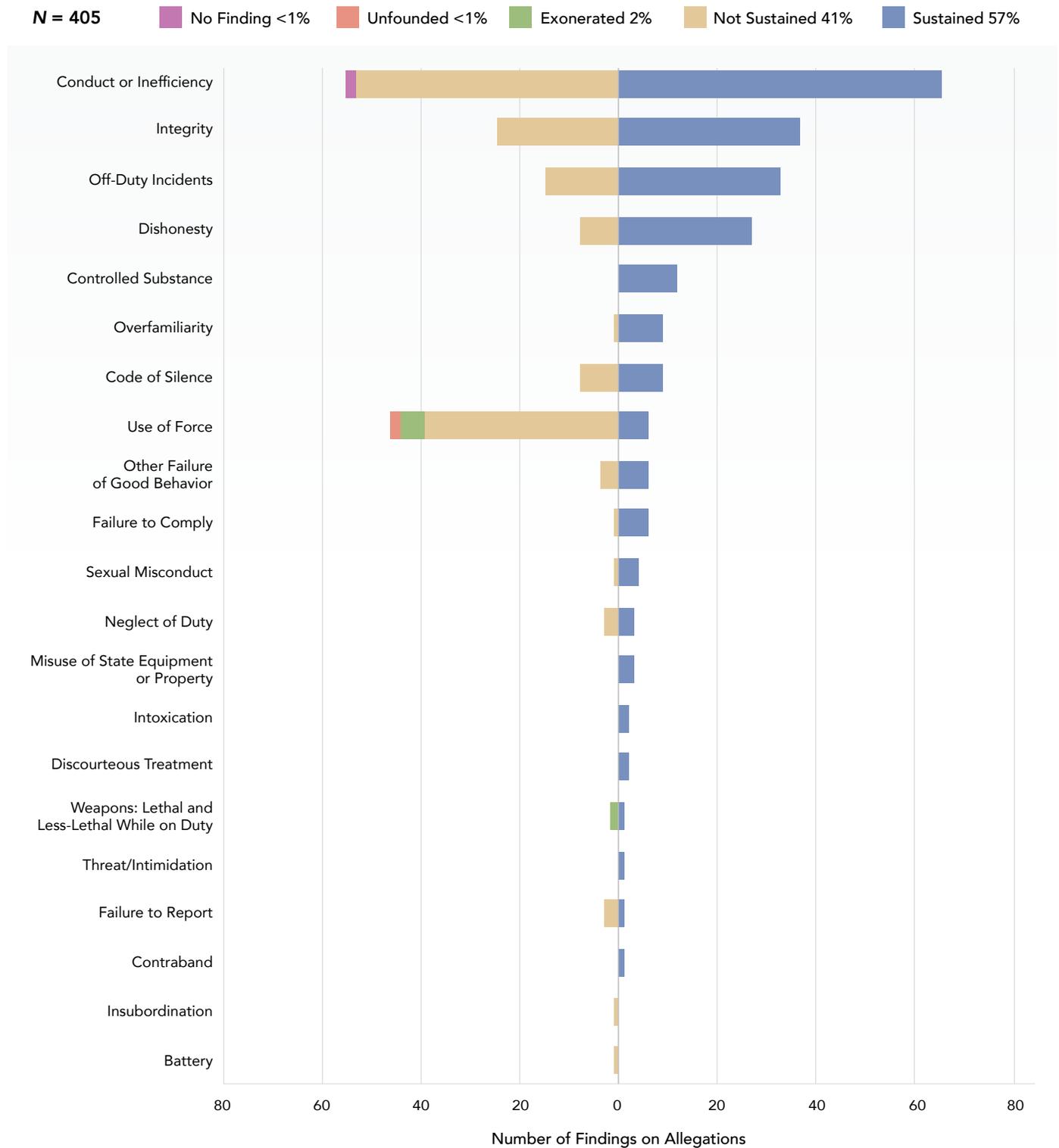
Despite the overall poor assessment, hiring authorities made appropriate investigative findings and penalty determinations in most cases.

A hiring authority must be adequately prepared to make an informed decision at the investigative and disciplinary findings conference. Adequate preparation requires that the hiring authority review all available evidence, including the Office of Internal Affairs' investigative reports, reports from outside law enforcement agencies, audio and video recordings, and any other supporting documentation. The hiring authority, department attorney, if assigned, and the OIG attorney, if monitoring the case, discuss the evidence and alleged misconduct. The hiring authority may decide there is not enough evidence to make

15. DOM, Section 33030.22.

a fully informed decision regarding the allegations. In this situation, the hiring authority may ask the Office of Internal Affairs to conduct further investigation. However, if there is sufficient evidence, the hiring authority makes determinations regarding the allegations. If allegations are sustained, the hiring authority decides whether to impose corrective action or disciplinary action, and what level of discipline to impose.

We found that hiring authorities identified the appropriate subjects and allegations in 99 percent of the cases the OIG monitored and closed between July and December 2021. In 92 percent of those cases, we also concluded that hiring authorities made appropriate findings. For cases in which the hiring authority decided to impose a penalty, we found hiring authorities identified an appropriate penalty in 94 percent of the cases. Figure 12 on the next page depicts the findings hiring authorities made regarding allegations presented to them for review.

Figure 12. Administrative Cases: Findings Determined by Hiring Authorities

Note: Numbers may not sum to 100 percent due to rounding.

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

The OIG sought review by departmental executives in three cases where we identified a significantly unreasonable course of action.

In some circumstances, the OIG or department attorney may elevate a hiring authority's decision regarding the investigative findings and penalty to the hiring authority's supervisor for further review. This elevation is referred to as an "executive review." The purpose of executive review is to resolve significant disagreements between stakeholders about investigative findings, imposition of penalty, or settlement agreements.¹⁶ If the OIG or department attorney believes the hiring authority's supervisor also made an unreasonable decision, either stakeholder may elevate the matter to still higher levels, such as a director, an undersecretary, or the Secretary of the department. To preserve the integrity of this process, the OIG reserves the executive review process for select cases in which truly significant disagreements justify its use.

Of the 79 administrative cases the OIG monitored and closed during the July through December 2021 reporting period, the OIG sought a higher level of review in three cases, which are summarized below:

- While driving a vehicle, an officer allegedly struck an outside law enforcement officer who was on a bicycle, failed to stop, then lied to a second law enforcement officer about the incident. The officer also allegedly failed to cooperate with an outside law enforcement investigation, allegedly lied to a lieutenant about the incident, and lied in a memorandum about the incident. The hiring authority sustained the allegations and dismissed the officer. The officer filed an appeal with the State Personnel Board. However, pursuant to a settlement agreement, the officer resigned in lieu of dismissal. The department attorney recommended that the hiring authority not sustain the allegations that the officer lied to a lieutenant in a memorandum but recommended adding and sustaining an allegation that the officer lied to outside law enforcement. The OIG concurred with the hiring authority's decision to dismiss the officer but did not concur with the settlement terms because the department refused to include settlement language required by departmental policy. Therefore, the OIG elevated the matter. At the higher level of review, the hiring authority's supervisor agreed to the settlement terms.
- An officer allegedly pushed an incarcerated person out of a wheelchair, and the officer, along with two other officers allegedly assaulted the incarcerated person. The three officers allegedly lied in their documentation of the incidents and during Office of Internal Affairs interviews. The hiring authority sustained the allegations against the officers, except that the

16. DOM, Section 33030.14.

first officer pushed an incarcerated person out of a wheelchair and dismissed the officers. The officers filed appeals with the State Personnel Board. However, prior to the hearing, the hiring authority decided to enter into settlement agreements with the officers reducing their penalties to 187-working-day suspensions and removing language from their disciplinary actions concerning their dishonesty. The department attorney agreed with the hiring authority's determination. The OIG did not agree with reducing the penalties and the removal of language from their disciplinary actions concerning their dishonesty and elevated the matter. At the higher level of review, the hiring authority's supervisor agreed to the settlement terms based on problems resulting from the department attorney's failure to secure expert testimony and potential *Skelly* violations.

- Outside law enforcement arrested an officer after he allegedly attempted to strangle his girlfriend. The officer allegedly lied to outside law enforcement and during an interview with the Office of Internal Affairs. The hiring authority found insufficient evidence to sustain any of the allegations. The department attorney recommended dismissal. The OIG did not concur with the hiring authority's determinations, recommended dismissing the officer, and elevated the matter. The hiring authority's supervisor sustained the allegations and determined that dismissal was the appropriate penalty. The officer filed an appeal with the State Personnel Board, which revoked the dismissal following a hearing.

Indicator 5: The Performance by Department Attorneys in Providing Legal Advice While the Office of Internal Affairs Processed Employee Misconduct Hiring Authority Referrals and Conducted Internal Investigations Was *Satisfactory*

For cases we monitored and closed from July through December 2021, department attorneys performed in a *satisfactory* manner in providing legal advice to the Office of Internal Affairs as the Office of Internal Affairs' Central Intake Unit processed employee misconduct referrals from hiring authorities and during its internal investigations. Of the 101 cases we monitored and closed during this reporting period, we assessed 85 cases as *satisfactory* and 16 cases as *poor*. We rated no cases as *superior*.

The department assigns attorneys to some of the cases in which the Office of Internal Affairs conducts administrative investigations. Department attorneys are not assigned to criminal investigations. For the July through December 2021 reporting period, the department assigned attorneys in 74 of the 79 administrative cases we monitored and closed. In the remaining six cases, the department assigned an employee relations officer, which is not an attorney. In 64 of the 74 cases, or 86 percent, the Office of Internal Affairs conducted investigations, or an interview of the subject alleged to have committed misconduct. In all 64 cases that involved an investigation or interview of the subject, the department attorney and special agent cooperated and appropriately consulted.

In 74 cases, department attorneys provided advice to the hiring authority concerning the sufficiency of the evidence, investigation, and findings. In eight of those 74 cases, or 11 percent, the department attorney did not provide appropriate legal consultation. In all eight cases, the OIG rated the department attorney's performance for Indicator 5 as *poor* and, in seven of those eight cases, we rated the overall case as *poor*.

In one of the seven cases in which the OIG rated the department attorney's performance and overall case as *poor*, an officer allegedly kicked an incarcerated person twice on the head without justification and intentionally omitted this information from a report he wrote about the incident. The officer and a recreational therapist allegedly lied during an Office of Internal Affairs interview. At the investigative and disciplinary findings conference, the hiring authority sustained the allegation that the officer kicked an incarcerated person on the head without justification and lied during an Office of the Internal Affairs interview, but not the remaining allegations, and dismissed the officer. The hiring authority found insufficient evidence to sustain the allegation against the recreational therapist. In his analysis of the evidence, the department attorney failed to bring to the hiring authority's attention a critical document that, in the OIG's opinion, proved the recreational therapist lied during her interview with the Office of Internal Affairs.

Indicator Score
Satisfactory
(71%)

Superior
Zero cases

Satisfactory
85 cases

Poor
16 cases

In a second case, an associate warden, two lieutenants, and a sergeant allegedly allowed officers to inappropriately restrain an incarcerated person during an escort and failed to intervene. The associate warden failed to remain at the scene throughout the duration of the incident. One of the officers allegedly failed to submit a report prior to the end of his shift. The hiring authority sustained the allegation that the associate warden failed to remain at the scene during the incident and that the officer failed to submit a report prior to the end of his shift, but not the remaining allegations and imposed letters of reprimand. The department attorney initially stated the investigation was insufficient but inexplicably changed her position and deemed the investigation sufficient. Moreover, the department attorney improperly recommended to the hiring authority that no allegations be sustained, despite sufficient evidence for some of the allegations.

Indicator 6: The Performance of Department Attorneys and Employee Relations Officers in Providing Legal Representation During Litigation Was Poor

Of the 79 administrative cases we monitored and closed from July through December 2021, the department served disciplinary actions in 50 cases, 48 of which were served on peace officers, and a nonpunitive termination in one case. We assessed the department’s legal representation during litigation for these 51 cases, beginning with the preparation of any disciplinary actions and ending with the completion of any appeal process to the State Personnel Board or appellate court. We found the department advocates’ performance to be *poor* overall for these 51 cases. The department’s performance was *satisfactory* in 31 cases, and *poor* in 20 cases. We did not find any *superior* performance for this indicator.

We used this indicator to assess whether department advocates prepared thorough and legally sufficient disciplinary actions in a timely manner. We also assessed how well department advocates represented the department at prehearing settlement conferences and hearings before the State Personnel Board, including their preparation of cases for the hearings and related litigation. Our monitoring continued when any party filed an appeal to the superior or appellate courts to assess the department attorney’s representation of the department during the writ or appeal proceedings. Finally, although also assessed in Indicator 4 due to some overlapping responsibilities with hiring authorities, we also assessed the timeliness of serving disciplinary actions on peace officers.

Delayed service of disciplinary actions on peace officers strongly impacted the *poor* assessment rating in the 20 cases we assessed as *poor*. Of those 20 cases, 19 involved peace officers. In 16 of those 19 cases, or 84 percent, the department did not serve disciplinary actions on officers within 30 days of the decision to impose discipline, as policy requires. The remaining three cases with *poor* assessment ratings had timely service of the disciplinary action (within 30 days), but the department attorney’s performance still fell short of *satisfactory* due to other insufficiencies. For example, in one of those three cases, an investigative services unit lieutenant allegedly failed to complete an inquiry into allegations that three officers failed to report they observed an incarcerated person punch another incarcerated person on the head. The department attorney inappropriately recommended that the hiring authority withdraw the disciplinary action against the lieutenant without identifying any new evidence, flaws, or risks justifying the withdrawal.

In addition to assessing how timely the department served disciplinary actions, we used this indicator to assess whether department attorneys and employee relations officers prepared legally sufficient and thorough disciplinary actions. For cases the OIG closed between July and December 2021, department attorneys and employee relations officers prepared disciplinary actions in 50 cases. Despite the overall

Indicator Score
Poor
(65%)

Superior
Zero cases

Satisfactory
31 cases

Poor
20 cases

poor assessment for this indicator, we found that in all 50 cases, the department advocate prepared disciplinary actions which were legally sufficient.

The Department Unnecessarily Paid \$181,262 to Employees During Delays in Processing Dismissal Actions

For the July 1, 2021, through December 2021 reporting period, the OIG reviewed the department's delays in dismissal cases to determine how much the department and taxpayers paid in salary and benefits to employees during unnecessary delays in the disciplinary process. Our review revealed the department paid approximately \$181,262¹⁷ in salary and benefits to employees during those delays during the July through December 2021 reporting period. Since January 1, 2019, the department has paid approximately \$1,495,751 in salary and benefits to employees during these delays.

During this reporting period, the department served or should have served 16 dismissal actions in 17 cases that were later upheld or in which the employee resigned after service of the action. The delays occurred during one of the following four critical steps in the disciplinary process:

- The hiring authority's referral of allegations of employee misconduct to the Office of Internal Affairs within 45 days of discovering the alleged misconduct.
- The Office of Internal Affairs' processing of employee misconduct referrals from the hiring authority within 30 days of receipt of the case.
- The hiring authority's administration of the investigative and disciplinary findings conference within 14 days of receipt of the case from the Office of Internal Affairs. In cases in which the hiring authority made reasonable attempts to schedule the conference within 14 days, the OIG did not negatively assess the department if the conference was ultimately held within 30 days.
- The department's service of the disciplinary action on a peace officer within 30 days of making the decision to impose discipline.

Concerning the above-listed four critical steps, the OIG found the following delays among the 17 cases in which the department served a dismissal, and the dismissal was later upheld, or the employee resigned or retired:

- The hiring authority delayed referring misconduct allegations to the Office of Internal Affairs beyond the 45-day time frame that policy required in four cases, or 24 percent. The total cumulative delay for this critical step was 57 days, and the department paid

¹⁷ Dollar amounts in our calculations for this report are approximations and subject to rounding.

approximately \$18,548 to would-be dismissed employees during the delays.

- The Office of Internal Affairs delayed processing a referral beyond the 30-day time frame policy required in two of the 17 cases. The total delay for this critical step was 134 days, and the department paid approximately \$43,604 to would-be dismissed employees during the delays.
- The hiring authority delayed conducting investigative and disciplinary findings conferences beyond the 14-day time frame policy required in seven of 17 cases, or 41 percent. The cumulative delay for this critical step was 148 days, and the department paid approximately \$53,543 to would-be dismissed employees during the delays.
- In total, the department served 16 dismissal actions on peace officers in the 17 cases. The department delayed serving the disciplinary actions on peace officers beyond the 30-day time frame policy required in 11 of the 16 dismissal actions, or 69 percent. The total cumulative delay for this critical step was 187 days, and the department paid approximately \$65,656 to would-be dismissed employees during the delays.

For example, in one case, an officer possessed 20 grams of cocaine and 60 marijuana plants for sale at his residence, lied to outside law enforcement, and admitted to outside law enforcement that he ingested cocaine approximately one week prior. The Office of Internal Affairs received the request for investigation but did not make a determination regarding the request until five months and eight days after the request and four months and eight days after policy requires. Although the Office of Internal Affairs delayed making a decision in anticipation of outside law enforcement arresting the officer or filing charges, the evidence already included in the hiring authority's referral contained sufficient information to dismiss the officer. The officer continued to receive his regular salary while on administrative leave during the delay.

These delays are concerning because employees who commit serious enough misconduct necessitating the department dismiss them from State service may continue to work their regular assignments during the delays and expose the department to further potential liability. Moreover, based on the serious nature of their misconduct, these employees should not be rewarded with a job at taxpayers' expense any longer than necessary. Even worse, in our review of the department's delays in dismissal cases, we found that 56 percent of the salary and benefits paid by the department during delays went to employees at home receiving their regular paycheck while not working or while on reassignment to a different position usually not requiring peace officer designation, such as in a mail room. Of the \$181,262 paid to ultimately dismissed employees during delays, the department paid \$46,986, or 26 percent, to employees who were at home or on administrative time off. The department paid

another \$53,977 of the \$181,262, or 30 percent, to employees in redirected positions. In all, the department wasted approximately \$100,963.

In total, the department's unnecessary delays within one of the four critical steps in the disciplinary process cost the department and taxpayers approximately \$181,262 in salary and benefits this reporting period.

Table 4 on the next page presents a detailed breakdown of the costs associated with unnecessary delays in dismissal cases.

Table 4. Detailed Information Regarding Costs Associated With Unnecessary Delays in Dismissal Cases

OIG Case Number	Classification	Monthly Salary at Mid-Step (\$)	Daily Rate (\$)	Total Delays							
				Critical Steps in the Investigative and Disciplinary Process							
				Referral*	OIA Processes Referral†	Hiring Authority Makes Findings‡	Hiring Authority Serves Action§	Total Days Late	Total Salary (\$)	Total Benefits (\$)	Total Cost (\$)
18-0026622-DM	Officer	6,451	212	...	...	7	16	23	4,865	2,620	7,484
19-0030680-DM ^l	Officer	6,451	212	6	...	...	7	13	2,750	1,481	4,230
19-0031703-DM	Parole Agent I	8,424	276	...	...	36	29	65	17,952	9,667	27,619
19-0031726-DM	Captain	11,298	370	...	...	7	6	13	4,815	2,593	7,408
19-0031804-DM ^l	Officer	6,451	212	27	...	...	...	27	5,711	3,075	8,786
20-0032281-DM	Officer	6,451	212	18	...	12	...	30	6,345	3,417	9,762
20-0032416-DM	Officer	6,451	212	...	...	...	52	52	10,998	5,923	16,921
20-0032561-DM	Officer	6,451	212	...	...	...	5	5	1,058	569	1,627
20-0032968-DM	Officer	6,451	212	...	...	...	44	44	9,306	5,011	14,318
20-0034721-DM	Officer	6,451	212	...	...	...	4	4	846	456	1,302
20-0034984-DM	Officer	6,451	212	...	...	45	...	45	9,518	5,125	14,643
21-0037399-DM	Officer	6,451	212	...	4	33	...	37	7,826	4,214	12,040
21-0038435-DM	Officer	6,451	212	...	...	8	...	8	1,692	911	2,603
21-0039113-DM	Sergeant	8,248	270	...	...	...	5	5	1,352	728	2,080
21-0039197-DM	Officer	6,451	212	...	...	...	19	19	4,019	2,164	6,183
21-0039284-DM	Officer	6,451	212	6	...	...	...	6	1,269	683	1,952
21-0040455-DM	Officer	6,451	212	...	130	...	...	130	27,496	14,807	42,303
Totals				57	134	148	187	526	\$117,817	\$63,445	\$181,262

* The hiring authority refers misconduct allegation to the Office of Internal Affairs.

† The Office of Internal Affairs processes the hiring authority's referral.

‡ The hiring authority conducts the investigative and disciplinary findings conference.

§ The hiring authority serves disciplinary action on the employee.

^l Cases 19-0030680-DM and 19-0031804-DM involved the same employee; we did not count overlap delays.

Notes: The **Office of Internal Affairs** is abbreviated **OIA**. Amounts in the **Total Salary**, **Total Benefits**, and **Total Cost** columns are approximations and subject to rounding.

Sources: The Office of the Inspector General Tracking and Reporting System, and the California Department of Corrections and Rehabilitation.

The OIG Recommends That, Before Imposing Disciplinary Action, the Department Obtain a Statement From All Employees Who Are Subjects of Employee Discipline Cases

For the July through December 2021 reporting period, we once again offer the following recommendation to the department. This is the third time the OIG has made this recommendation or similar recommendations, which have been rejected by the department on prior occasions.

In the last reporting period, the OIG monitored disciplinary cases involving full administrative investigations as well as cases where the Office of Internal Affairs only interviewed the employee accused of misconduct. We also monitored cases where the Office of Internal Affairs returned cases to the hiring authority without taking a statement from the employee. The department refers to these cases as “direct action” cases. In some of those cases, the hiring authority had to make a disciplinary decision without first hearing from the employee who allegedly engaged in misconduct. Only after serving the disciplinary action did the department allow the employee to present information at a predeprivation hearing, known as a *Skelly* hearing. In some cases, the hiring authority determined the disciplinary action should be significantly reduced or revoked after the employee was finally given a chance to present his or her side. The OIG has concerns with the practice of the department’s hiring authority making a disciplinary decision without first giving the employee an opportunity to present his or her position, including certain factors the hiring authority must consider in arriving at a decision.

The hiring authority is charged with making findings regarding the allegations against employees at the investigative and disciplinary findings conference. If the hiring authority sustains any allegations, the hiring authority must determine which disciplinary matrix misconduct categories apply based on the allegations that were sustained. Each matrix misconduct category has a base penalty and penalty range from which the hiring authority can select. The hiring authority determines the appropriate penalty after considering mitigating and aggravating factors found in policy. In this reporting period, Chapter 3, Article 22 of the Department Operations Manual required hiring authorities to consider these factors. Emergency regulations have since been implemented that affect the disciplinary process, but hiring authorities are still required to consider aggravating and mitigating factors when making disciplinary decisions. The California Code of Regulations section 3392.4(c)(5) requires the hiring authority to consider these factors. That section reads as follows:

The hiring authority shall impose the base penalty unless aggravating or mitigating factors, as set forth in 3392.4, subsections (c)(9) and (11), are identified. The aggravating and mitigating factors *shall* be considered [emphasis added] in determining the appropriate penalty level within the penalty range.

The relevant mitigating and aggravating factors include whether:

- The misconduct was unintentional and not willful
- The employee was forthright and truthful during the investigation or in documents written or signed by the employee
- The employee accepts responsibility
- The employee is remorseful

In cases where the employee has not provided a statement regarding the allegations, it is impossible for the hiring authority to determine if the employee is remorseful or accepts responsibility at the time of the decision to take discipline. Furthermore, it may be unclear whether the employee's conduct was intentional or unintentional without the benefit of the employee's perspective. Finally, the employee is not provided an opportunity to be forthright and truthful during the investigation, unlike other similarly situated employees who provide a statement during an investigation into the misconduct allegations. Without a statement from an employee, hiring authorities cannot fulfill their obligation set forth in regulation.

In this reporting period, the OIG monitored 14 “direct action” cases. Of the 14 “direct action” cases, eight of the employees chose to have *Skelly* hearings. Of the eight *Skelly* hearings in “direct action” cases the OIG monitored in this reporting period, in three cases, or 38 percent, the department reduced the penalty immediately after a *Skelly* hearing based on factors learned after taking a statement from the disciplined employee for the first time. The following cases from this reporting period demonstrate the issue:

In one case, an officer allegedly failed to conduct a security check of cells in his assigned building. The officer later found an incarcerated person in a cell had been killed by his cellmate. The Office of Internal Affairs approved the case for direct action and referred it to the hiring authority. The hiring authority sustained the disciplinary action and imposed a 5 percent salary reduction for six months. After the *Skelly* hearing, the *Skelly* officer found that the officer accepted responsibility for the misconduct and determined that the officer had been redirected to another post prior to going to the building and that contributed to the delayed discovery of the deceased incarcerated person. The hiring authority did not identify these mitigating factors at the investigative and disciplinary findings conference. The hiring authority decided to reduce the penalty to an official letter of reprimand.

In a second case, a lieutenant allegedly sent an unauthorized email to 33 other departmental employees containing information and evidence related to a homicide of an incarcerated person, potentially jeopardizing a criminal investigation. The Office of Internal Affairs approved the case for direct action and referred it to the hiring authority. The hiring authority sustained the disciplinary action and imposed a 10 percent salary reduction for six months. After the lieutenant’s presentation at a *Skelly* hearing, the hiring authority determined the allegations could not be proven because the lieutenant provided credible information regarding the practice of dissemination of case information via email at the prison. As a result, the hiring authority withdrew the disciplinary action against the lieutenant.

In a third case, outside law enforcement arrested an officer after he allegedly pushed his wife into a wall and threw a knife at her. The Office of Internal Affairs approved the case for direct action and referred it to the hiring authority. The hiring authority sustained the allegation and imposed a 10 percent salary reduction for 24 months. After a *Skelly* hearing, the hiring authority entered into a settlement agreement with the officer, reducing the penalty to a 10 percent salary reduction for 18 months, in part because the officer accepted responsibility and demonstrated remorse at the *Skelly* hearing.

Cases like these can also have a negative effect on morale. Even when the correct result is achieved after a *Skelly* hearing, employees can end up feeling undervalued and, even worse, resentful toward the department.

It is important to note, that although the OIG only monitored 14 “direct action” cases in this reporting period, the majority of the cases the Office of Internal Affairs returned to the hiring authorities were “direct action” cases.¹⁸

The OIG recommends that the department develop a policy to ensure that hiring authorities have the benefit of information regarding mitigating and aggravating factors before the hiring authorities are required to sign off on a disciplinary decision to govern situations where the Office of Internal Affairs returns cases to the hiring authority as a “direct action” case. In cases like these, the hiring authority should be allowed to obtain a written statement from the employee prior to imposing discipline. The hiring authority could also elect to have a locally designated investigator such as an investigative services unit lieutenant take a recorded oral statement from the employee, allowing the employee to provide any mitigating information they want the hiring authority to consider.

18. Of the 1,289 referrals for which it made decisions, the Office of Internal Affairs returned 787 cases (61 percent) to hiring authorities to take direct action on employee misconduct allegations without pursuing a full investigation or an interview of the employee alleged to have engaged in misconduct.

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*Semiannual Report
July–December 2021*

OFFICE *of the* INSPECTOR GENERAL

Amarik K. Singh
Inspector General

Neil Robertson
Chief Deputy Inspector General

STATE *of* CALIFORNIA
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OIG