

1 Edward W. Swanson, SBN 159859  
August Gugelmann, SBN 240544  
2 SWANSON & McNAMARA LLP  
300 Montgomery Street, Suite 1100  
3 San Francisco, California 94104  
Telephone: (415) 477-3800  
4 Facsimile: (415) 477-9010

5 Court Expert

6  
7  
8  
9  
10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

12 JOHN ARMSTRONG, et al.,

13 Plaintiffs,

14 v.

15 GAVIN NEWSOM, et al.,

16 Defendants.  
17

Case No. CV 94-2307 CW

**COURT EXPERT’S QUARTERLY  
REPORT ON INVESTIGATIONS AND  
DISCIPLINE**

18 Pursuant to the Court’s orders for remedial measures at the *Armstrong* Six prisons (RJD,  
19 LAC, COR, SATF, CIW, and KVSP) (the Remedial Plans), the Court Expert provides the  
20 following report on implementation of CDCR’s new investigations and discipline system.

21 **AIU staffing analysis**

22 As the Court Expert has reported, Plaintiffs have long raised concerns that AIU is  
23 understaffed for the number of misconduct allegations it receives. This quarter, the parties agreed  
24 that CDCR will examine AIU’s staffing needs, based on an analysis of case volume and  
25 investigator caseloads, and formulate a plan to meet those staffing needs. *See* Dkt. 3737  
26 (stipulation and order). That review is underway, and the parties have agreed that it will be  
27 complete by July 31, 2026.  
28

1 **Regulatory changes**

2 The Court Expert’s last report described a number of pending revisions to the regulations  
 3 governing CDCR’s investigation and discipline process. As set forth in more detail there, those  
 4 regulations address three areas that have been the focus of negotiations between the parties. First,  
 5 they establish a process for identifying individuals who file the largest number of complaints,  
 6 determining which of their complaints do not require AIU investigation (for example because  
 7 they are duplicative of earlier claims or allege impossible or highly implausible misconduct), and  
 8 routing those complaints to a new Grievance Response Team (GRT). Second, they establish a  
 9 process that will allow AIU to rapidly close investigations into certain claims (for example where  
 10 the allegation is definitively proved or disproved by video evidence). Third, the regulations  
 11 establish circumstances under which complaints that were classified as “routine” grievances and  
 12 routed for review at the institutions can be elevated to AIU for a full investigation<sup>1</sup> (for example  
 13 where the claim closely resembles a recent, sustained complaint against the same staff member).  
 14 The public comment period for the third renote of those regulations closed earlier this month.<sup>2</sup>

15 **OIG reports and related revisions to investigations and discipline**

16 In its most recent semiannual report, released this month, the OIG continues to be critical  
 17 of the Department.<sup>3</sup> OIG monitors investigations and rates the Department’s performance as  
 18 “adequate,” “improvement needed,” or “inadequate.” In its most recent report, it found CDCR’s  
 19 overall performance adequate in only 11% of 89 staff misconduct cases it reviewed; a further  
 20 35% needed improvement, and the majority of them (54%) were deemed inadequate. However,  
 21 OIG’s assessment of each of the individual components of the discipline and investigations  
 22

23 <sup>1</sup> All complaints are reviewed by the Centralized Screening Team (CST) to determine whether  
 24 they raise serious claims of staff misconduct, which must be investigated by AIU. Where CST  
 25 determines that a complaint does not allege staff misconduct or alleges a less serious form of  
 staff misconduct, the complaint is deemed “routine” and routed to the appropriate local Office of  
 Grievance for review.

26 <sup>2</sup> The renoted regulations are available at [https://www.cdcr.ca.gov/regulations/wp-  
 27 content/uploads/sites/171/2025/11/NCR-25-06-Third-Notice-of-Change-to-Text-as-Originally-  
 Proposed\\_Final.pdf](https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2025/11/NCR-25-06-Third-Notice-of-Change-to-Text-as-Originally-Proposed_Final.pdf).

28 <sup>3</sup> [https://www.oig.ca.gov/wp-content/uploads/2025/12/Staff-Misconduct-Monitoring-Report-  
 January-June-2025.pdf](https://www.oig.ca.gov/wp-content/uploads/2025/12/Staff-Misconduct-Monitoring-Report-January-June-2025.pdf)

1 system was somewhat better. OIG assesses the performance of three groups involved in the  
 2 investigations and discipline process: OIA, hiring authorities (HAs), and department attorneys  
 3 (EAPT, the Employment Advocacy and Prosecution Team). While CDCR overall performed  
 4 adequately in only 11% of cases, OIA performed adequately in 30% of cases, and hiring  
 5 authorities performed adequately in 36% percent of cases.<sup>4</sup> With respect to hiring authorities,  
 6 OIG specifically noted that there was “marked improvement” in performance compared to its  
 7 prior reporting period. OIG’s assessment of the Department’s performance in staff misconduct  
 8 cases is summarized below:

	Adequate	Improvement needed	Inadequate	Cases reviewed
OIA	30%	33%	37%	89 cases
HAs	36%	27%	36%	88 cases
EAPT	32%	16%	52%	56 cases
Overall	11%	35%	54%	89 cases

9  
 10  
 11  
 12  
 13 In addition to noting improvement with hiring authority decision-making, the OIG report  
 14 also suggests that the creation of the Centralized Allegation Resolution Unit (CARU) is having a  
 15 positive effect on the investigations and discipline process. As the Court is aware, once OIA  
 16 completes an investigation, it forwards its report to the subject officer’s hiring authority to  
 17 determine whether discipline is warranted. In January 2025, CDCR created CARU to act as the  
 18 hiring authority and make this determination in lieu of the warden. *See* Dkt. 3721 (stipulation  
 19 and order regarding CARU). CARU began reviewing cases arising from the *Armstrong* Six  
 20 prisons in January 2025 and has since expanded to cover a total of 18 institutions. The OIG  
 21 report includes encouraging updates on CARU’s performance. One important aspect of the  
 22 hiring authority’s task is to assess whether OIA’s investigation is complete. The OIG reported  
 23 that CARU finds insufficiencies in investigations at a significantly higher rate than other hiring  
 24 authorities, with 20.9% of cases sent back to OIA for further investigation, compared to 8.4% for

25  
 26  
 27  
 28 <sup>4</sup> The discrepancy between the CDCR’s overall performance (54% inadequate) and the  
 performances of OIA (30% inadequate) and hiring authorities (37% inadequate) is the result of  
 aggregation. Thus, CDCR’s overall performance with respect to a given case is deemed  
 inadequate if any of the monitored groups performs inadequately on that case. The Court Expert  
 has not conducted an independent review of the cases monitored by OIG and is not able to offer  
 an opinion on the accuracy of OIG’s classifications.

1 all hiring authorities (including CARU). The OIG also found that CARU has sustained  
2 misconduct claims at a higher rate than other hiring authorities, with 12.5% of allegations  
3 sustained (compared to 6.6% for all hiring authorities), and that it has far fewer instances of  
4 delayed decision making (with timing deficiencies in 6.5% of cases compared to 47.6% for all  
5 hiring authorities). While OIA has not yet monitored enough CARU cases to make substantive  
6 findings about disciplinary decisions, these preliminary indications of improvements compared  
7 to the average hiring authority are encouraging. Pursuant to the stipulation and order regarding  
8 CARU (Dkt. 3721), the parties have begun discussing a methodology “to measure whether  
9 having CARU staff members serving as the Hiring Authority has resulted in improvements  
10 regarding unbiased and comprehensive investigations and appropriate and consistent discipline.”  
11 Dkt. 3721, ¶ 3. The Court Expert anticipates that the parties’ evaluation of CARU’s performance  
12 will proceed in the next quarter.

13 The OIG also recently released a report on its review of 24 use of force cases investigated  
14 between July and September 2025.<sup>5</sup> The OIG found the Department’s performance “inadequate”  
15 in 15 of those cases, chiefly due to OIA’s failure to conduct thorough investigations and the  
16 hiring authorities’ failure to order further investigation. In several cases, the OIG noted that  
17 investigators failed to secure video footage before it was erased or failed to review the relevant  
18 footage. The OIG rated five cases as “improvement needed,” chiefly due to issues with timing of  
19 investigatory steps, and found the Department’s performance “adequate” in four cases. As the  
20 Court is aware, CDCR recently engaged an expert to review and assess its policies and practices  
21 concerning staff uses of force. *See* Dkt. 3721, ¶¶ 5-9 (stipulation and order). The expert has  
22 started his review and has met with Plaintiffs and the Court Expert, with another meeting  
23 scheduled for January.

#### 24 **Case volume and investigation and discipline timelines**

25 Case volumes continue to rise, and AIU’s on-time closure rates continued to decline as of  
26 the end of October (the most recent data available from CDCR). An average of 6,200 complaints

27 \_\_\_\_\_  
28 <sup>5</sup> <https://www.oig.ca.gov/wp-content/uploads/2025/11/Force-Investigation-Review-Team-Case-Summaries-July-September-2025.pdf>

