



Roy W. Wesley, Inspector General

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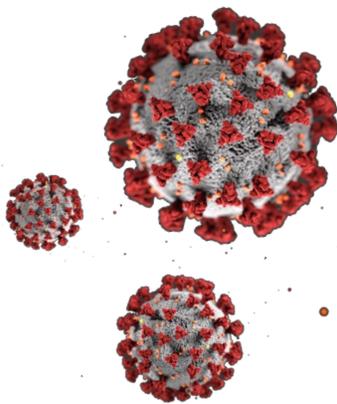
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# OIG | OFFICE *of the* INSPECTOR GENERAL

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Independent Prison Oversight

October 2020



## COVID-19 REVIEW SERIES

### *Part Two*

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The California Department  
of Corrections and Rehabilitation  
Distributed and Mandated the Use of  
Personal Protective Equipment and  
Cloth Face Coverings; However,  
Its Lax Enforcement Led to  
Inadequate Adherence to Basic  
Safety Protocols

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Regional OfficesSacramento  
Bakersfield  
Rancho Cucamonga

October 26, 2020

Anthony Rendon  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Mr. Speaker:

Enclosed is the Office of the Inspector General's report titled *COVID-19 Review Series, Part Two: The California Department of Corrections and Rehabilitation Distributed and Mandated the Use of Personal Protective Equipment and Cloth Face Coverings; However, Its Law Enforcement Led to Inadequate Adherence to Basic Safety Protocols*. In April 2020, you requested the Office of the Inspector General (the OIG) to assess the policies, guidance, and directives the California Department of Corrections and Rehabilitation (the department) had implemented since February 1, 2020, in response to the novel coronavirus disease (COVID-19). Specifically, you requested we focus on three concerns: 1) the department's screening process for all individuals entering a prison or facility in which inmates are housed or are present, 2) its distribution of personal protective equipment (PPE) to departmental staff and inmates, and 3) how it treats inmates who are suspected to have either contracted or been exposed to COVID-19. *Part One* of our COVID-19 review series focused on your first concern listed above: the department's efforts to screen prison staff and visitors for signs and symptoms of COVID-19. In this report, we focused on the department's distribution of PPE to departmental staff and incarcerated persons as well as staff's adherence to policies concerning cloth face coverings and physical distancing. Our next report will focus on your third concern noted above.

In this report, we conclude that despite nationwide shortages early in the COVID-19 pandemic, the department was generally able to procure and maintain supplies of PPE for its staff. In addition, the department purchased more than 752,000 cloth face coverings produced by the California Prison Industry Authority, and by April 9 had delivered more than half of those face coverings to prisons for use by staff and incarcerated persons. However, although the department distributed cloth face coverings to its staff and incarcerated population, issued memoranda requiring their use, and also implemented physical distancing requirements, our staff observed that staff and incarcerated persons frequently failed to adhere to those basic safety protocols. Our observations were also supported by departmental staff we surveyed at several prisons, as many of them reported observing staff and incarcerated persons failing to comply with face covering and physical distancing requirements. The frequent noncompliance by staff and incarcerated persons was likely caused at least in part by the department's supervisors' and managers' lack of enforcement of the requirements. Despite the frequent noncompliance observed by our staff and by the departmental staff we surveyed, we found that prison management statewide only referred seven of the



Speaker of the Assembly

October 26, 2020

COVID-19 REVIEW SERIES

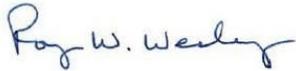
*Part Two: The California Department of Corrections and Rehabilitation Distributed and Mandated the Use of Personal Protective Equipment and Cloth Face Coverings; However, Its Law Enforcement Led to Inadequate Adherence to Basic Safety Protocols*

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department's more than 63,000 employees for formal investigations or punitive actions for misconduct related to face covering or physical distancing requirements. Furthermore, in June 2020, the department perplexingly loosened its face covering requirements at the same time it reported increasing cases of COVID-19 among both its staff and incarcerated population.

Unless departmental management clearly communicates consistent face covering guidelines that are enforceable, and effectively ensures that its managers and supervisors consistently take disciplinary action when they observe noncompliance, the department will continue to undermine its ability to enforce basic safety protocols, increasing the risk of additional, preventable infections of COVID-19.

Respectfully submitted,

A handwritten signature in blue ink that reads "Roy W. Wesley". The signature is written in a cursive style with a large initial 'R'.

Roy W. Wesley

Inspector General

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Coronavirus image, cover and throughout, courtesy of  
the U.S. Centers for Disease Control and Prevention: [Image Library](#)



When requested by the Governor, the Senate Committee on Rules, or the Speaker of the Assembly, **the Inspector General** shall initiate an audit or review of policies, practices, and procedures of the department. . . . Following a completed audit or review, the Inspector General may perform a followup audit or review to determine what measures the department implemented to address **the Inspector General's** findings and to assess the effectiveness of those measures.

Upon completion of an audit or review . . . , **the Inspector General** shall prepare a complete written report, which may be . . . disclosed in confidence . . . to the Department of Corrections and Rehabilitation and to the requesting entity.

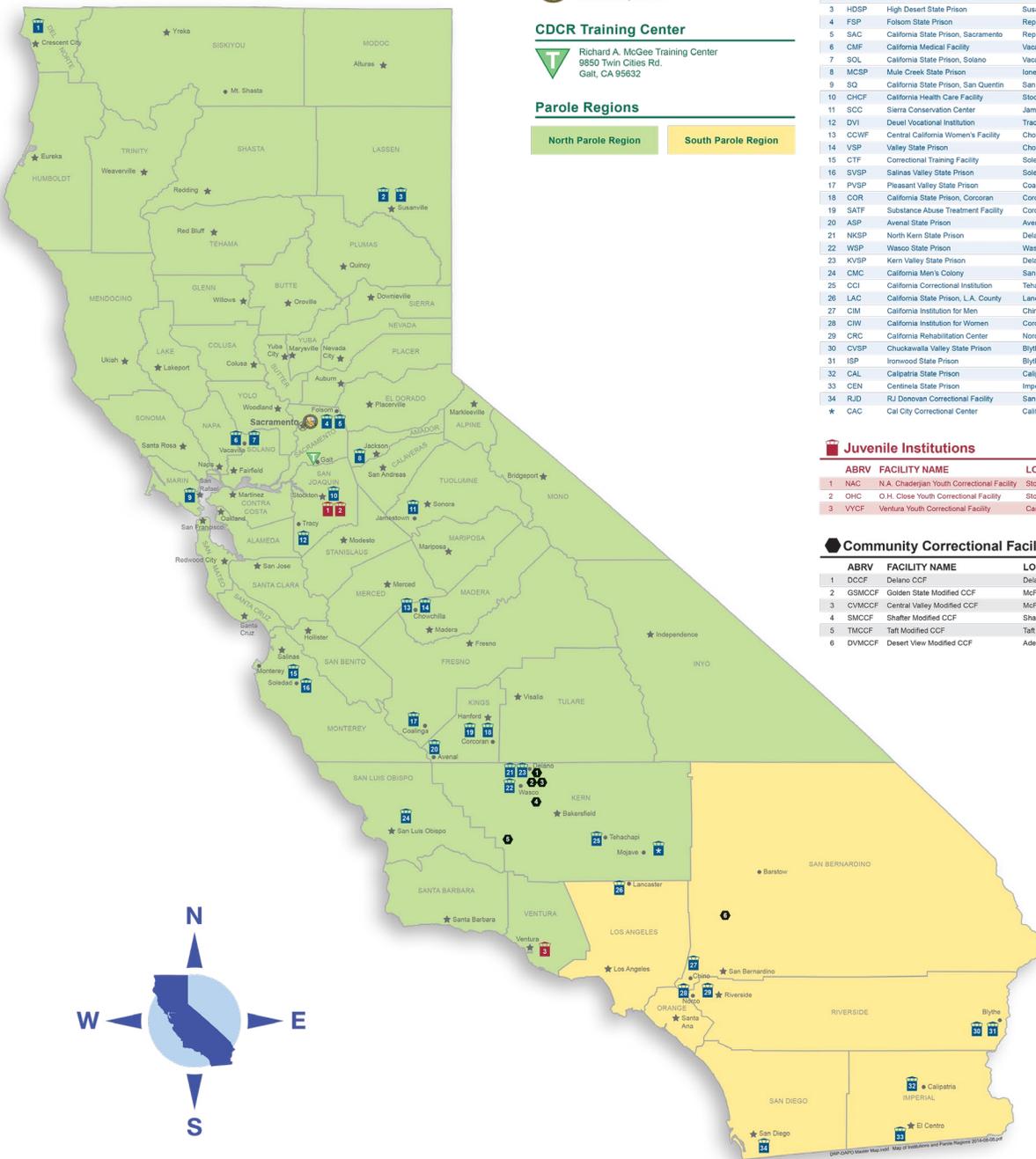
**The Inspector General** shall also prepare a public report. . . . Copies of public reports shall be posted on the Office of **the Inspector General's** internet website.

**The Inspector General** shall . . . during the course of an audit or review, identify areas of full and partial compliance, or noncompliance, with departmental policies and procedures, specify deficiencies in the completion and documentation of processes, and recommend corrective actions . . . including, but not limited to, additional training, additional policies, or changes in policy . . . as well as any other findings or recommendations that **the Inspector General** deems appropriate.

— *State of California*  
Excerpted from  
*Penal Code section 6126 (b), (c), and (d)*



# 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	Susarville
3	HDSP High Desert State Prison	Susarville
4	FSP Folsom State Prison	Represa
5	SAC California State Prison, Sacramento	Represa
6	CMF California Medical Facility	Vacaville
7	SOL California State Prison, Solano	Vacaville
8	MCSP Mule Creek State Prison	Ione
9	SCJ 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	CCR 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	CEN Centinela State Prison	Imperial
34	RJD 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	OHC 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	CVMCCF 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.

## Summary

In April 2020, the Speaker of the California Assembly requested the Office of the Inspector General (the OIG) to assess the policies, guidance, and directives that the California Department of Corrections and Rehabilitation (the department) had implemented since February 1, 2020, in response to the novel coronavirus disease (COVID-19). Specifically, the Speaker requested we focus on three concerns: 1) the department's screening process for all individuals entering a prison or facility in which incarcerated persons are housed or are present, 2) its distribution of personal protective equipment (PPE) to departmental staff and incarcerated persons, and 3) how it treats incarcerated persons who are suspected to have either contracted or been exposed to COVID-19. *Part One* of our COVID-19 review series focused on the Speaker's first concern listed above: the department's efforts to screen prison staff and visitors for signs and symptoms of COVID-19. In this report, we focused on the department's distribution of PPE to departmental staff and incarcerated persons as well as staff's adherence to policies concerning cloth face coverings and physical distancing. Our next report will focus on the third concern noted above on the Speaker's list.

Beginning in March 2020, in an attempt to mitigate the spread of COVID-19 among its staff and incarcerated population, the department issued multiple statewide memoranda establishing its expectations and requirements regarding PPE, face coverings, and physical distancing. In April, to ensure its staff and incarcerated population had access to face coverings, the department purchased and distributed cloth face coverings manufactured by the California Prison Industry Authority and required that staff and incarcerated persons wear them in the prisons at almost all times. Although the department has since revised some of its directives, requirements governing the use of PPE, face coverings, and physical distancing remain in force as of October 2020.

Despite nationwide shortages early in the COVID-19 pandemic, we found that the department was generally able to maintain supplies of PPE for its staff. Early in the pandemic, the department activated an operations center, which the department tasked with coordinating its efforts to respond to the COVID-19 pandemic. The operations center played a key role in evaluating and redirecting prisons' PPE inventory as necessary. Our observations and interviews with staff at five sampled prisons suggest the department's efforts in obtaining and distributing adequate supplies of PPE to its prisons were mostly successful. During our visits to those five prisons, we reviewed the prisons' PPE inventories and spoke to various staff throughout the prisons, including those in the prisons' health care clinics. During our visits, we generally observed staff in health care areas wearing appropriate PPE, and staff members we interviewed consistently stated that they had access to appropriate PPE, with just a few exceptions during the pandemic.

In addition, since April 2, the department has purchased more than 752,000 cloth face coverings produced by the California Prison Industry Authority, and by April 9 had delivered more than half of those face coverings to prisons for use by staff and incarcerated persons. The department generally appeared to be successful in distributing the face coverings to staff and incarcerated persons. During multiple routine monitoring visits, our staff rarely observed departmental staff or incarcerated persons who did not clearly possess face coverings.

However, although the department distributed face coverings to its staff and incarcerated population, and the department issued memoranda communicating face covering and physical distancing requirements, we found that staff and incarcerated persons frequently failed to follow those requirements. As part of our customary monitoring activities that occurred between May 19, 2020, and July 29, 2020, our staff frequently reported observing departmental staff failing to comply with face covering guidelines during our staff's multiple visits to 23 of the department's 35 prisons. For example, during a visit to one prison, the Inspector General and Chief Deputy Inspector General observed multiple prison executives improperly wearing face coverings during a meeting that also included the prison's warden, who did not attempt to correct the noncompliance.

Our observations were also supported by the departmental staff we surveyed at several prisons. To obtain prison employees' perspectives, we surveyed all staff at seven prisons—more than 12,000 staff members. Of the departmental staff who responded to our survey, 31 percent reported they had observed staff or incarcerated persons failing to properly wear face coverings. Regarding physical distancing, 38 percent of the staff who responded to the survey stated they had observed staff or incarcerated persons not complying with physical distancing requirements.

The frequent noncompliance by staff and incarcerated persons was likely caused at least in part by the department's supervisors' and managers' lax enforcement of the requirements. Despite the department's then-Secretary's statements during a legislative hearing on July 1, 2020, asserting that the department was enforcing its face covering requirements, and despite a memorandum the department issued on the same day, stating that it was vital for staff to adhere to face covering directives, we found that the department's enforcement efforts have been very limited. In fact, based on records provided to us by five sampled prisons, prison supervisors and managers had taken just 29 actions—over a period spanning seven months—for noncompliance with the department's face covering or physical distancing requirements.

One of the five prisons, California Institution for Men, provided no documentation of any disciplinary actions, and another of the five prisons, San Quentin State Prison, provided documentation of just one action. We found that almost all the actions that supervisors and

managers took were instances of verbal counseling or written counseling, the lowest levels of the progressive discipline process. We also found that supervisors' and managers' failure to enforce COVID-19 requirements was not limited to the five prisons. Our staff reviewed every formal request for investigation and punitive action for the entire department since February 1, 2020, and we found that hiring authorities statewide only requested formal investigations or punitive actions for misconduct related to face covering or physical distancing requirements for seven of the department's more than 63,000 staff members. We find that number surprisingly low, given the prevalence of noncompliance observed by our staff and by the departmental staff we surveyed.

In addition to inadequately enforcing its face covering requirements, the department perplexingly loosened those requirements at the same time it reported increasing numbers of cases of COVID-19 among both its staff and incarcerated population. Despite the increasing cases of COVID-19 in its prisons, the department sent memoranda on June 11 and June 24 relaxing face covering requirements for staff and incarcerated persons, respectively. The updated requirements allowed staff and incarcerated persons to remove their face coverings when they were outside and were at least six feet away from other individuals. Considering the volatile nature of a prison environment, the potential increased difficulty in enforcing the updated requirements, and the possibility that the virus could be spread even when people maintained a distance of six feet from others, the department's relaxed requirements appeared to unnecessarily increase the risk of COVID-19's spread among the staff and incarcerated population.

As of October 7, 2020, the department has reported the deaths of 69 incarcerated persons and 10 staff members due to COVID-19. Considering the risk that individuals without symptoms can spread COVID-19, and considering increasing evidence from the scientific community that face coverings are effective in slowing the spread of COVID-19, it is essential that the department's staff and incarcerated population consistently wear face coverings whenever there is a chance they may come into close contact with other individuals. However, unless departmental management clearly communicates consistent face covering guidelines that are enforceable, and effectively ensures that its managers and supervisors consistently take disciplinary action when they observe noncompliance, the department will continue to undermine its ability to enforce basic safety protocols such as wearing face coverings and practicing physical distancing, thereby increasing the risk of additional, preventable infections of COVID-19 among its staff and incarcerated population.

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# Introduction

## Background

On April 17, 2020, the Speaker of the California Assembly requested the Office of the Inspector General (the OIG) to assess the policies, guidance, and directives the California Department of Corrections and Rehabilitation (the department) had implemented since February 1, 2020, in response to the novel coronavirus disease (COVID-19). Specifically, the Speaker requested we focus on three concerns pertaining to the department's response to the looming crisis:

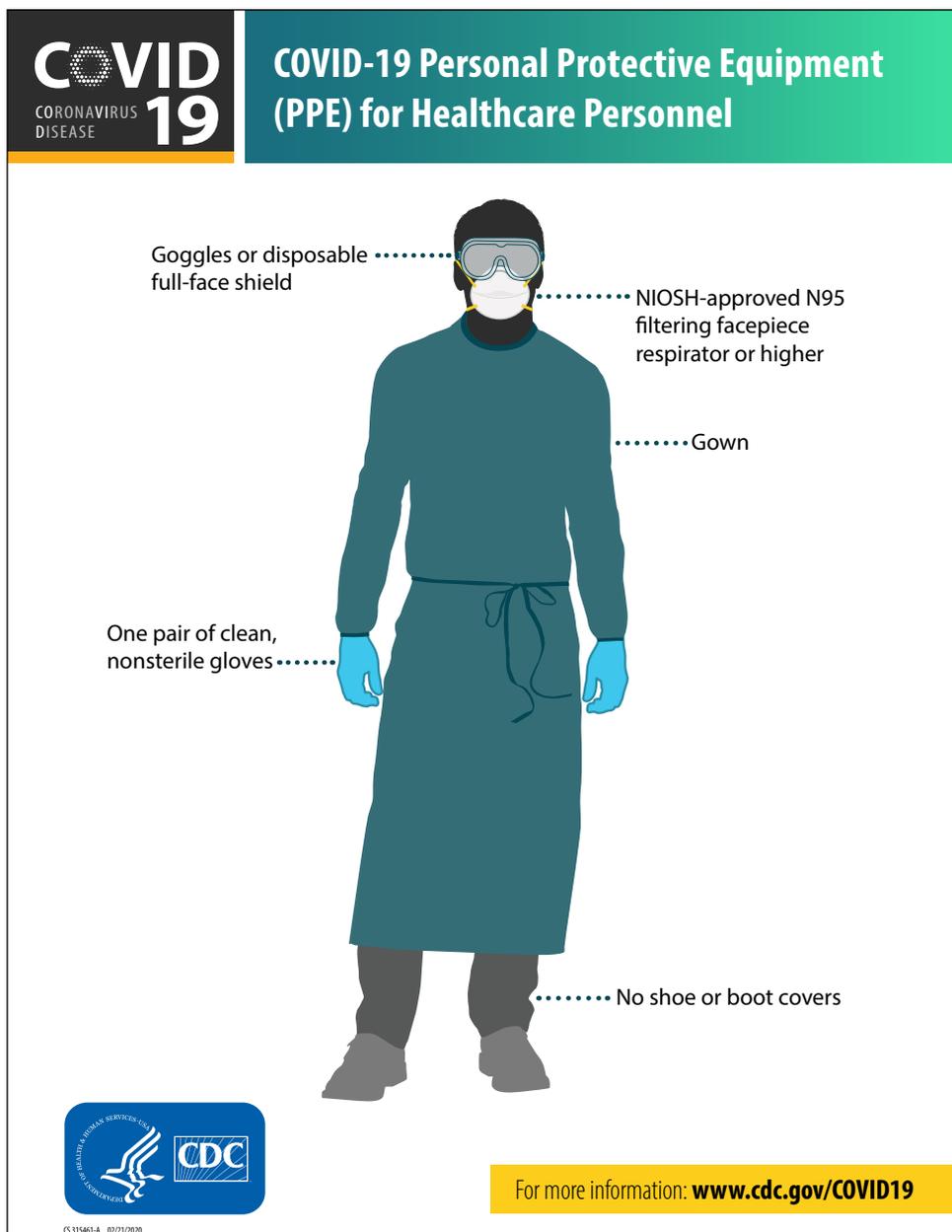
1. Its screening process as applied to all individuals entering a prison or facility in which incarcerated persons are housed or are present,
2. The means by which it distributes personal protective equipment (PPE) to departmental staff and incarcerated persons, and
3. How it treats incarcerated persons suspected of either having contracted or been exposed to COVID-19.

*Part One* of our COVID-19 review series focused on the Speaker's first concern listed above: the department's efforts to screen prison staff and visitors for signs and symptoms of COVID-19. In this second report, we focused on the Speaker's second concern: the department's efforts to distribute personal protective equipment to departmental staff and incarcerated persons. We also reviewed compliance with the applicable directives the department implemented since February 1, 2020. The purpose of distributing PPE to staff and incarcerated persons was to protect those individuals by minimizing their exposure to COVID-19. A future report will focus on the third item on the Speaker's list: the institutional treatment of incarcerated persons suspected of having contracted or been exposed to COVID-19.

## Public Health Organizations' Guidance on the Use of Personal Protective Equipment, Face Coverings, and Physical Distancing

The Occupational Safety and Health Administration (OSHA) defines PPE as "equipment worn to minimize exposure to hazards that cause serious workplace injuries and illnesses." In protecting a person from contracting COVID-19, PPE includes, but is not limited to, surgical masks, N95 masks, gloves, eye protection, gowns, and coveralls, all of which protect the person wearing the items. Figure 1 identifies COVID-19 PPE for health care personnel, as recommended by the Centers for Disease Control and Prevention (Centers for Disease Control). Cloth face coverings do not qualify as PPE, according to the Centers for Disease Control, because they do not sufficiently protect the wearer from inhaling respiratory droplets. However, cloth face coverings

Figure 1. Centers for Disease Control and Prevention's Illustration of COVID-19 Personal Protective Equipment (PPE) for Health Care Personnel



Source: Centers for Disease Control and Prevention

can effectively protect the people around the wearer: cloth face coverings minimize the spread of respiratory droplets from wearers who have the virus, whether they have symptoms or not, since, as shown in Figure 2, cloth face coverings help prevent wearers from spreading respiratory droplets when talking, sneezing, or coughing. Accordingly, the Centers for Disease Control recommends that cloth face coverings be used to help prevent the spread of COVID-19 in correctional environments, specifying that cloth face coverings must cover the nose and mouth, and recommending that people wear cloth face coverings in public settings where other physical distancing measures are difficult to maintain. If everyone wears a cloth face covering in congregate settings, the risk of exposure to COVID-19 can be reduced. Indeed, the Centers for Disease Control notes that incarcerated persons live, work, eat, study, and participate in activities within congregate environments, thereby heightening the potential for COVID-19 to spread once introduced.

**Figure 2. State of California Graphic Demonstrating the Value of Face Coverings**



Source: California Department of Corrections and Rehabilitation.

Because of the importance of cloth face coverings in preventing the spread of the virus and cloth face coverings' similarity to PPE as defined by OSHA, this report includes a review of the department's distribution of and directives pertaining to face coverings. In addition, since PPE, face coverings, and physical distancing—maintaining a distance of at least six feet between individuals—are all intertwined in limiting exposure to COVID-19, this report also includes a review of some of the department's physical distancing directives.

Physical distancing (also referred to as social distancing) is the practice of increasing the space between individuals and decreasing their frequency of contact to reduce the risk of spreading a disease. According to the Centers for Disease Control, COVID-19 spreads mainly among people who are in close contact for a prolonged period. Spread occurs through respiratory droplets produced when an infected person coughs, sneezes, or talks, and those droplets from the infected person's mouth or nose are launched into the air and land in the mouths or noses of people nearby or are inhaled into their lungs. Because people can spread the virus before they know they are sick, the Centers for Disease Control states that it is important to maintain a minimum distance of six feet between individuals, even those who are asymptomatic. In prisons, physical distancing strategies can be applied on an individual level (a person may avoid physical contact), a group level (the prison may cancel group activities during which individuals would be in close contact), and an operational level (the prison may rearrange chairs in the dining hall, for example, to increase distances among persons in a group setting). Although physical distancing is challenging to practice in correctional and detention environments, it is a cornerstone of reducing transmission of respiratory diseases such as COVID-19. According to the Centers for Disease Control, people who have been infected with COVID-19 but do not have symptoms can still spread the infection, making physical distancing even more important because it keeps the infected person's exhalations away from other people.

In March 2020, the California Department of Public Health released a guide to COVID-19 for California Prisons. Among other recommendations, the California Department of Public Health referred to the Department of Industrial Relations' Division of Occupational Safety and Health's guidelines for physical distancing and face coverings for both staff and the incarcerated population.

## The Department's Directives on Personal Protective Equipment, Face Coverings, and Physical Distancing

To communicate new requirements to its staff members, including those requirements related to COVID-19, the department often sends out memoranda in place of more formal policies and procedures. Issuing new requirements via memoranda allows the department to more quickly communicate the new requirements to its staff since the memoranda require less time to develop than formal policy manuals. Although the requirements are not issued as more formal updates to the department's policy and procedure manuals, departmental staff are still expected to follow the memoranda's requirements, just as they are expected to follow more formally issued policies and procedures. Staff members' failure to follow requirements issued via departmental memoranda can be the basis for supervisors and managers to take disciplinary action according to the department's disciplinary procedures. Since March 2020, to communicate various COVID-19 requirements, the department has issued a series of memoranda, several of which established the department's expectations regarding PPE, cloth face coverings, and physical distancing.

- April 6, 2020: The department issued two memoranda. The first memorandum, "COVID-19 Personal Protective Equipment (PPE) Guidance and Information," provided guidance regarding the use of N95 masks and face coverings. The memorandum also described how to extend the life of PPE through cleaning. The second memorandum issued on April 6, 2020, titled "Staff use of Personal Protective Equipment (PPE)," outlined the challenges of the inadequate supply of PPE and specifically allowed the use of personal cloth face coverings and medical masks "if supply is not readily available" from the prison.
- April 16, 2020: The department issued a memorandum titled "CalPIA Cloth Face Barrier/Mask." This memorandum required staff and incarcerated persons to wear a face covering once an adequate supply of face coverings had been delivered to the prison. It further directed that "staff working or performing on institutional grounds shall wear a cloth face covering at a minimum," and noted that "maintaining physical distancing requirements when moving about the institution for routine tasks is still recommended." The memorandum also directed that incarcerated persons "shall use a cloth face covering within the institution" during the following activities: any situation that requires movement outside of

**Figure 3. California Department of Corrections and Rehabilitation Face Covering Poster**



Source: California Department of Corrections and Rehabilitation.

cells or while in a dorm setting, during interactions with other incarcerated persons, and during movement to and from health care appointments and medication administration areas.

- May 11, 2020: The department issued a memorandum titled “COVID-19 Guidance for Daily Program Regarding Social Distancing for Cell or Alternative/Dorm Style Housing of Eight Person Cohorts.” This memorandum outlined several directives for the daily operation of programs such as showers, day rooms, and dining halls, so that physical distancing could be maintained and facilities cleaned between uses. The memorandum also established eight-person cohorts of incarcerated persons, separated by six feet of space, in an effort to mitigate the spread of the virus. It further required face coverings for incarcerated persons and staff. This memorandum also directed supervisors to educate staff and for staff to educate incarcerated persons about the importance of wearing face coverings.
- May 22, 2020: The department issued a memorandum titled “COVID 19 Pandemic – Road Map to Reopening Operations.” This memorandum clarified the requirements for physical distancing and the requirements for face coverings set forth in the memorandum of May 11, 2020. The May 22 memorandum directed that physical distancing strategies should continue to be used as much as possible for all individuals, with priority given to the most vulnerable patients. It described the requirements for the use of cloth face coverings by asserting that staff working or performing duties on institutional grounds and incarcerated persons who meet certain criteria shall wear a cloth face covering. These criteria included any situation that requires movement outside of a cell or while in a dorm setting, during interactions with other incarcerated persons, and during movement to and from health care appointments and medication administration areas.
- June 11, 2020: The department issued a memorandum titled “Update to the March 13, 2020 Memorandum Message to Employees Regarding COVID-19.” This memorandum, authored by the Secretary and the Federal Receiver, reminded staff to physically distance at all times possible. It mandated that “staff working or performing duties on institutional grounds shall wear cloth or other approved face barrier coverings at all times with the exception of an outdoor setting where 6 feet of physical distancing can be accomplished. Please note this is a slight modification from the April 16, 2020 CalPIA Cloth Face Mask Barrier memorandum. If alone in an office space or tower a mask is not required. If someone enters the space, masks are required. Failure to do so may result in progressive discipline.”

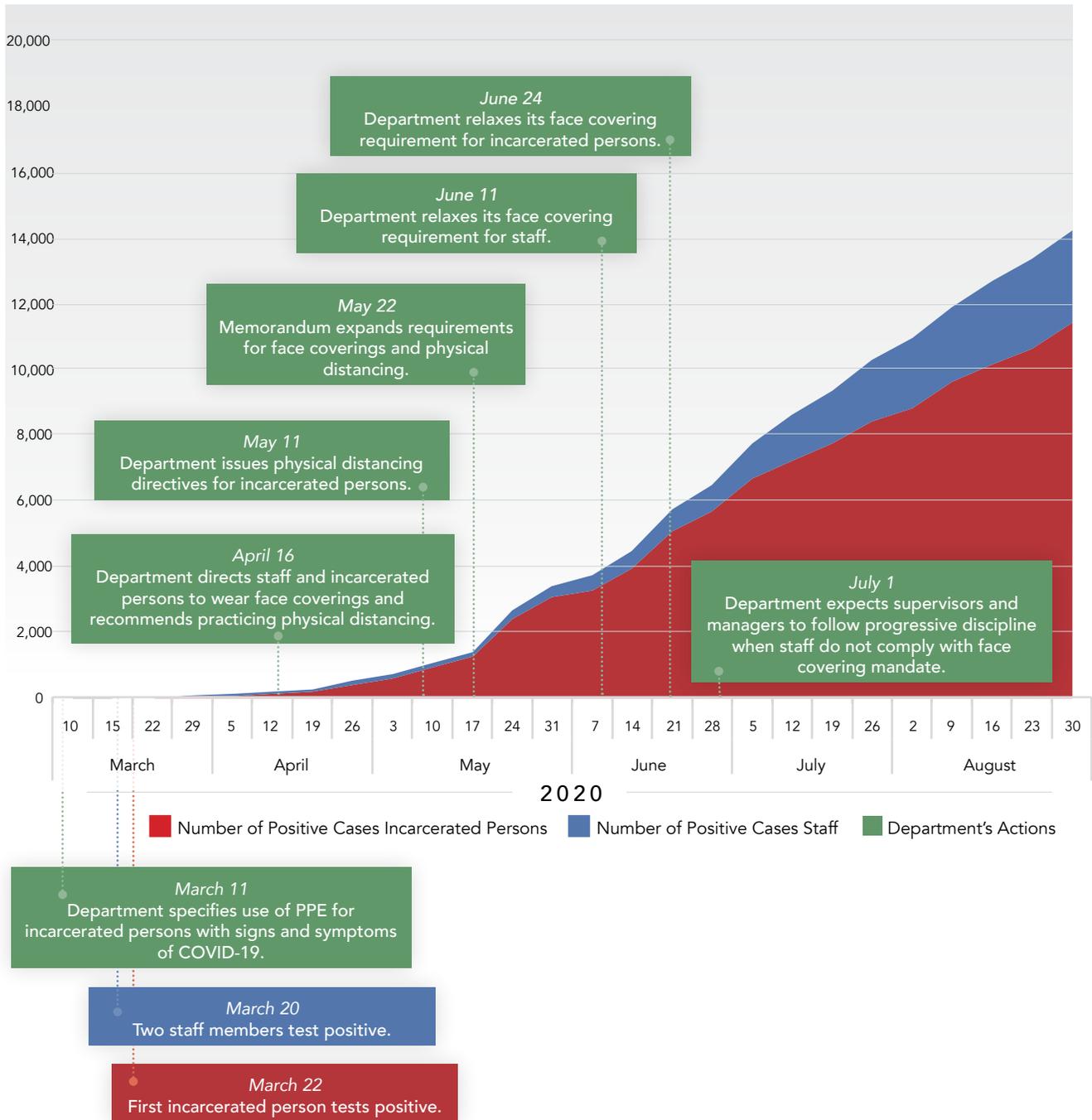
- June 24, 2020: The department issued a memorandum titled “Update to the California Prison Industry Authority Cloth Face Barrier/Masks.” This memorandum updated the face covering requirements for the department’s incarcerated population, superseding the department’s April 16 memorandum titled “CalPIA Cloth Face Barrier/Mask.” Similar to the department’s June 11 memorandum updating face covering requirements for staff, the department’s June 24 memorandum stated, in part, “Effective immediately, inmates will not be required to wear a facemask if they are in an outdoor setting and able to practice social distancing by following the six feet physical distance with staff or other inmates.” The memorandum also stated, “Staff shall continue to educate the inmate population by encouraging inmates to practice social distancing and best practices as it relates to fighting the spread of COVID-19.”
- June 26, 2020: The department issued a memorandum titled “Guidance for the use of Face Coverings in Headquarters and Regional Offices.” This memorandum referred directly to “Governor Newsom’s directive that all Californians use cloth face coverings or masks in public spaces.” It also stated, “According to guidance from the California Department of Public Health, this measure, combined with physical distancing and frequent hand washing, will help reduce the spread of COVID-19 in our communities.” The memorandum referred to the requirements of earlier directives and required staff to wear a face covering when working in any space visited by members of the public, regardless of whether anyone from the public is present at the time.
- July 1, 2020: The department released a memorandum titled “Staff wearing facial coverings in institutions.” This memorandum clarified “the June 11, 2020 memorandum regarding the wearing of face barrier coverings.” It communicated an expectation that supervisors and managers follow the progressive discipline process when staff do not comply with the mandate to wear a face covering.

Figure 4 below shows a time line of the department’s actions described above along with the cumulative number of confirmed cases of COVID-19 among department staff and incarcerated persons from March 1, 2020, through August 31, 2020.

In addition to the aforementioned memoranda, the department has also placed posters in various locations throughout each facility to educate and inform staff and incarcerated persons about the need to physically distance and the requirement to wear face coverings.

The department reported that additional educational materials have been provided to incarcerated persons “through the inmate advisory councils, public announcement systems, via posters and fliers placed throughout

**Figure 4. Time Line of the Department's Pertinent Actions and the Number of Confirmed COVID-19 Cases Among Its Prison Staff and Incarcerated Population**



Source: Unaudited data from the California Department of Corrections and Rehabilitation's population and staff COVID-19 trackers.

Figure 5. California Department of Corrections and Rehabilitation's Personal Protective Equipment Guide for Staff

<b>REQUIRED PPE CHECKLIST</b>					
<b>LOCATIONS</b>	<b>N95 RESPIRATOR   FACE MASK</b>  	<b>EYE PROTECTION</b> 	<b>GLOVES</b> 	<b>GOWNS</b> 	
<b>R &amp; R PROCESSING AREAS AND/OR RECEPTION CENTERS</b>  Symptomatic patient or confirmed/ suspected COVID-19 patient  patient (if comes from the institution/jail)	<input checked="" type="checkbox"/>   <input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	<input checked="" type="checkbox"/>   <input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b>CUSTODY ESCORT OF:</b>  Symptomatic patient or confirmed/ suspected COVID-19 patient  Asymptomatic patient (not confirmed)	<input checked="" type="checkbox"/>   <input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	<input type="checkbox"/>   <input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>TRANSPORT VEHICLE</b>  All transfers	<input checked="" type="checkbox"/>   <input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b>HOUSING UNIT</b>  Symptomatic patient or confirmed/ suspected COVID-19 patient  Asymptomatic patient (not confirmed)  Quarantined/isolated areas	<input checked="" type="checkbox"/>   <input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	<input type="checkbox"/>   <input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input checked="" type="checkbox"/>   <input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<b>OUTPATIENT HOUSING UNIT</b>  Symptomatic patient or confirmed/ suspected COVID-19 patient  Asymptomatic patient (not confirmed)	<input checked="" type="checkbox"/>   <input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	<input type="checkbox"/>   <input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>CORRECTIONAL TREATMENT CENTER</b>  Symptomatic patient or confirmed/ suspected COVID-19 patient  Asymptomatic patient (not confirmed)	<input checked="" type="checkbox"/>   <input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	<input type="checkbox"/>   <input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>STAFF PRESENT DURING</b>  Suspected COVID-19 case procedure that may cause respiratory aerosols  Collection of respiratory specimens	<input checked="" type="checkbox"/>   <input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	<input checked="" type="checkbox"/>   <input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Source: California Department of Corrections and Rehabilitation

the prisons, verbal directives from custody staff, and video programming broadcast to TVs throughout the prisons.” Furthermore, the department asserts on its website that it has taken additional steps to ensure physical distancing by “assigning bunks to provide more space between individuals, rearranging scheduled movements to minimize mixing of people from different housing areas, encouraging physical distancing during yard time, and adjusting dining schedules where possible to allow for smaller groups.”

## Scope and Methodology

On April 17, 2020, the Speaker of the Assembly requested the OIG to assess the department's response to the COVID-19 pandemic. Specifically, the Speaker asked that we focus on the policies, guidance, and directives that the department had developed and implemented since February 1, 2020, in the following three areas:

1. Screenings of all individuals entering a prison or facility where incarcerated persons are housed or are present.
2. Distribution of personal protective equipment (PPE) to departmental staff and incarcerated persons.
3. Treatment of incarcerated persons who are suspected to have contracted COVID-19 or have been exposed to COVID-19.

Furthermore, the Speaker requested that our review include, at a minimum, the following:

1. The department's method of communication and implementation of its policies, guidance, and directives.
2. Measures the department instituted to ensure ongoing compliance with its policies, guidance, and directives.
3. The department's actions to rectify noncompliance.
4. A time line that quantifies the outbreak over time.

Our work for this review focused on the second area of the request: distribution of PPE to departmental staff and incarcerated persons. We examined the department's efforts to distribute PPE and face coverings to staff and incarcerated persons, and we evaluated staff's and incarcerated persons' compliance with related departmental directives. We did not evaluate the extent to which PPE and face coverings prevent the spread of COVID-19. However, we acknowledge that general guidance from the Occupational Safety and Health Administration, the Centers for Disease Control, and the California Department of Public Health recommends wearing PPE and face coverings to mitigate the virus's spread. Our review encompassed the period from February 1, 2020, through August 31, 2020.

To accomplish our review, we examined the COVID-19 policies, guidance, and directives the department had implemented since February 1, 2020. We also considered guidance issued by other organizations, including the Occupational Safety and Health Administration, Centers for Disease Control, the World Health Organization, and the United States Department of Justice's National Institute of Corrections. We obtained and reviewed multiple files and documents from the department, including hundreds of files and documents collected by the

department's COVID-19 operations center. We also reviewed pertinent legal filings associated with multiple class-action lawsuits that name the department as a party.

We performed detailed reviews and conducted visits at a sample of five prisons selected according to factors that included the prevalence of COVID-19 in the institution and surrounding areas, the prison's geographic location, the prison's physical layout, and the prevalence at the prison of incarcerated persons with underlying health conditions. Those prisons included California Health Care Facility; California Institution for Men; California Institution for Women; California State Prison, Los Angeles County; and San Quentin State Prison. A team of OIG staff visited these five prisons, where they interviewed management and key staff, directly observed operations, and obtained and reviewed additional documentation.

To obtain broad staff perspective and experiences with COVID-19 directives, we also sent a survey to more than 12,000 staff members from seven selected institutions (the five selected in the sample above, as well as two other prisons—Avenal State Prison and Chuckawalla Valley State Prison—which were reported as having COVID-19 outbreaks after we started our review) and analyzed the 4,161 responses that we received. In addition, while conducting monitoring activities at the department's prisons, we documented our observations of prison staff's compliance with applicable departmental COVID-19 directives. Finally, we requested, obtained, and reviewed the department's written account of its efforts to ensure ongoing compliance with policies, guidance, and directives applicable to the review, along with all actions it took to rectify any noncompliance.

## Review Results

### The Department Provided Personal Protective Equipment to Health Care Staff and Distributed Cloth Face Coverings Produced by the Prison Industry Authority to Staff and Incarcerated Persons

Despite shortages in the United States and across the globe, the department was mostly able to procure and maintain supplies of PPE for staff, and it took steps to distribute cloth face coverings to prison staff and incarcerated persons. According to the Centers for Disease Control, the increased need for PPE caused by the COVID-19 pandemic produced nationwide shortages, posing a tremendous challenge to the country's health care system. Health care facilities had difficulty accessing the needed PPE and had trouble identifying alternative ways to provide patient care. Government officials, news organizations, and health care organizations have all widely reported shortages of PPE for health care staff, who need protection from the virus while treating patients infected with the virus. Nonetheless, our review of documentation, as well as our observations and interviews with staff at five prisons, showed that despite those nationwide and worldwide shortages, the department appears to have generally supplied necessary PPE to staff at prisons with minimal disruptions. The department also coordinated quickly with the California Prison Industry Authority (Prison Industry Authority) to produce cloth face coverings, which it distributed to both staff and incarcerated persons.

#### California Prison Industry Authority

The California Prison Industry Authority (the Prison Industry Authority) is a self-supporting, customer-focused business that provides productive work assignments for approximately 7,000 offenders within the department's institutions. The Prison Industry Authority manages over 100 manufacturing, service, and consumable operations in all 35 institutions throughout California. The goods and services produced by the Prison Industry Authority are sold predominately to departments of the State of California, as well as other government entities. The Prison Industry Authority's goal is to train offenders with job skills, good work habits, and basic education and job support in the community, so when they parole they never return to prison.

Source: Website maintained by the Prison Industry Authority

Early in the pandemic—on March 15, 2020—the department activated an operations center, which coordinated efforts to respond to the COVID-19 pandemic. Centrally located at the department's headquarters in Sacramento, the operations center, which remains functioning as of the date of this report, is a command center comprised of personnel from multiple areas of the department, including custody and health care operations, who are responsible for monitoring all departmental operations related to COVID-19 to address any issues that may arise. Among the operations center's responsibilities are monitoring statewide inventories of PPE and coordinating the purchase and distribution of additional PPE as necessary. The operations center played a key role in ensuring proper procurement and delivery of PPE to prison staff. For example, five days after the department activated the operations

center, its staff conducted a survey of prisons' supply needs to identify deficiencies in supplies of PPE and other materials. The next day, in response to the survey, and recognizing the importance of providing PPE to departmental staff, operations center staff began redirecting PPE among the institutions.

According to the department's website, the department and California Correctional Health Care Services also established a PPE work group to protect staff and incarcerated persons by monitoring and assessing prisons to ensure staff have an adequate supply of PPE to immediately address COVID-19. Among the work group's responsibilities is communicating with the Governor's Office of Emergency Services to identify any supply deficiencies and to ensure adequate supplies are available at each prison on an ongoing basis.

Our observations and our interviews with staff at five prisons suggest the department's efforts in obtaining and distributing adequate supplies of PPE to its prisons were largely successful.

To evaluate multiple aspects of the department's response to COVID-19, including its inventory levels and distribution of PPE, our review team selected a sample of five prisons to visit, at which we performed several procedures to review the prisons' responses to the COVID-19 pandemic. Our procedures included visiting health care clinics and treatment areas to observe staff's and incarcerated persons' adherence to basic safety protocols, interviewing staff in those clinics and treatment areas, and observing PPE supplies. During those visits, we did not identify any significant, systemic problems related to prisons obtaining sufficient supplies of PPE. Generally, we observed that staff in the health care clinics and treatment areas were wearing or had access to appropriate PPE. Moreover, when we interviewed health care staff in multiple clinics or treatment areas at those five prisons, staff consistently stated that they had access to appropriate PPE, with just a few exceptions early in the pandemic. For example, at California Institution for Men, which had one of the department's earliest outbreaks of COVID-19, a staff member in one of the prison's main treatment areas noted that health care staff were initially worried about running out of PPE, but that it did not happen.

In addition to providing PPE to its staff, the department required all staff and incarcerated persons to wear cloth face coverings, beginning on April 16, 2020. To help ensure staff followed that directive, and to supply cloth face coverings to incarcerated persons, the department worked with the Prison Industry Authority to manufacture cloth face coverings. On April 2, 2020, the department began purchasing and distributing those face coverings from the Prison Industry Authority. The department's records show that between April 2, 2020, and May 20, 2020, the department had purchased and distributed more than 752,000 cloth face coverings to staff and incarcerated persons. In addition to providing cloth face coverings, the department also allowed staff the option of wearing their own personal cloth face coverings.

The department delivered the face coverings produced by the Prison Industry Authority to its prisons over time. As Figure 6 shows, the department's records demonstrate that by April 9, 2020, the department had delivered the first shipments of face coverings to all 35 prisons. By that date, it had delivered more than 420,000 face coverings. Since April 2, 2020, the department has continued to supply additional face coverings to staff and incarcerated persons as necessary to ensure staff and incarcerated persons each have multiple face coverings available. Once a prison received two face coverings for each incarcerated person, the department required the prison's incarcerated population to wear the face coverings most of the time while outside of a cell or while in a dormitory setting.

The department's efforts to ensure prisons had sufficient supplies of PPE and face coverings were important steps in fighting the COVID-19 pandemic. According to the Centers for Disease Control, COVID-19 spreads mainly from person to person through respiratory droplets produced when an infected person coughs, sneezes, talks, or speaks loudly. These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs. In addition, studies show that a significant portion of individuals infected with COVID-19 lack symptoms, but that even those who remain asymptomatic, as well as those who eventually develop symptoms, can transmit the virus to others without showing symptoms.

**Figure 6: Time Line of Deliveries of Prison Industry Authority Cloth Face Coverings to Prisons**



Source: California Department of Corrections and Rehabilitation's inventory records.

## The Department's Lax Enforcement and Mixed Messaging Undermined Adherence to Basic Safety Protocols

In an attempt to mitigate the spread of COVID-19 among its staff and incarcerated population, the department began implementing face covering and physical distancing requirements in April 2020. However, we found that staff and incarcerated persons frequently failed to follow the department's requirements. The staff's and the incarcerated population's lack of adherence to the department's safety protocols was likely due to the department's lax enforcement and the mixed messages it sent to staff and incarcerated persons. Specifically, we found the following concerns:

- As part of our customary monitoring activities that occurred between May 19, 2020, and July 29, 2020, our staff reported frequently observing departmental staff failing to comply with face covering guidelines. In fact, OIG staff observed departmental staff failing to comply with face covering directives at 23 of the 34 prisons we visited. In one particularly egregious instance, the Inspector General and Chief Deputy Inspector General observed multiple members of management at one prison fail to adhere to face covering requirements during a meeting that also included the prison's warden, who did not attempt to correct the noncompliance.
- Our survey of departmental staff at seven prisons revealed results similar to our own staff's observations. Of the departmental staff who responded to our survey, 31 percent reported they had observed staff or incarcerated persons failing to properly wear face coverings. In addition, 38 percent of the staff who responded to the survey stated they had observed staff or incarcerated persons not complying with physical distancing requirements.
- Noncompliance by staff and incarcerated persons was likely caused—at least in part—by the lax enforcement efforts of the department's supervisors and managers. Despite the department's then-Secretary's assertions during a legislative hearing on July 1, 2020, that the department was enforcing its face covering requirements, and despite a memorandum the department issued the same day, stating it was vital that staff adhere to face covering directives to protect the health of the staff, their families, and incarcerated persons, we found the department's actions have not matched its public statements and directive to prison management. A sample of five prisons that employ a total of 10,382 staff showed that from February 1, 2020, to September 2, 2020, prison supervisors and managers had taken just 29 disciplinary actions—in a period spanning seven months—for noncompliance with the department's face covering

or physical distancing requirements. Furthermore, almost all actions taken consisted of the lowest levels of the progressive discipline process. We also found that supervisors' and managers' failure to enforce COVID-19 requirements was not limited to the five prisons. Specifically, our staff reviewed every formal request for investigation and punitive action for the entire department since February 1, 2020, and we found that hiring authorities statewide requested formal investigations or punitive actions for misconduct related to face covering or physical distancing requirements for only seven of the department's more than 63,000 staff members. We find that number surprisingly low, given the prevalence of noncompliance observed by our staff and by the departmental staff we surveyed.

- Another cause of staff and incarcerated persons forgoing face coverings was likely the mixed messages the department sent to its staff and incarcerated population. In June, despite experiencing an increase in cases of COVID-19, the department sent two memoranda relaxing face covering requirements for staff and incarcerated persons. The updated requirements allowed staff and incarcerated persons to remove their face coverings when they were outside and able to maintain a distance of at least six feet from other individuals. However, considering the volatile nature of a prison environment, where staff must respond to an incident in a moment's notice, the potential increased difficulty in enforcing the updated requirements, and the possibility that the virus can be spread even when people maintain a distance of six feet, the department's relaxing its requirements seemed to unnecessarily increase the risk of COVID-19 spreading among its staff and incarcerated population.

## OIG Staff Frequently Observed Disregard for Departmental Face Covering and Physical Distancing Requirements

On April 16, 2020, the department issued a memorandum that required all staff to wear face coverings while working or performing duties on institutional grounds. That same memorandum directed that when at least two cloth face coverings had been distributed to each incarcerated person, incarcerated persons were required to wear a cloth face covering any time they were outside their cells, when they were in dorm settings, during movement to and from health care appointments and medication areas, and during interactions with other incarcerated persons. The department had begun working with the Prison Industry Authority to produce and distribute the required face coverings to both staff and incarcerated persons. This memorandum followed a directive issued on March 20, 2020, which stated that physical distancing strategies should be implemented as much as possible for all individuals. However, despite those directives, we observed that staff and incarcerated persons frequently failed to wear their face coverings as required, often while they were in close proximity to other individuals, in violation of both the directive to wear face coverings and the department's physical distancing guidelines.

On multiple occasions and at prisons statewide, OIG staff directly observed departmental staff's failure to follow the department's face covering and physical distancing requirements. As part of our customary monitoring activities at prisons that occurred between May 19, 2020, and July 29, 2020, our staff reported observing noncompliance with the department's face covering requirements at 23 of the 34 prisons we visited.

One example of our observations of departmental staff's disregard for basic safety protocols occurred during a visit to California State Prison, Los Angeles County. At that visit, we observed multiple staff members

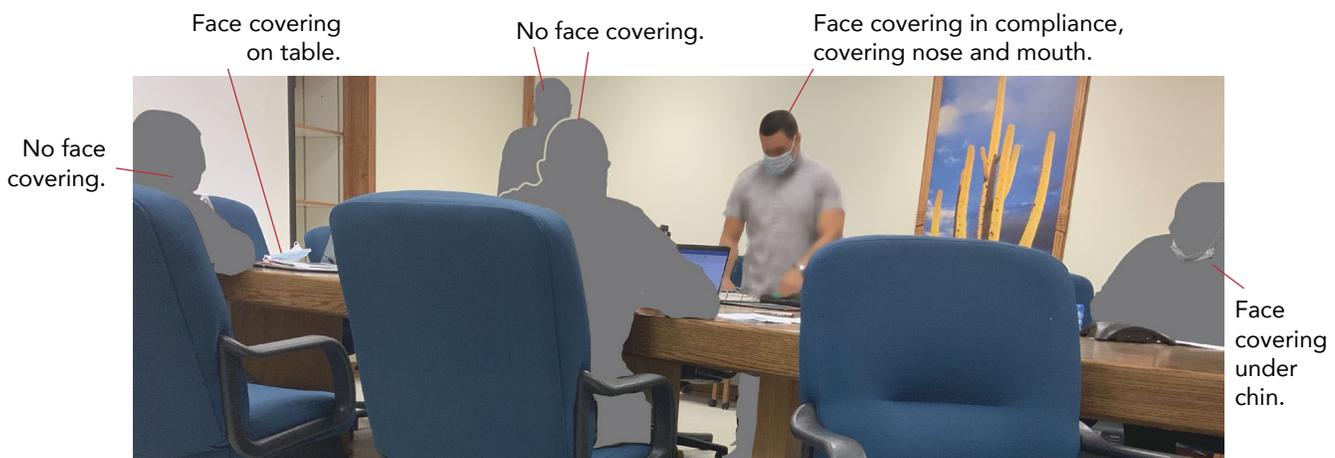
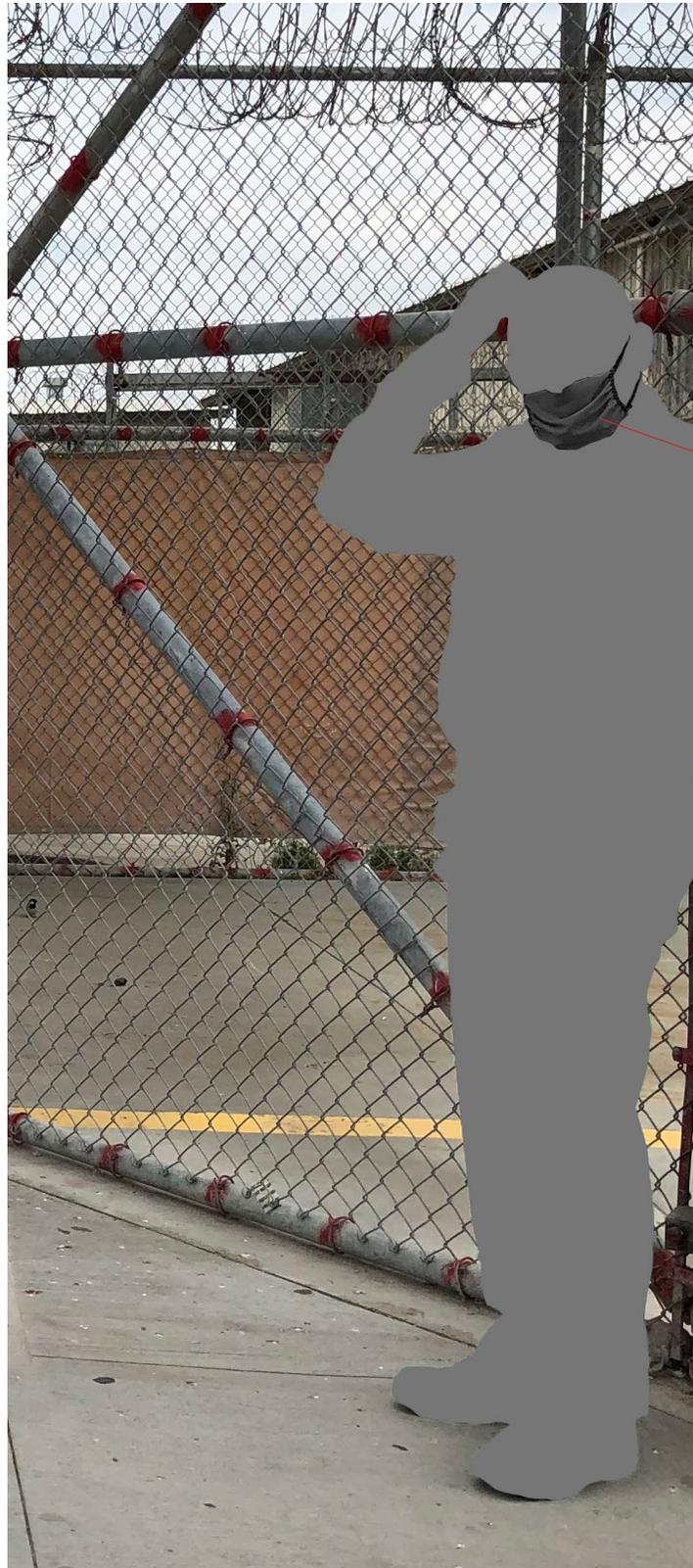


Photo 1. California State Prison, Los Angeles County. Staff sitting together at a table, not physical distancing or properly wearing face coverings, with the exception of one staff member. (Photo taken by OIG staff on June 3, 2020, at the prison in Lancaster, California.)



Face covering under nose.

Photo 2. Richard J. Donovan State Prison. Officer improperly wearing a face covering. (Photo taken by OIG staff on June 2, 2020, at the prison in San Diego, California.)

in multiple areas failing to properly wear face coverings. In the prison's administrative building, we observed five departmental staff members not properly wearing face coverings while working in close proximity to one another in the warden's office. Unfortunately, our observations of noncompliance at that visit were not limited to one instance. During the same visit, we observed two departmental staff members also failing to properly wear face coverings while working in an administrative office. Of the 10 staff members we encountered on our arrival, we observed that seven were not using face coverings during our brief visit to the administrative building. We also noticed that only after seeing the OIG staff arrive in their area did four of those seven prison staff members don their face coverings.

Disregard for safety protocols was not limited to the rank and file. Our staff also observed prison executives ignoring the department's face covering directives and physical distancing guidelines. For example, during a visit to one prison,<sup>2</sup> in a meeting with 13 of the most senior members of the prison's executive team, we noted that at least six prison executives did not wear their face coverings properly. Three attendees speaking in close proximity to one another were not wearing face coverings at all when several of our staff, including the Inspector General and the Chief Deputy Inspector General, walked into the room to greet them. Two of the prison executives quickly grabbed their face coverings and put them on, while the remaining person—an associate warden—did not don his face covering for at least another five to ten minutes. Another member, an associate warden, incorrectly wore his face covering below his nose, covering only his mouth. He then lowered his face covering to expose his mouth while he sipped coffee for the majority of the meeting, which lasted about 30 minutes. Another member of the meeting left his face covering completely off for the first half of the meeting, but covered his mouth and nose at about the mid-point of the meeting, after his brief turn to speak. Even the chief deputy warden wore his face covering incorrectly by not covering his nose.

The warden, who was present for the duration of the meeting, did not seem to notice the lack of compliance, nor did he comment on the improper use of face coverings during our visit. Later, while touring one of the prison yards with the warden during this same visit, we observed similar noncompliance among staff who were not wearing face coverings or who wore face coverings below the nose. The noncompliant practice and the attitude of disregard we witnessed set a poor example for the rest of the staff in the prison. Although at the time there were no positive cases of COVID-19 among the staff or the incarcerated persons at the prison, the executive team's careless disregard of departmental policy needlessly increased the risk of exposure to the virus.

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2. We have chosen to not identify the prison in this instance to conceal the identities of the individuals we report as having not complied with policy.

During a visit to North Kern State Prison, which did have six incarcerated persons with active cases of the virus at the time and in fact had just announced the death of a prison staff member due to COVID-19, we still observed indifference to the department's directives. At the prison, with the staff member's tragic death as a backdrop to our inspection, we expected departmental staff to be vigilant about taking all appropriate precautions to prevent the spread of COVID-19. Instead, we saw the opposite: a significant number of staff members seemed cavalier about the threat of the virus and displayed that attitude by failing to adhere to the face covering policy.

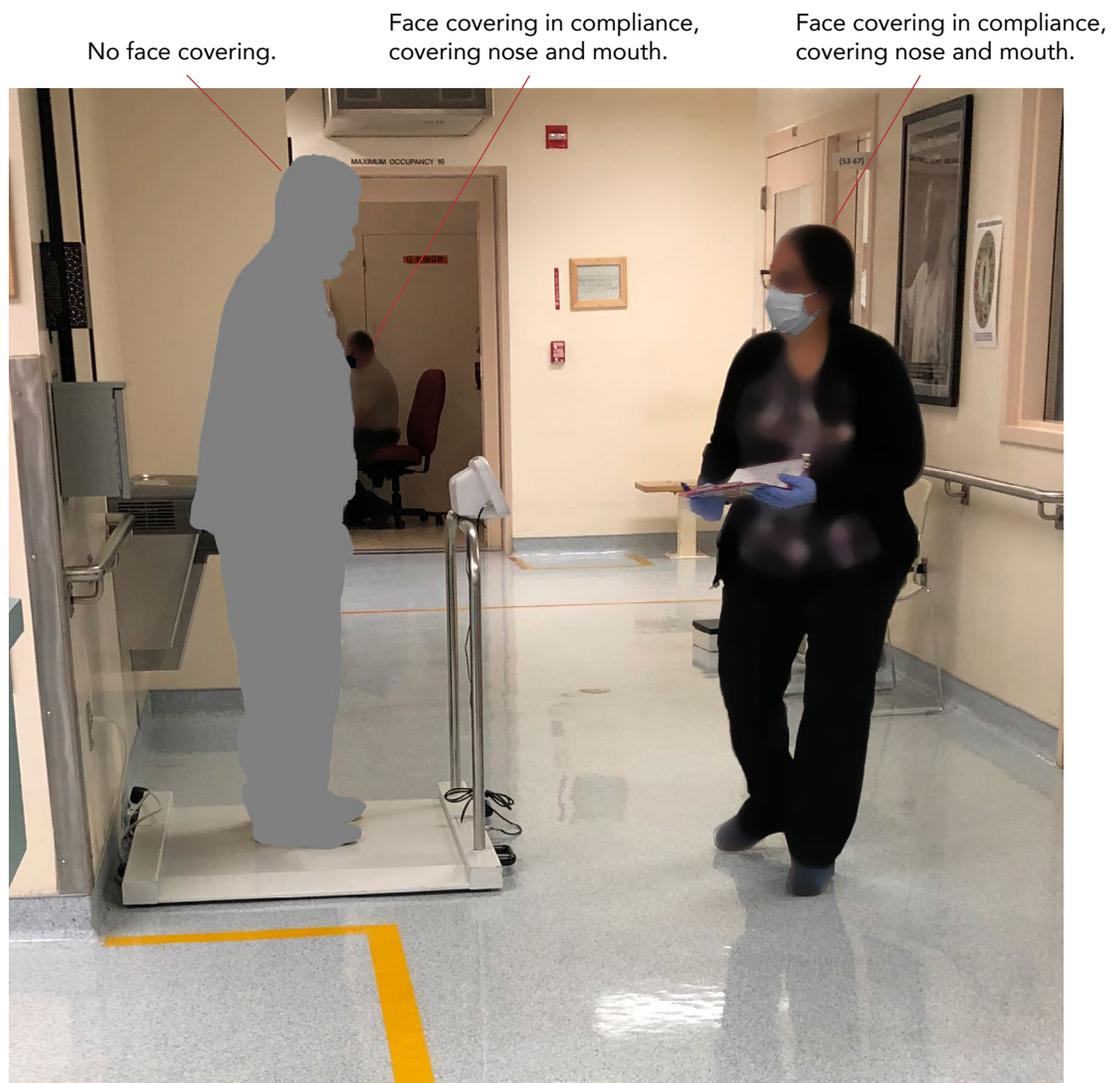


Photo 3. California Medical Facility clinic. Incarcerated patient not wearing a face covering during a health care appointment. (Photo taken by OIG staff on June 17, 2020, at the prison in Vacaville, California.)

Face covering below nose and mouth.



Photo 4. North Kern State Prison. Officer improperly wearing a face covering. (Photo taken by OIG staff on July 15, 2020, at the prison in Delano, California.)

Face covering below nose and mouth.

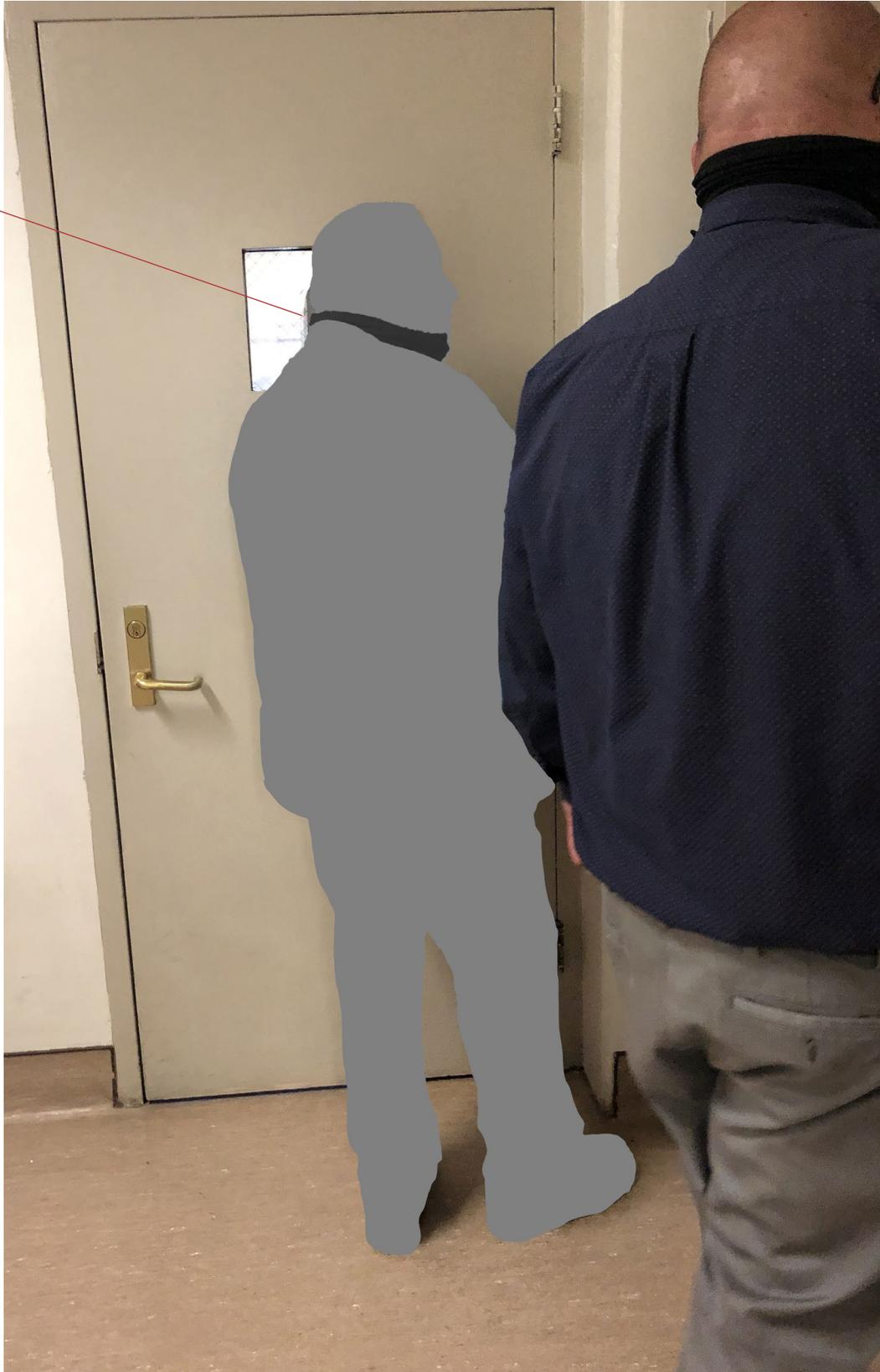


Photo 5. North Kern State Prison. Staff member improperly wearing a face covering. (Photo taken by OIG staff on July 15, 2020, at the prison in Delano, California.)

Although we observed more instances of noncompliance among the prison's custody staff, we also observed a troubling number of health care staff members failing to properly wear face coverings. We found this noncompliance alarming because we would expect health care staff, due to their specialized knowledge, skill, and training, to be more sensitive to the health risk posed by the virus; therefore, we expected them to adhere closely to the face covering policies. Surprisingly, this was not the case. We interacted directly with health care staff who were openly noncompliant. Those health care staff members who did not comply with the policy often wore their face coverings on their chins or covering their mouths but not their noses. Some raised their face coverings up over their noses when they saw us approach, but still others did not do even that, instead keeping the face coverings below their noses or mouths despite our presence.

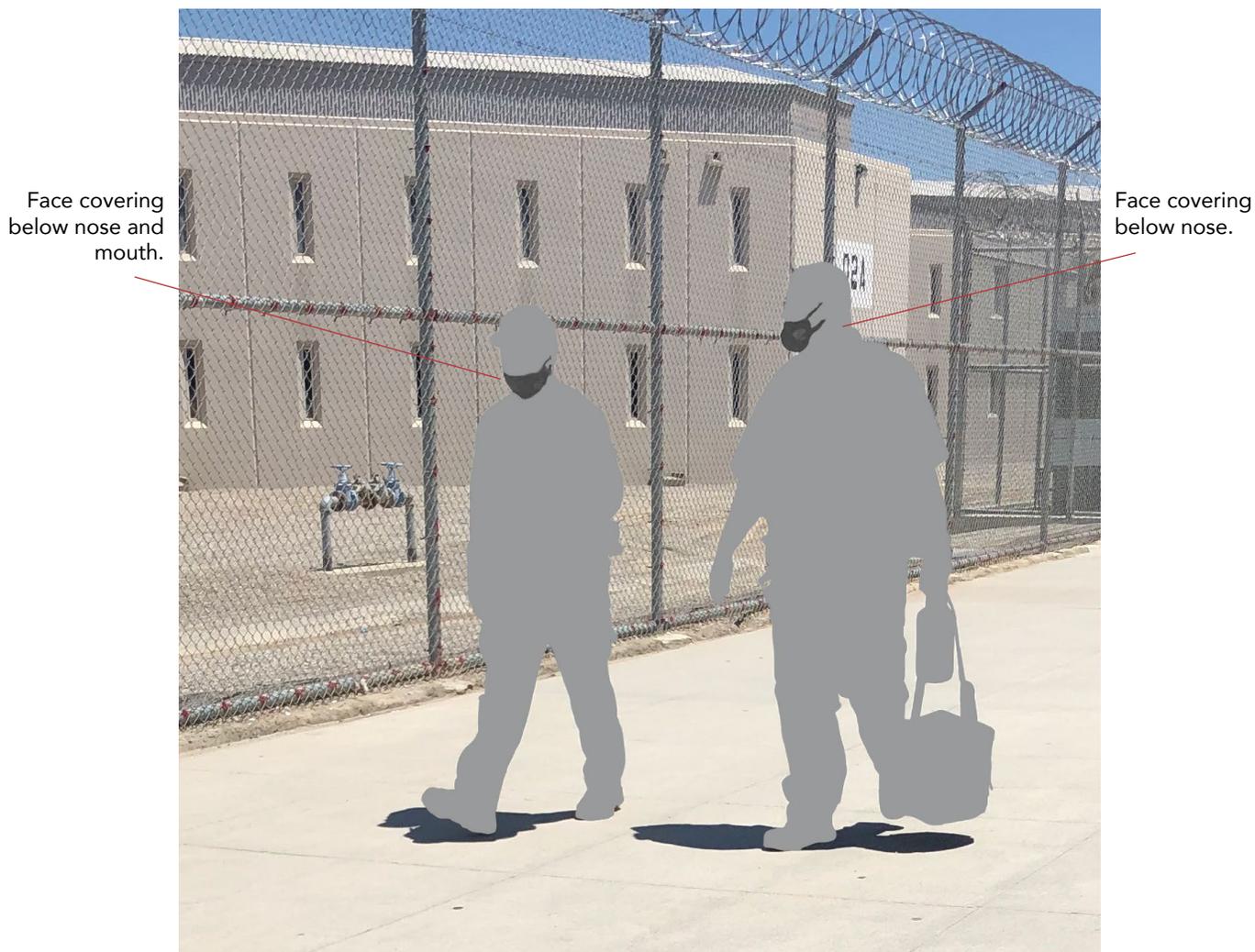


Photo 6. North Kern State Prison. Officers failing to comply with the department's face covering and physical distancing requirements. (Photo taken by OIG staff on July 15, 2020, at the prison in Delano, California.)

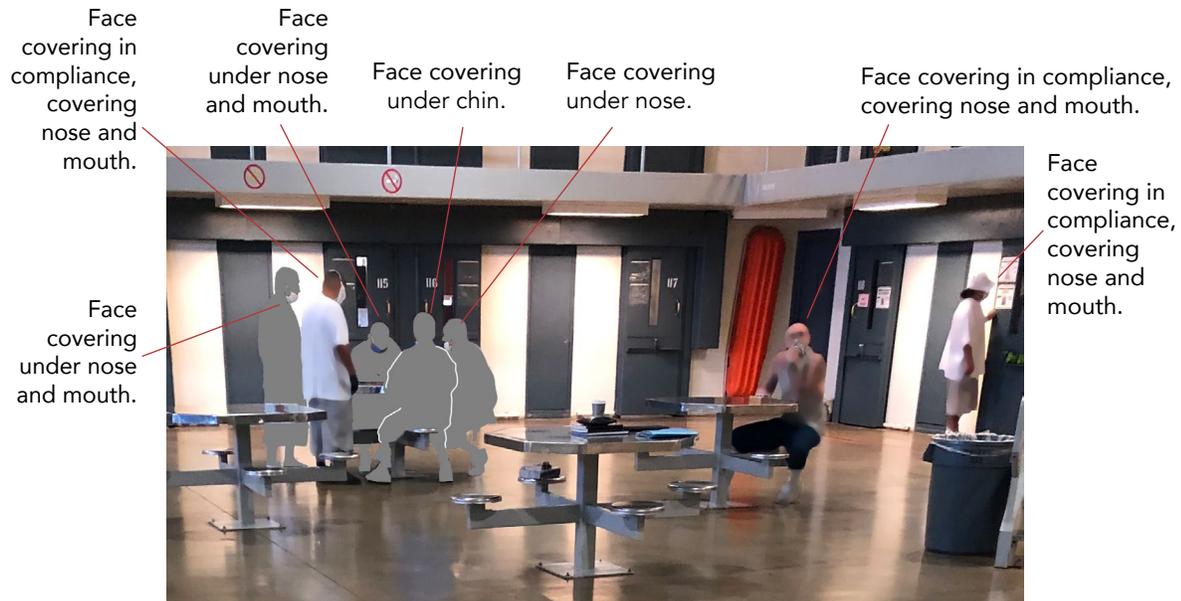


Photo 7. Mule Creek State Prison. Incarcerated persons in a day room. Several are not physical distancing or properly wearing face coverings. (Photo taken by OIG staff on May 21, 2020, at the prison in Lone, California.)

In addition to observing staff failing to wear face coverings and practice physical distancing as required, we noticed incarcerated persons not properly wearing face coverings as required, sometimes with little or no response from prison staff. We also observed incarcerated persons not properly wearing face coverings while in close proximity to staff or other incarcerated persons. During our COVID-19 review team's visits to five prisons, our staff visited various work and housing areas throughout the prisons to evaluate compliance with various COVID-19 directives, including whether staff and incarcerated persons were following face covering and physical distancing directives. At all the prisons we visited, our staff observed that almost all incarcerated persons had face coverings in their possession and that most were wearing those coverings on their faces at least partially. However, despite clearly being in possession of face coverings, many incarcerated individuals wore them improperly. We saw incarcerated persons wearing their face coverings below their noses, or sometimes all the way below their mouths, making the face coverings useless.

Many of the incarcerated persons whom we identified as improperly wearing face coverings or not wearing face coverings at all were in plain view of prison staff. Nonetheless, as detailed later in this report, we did not observe any significant efforts to enforce the face covering or physical distancing requirements. During one visit to Mule Creek State Prison, we heard prison staff announcing multiple times over the exercise yard's loudspeaker that incarcerated individuals would be required to return to their cells if they did not properly wear face coverings. Although we did

not see many incarcerated individuals adjusting their face coverings or putting them on in response to these announcements, we also noticed that prison staff did not require the yard's noncompliant individuals to return to their cells. Unless prison staff consistently follow the department's basic safety protocols and enforce those protocols in their supervision of incarcerated persons, it seems likely that the noncompliance among the prison staff and incarcerated persons will continue.

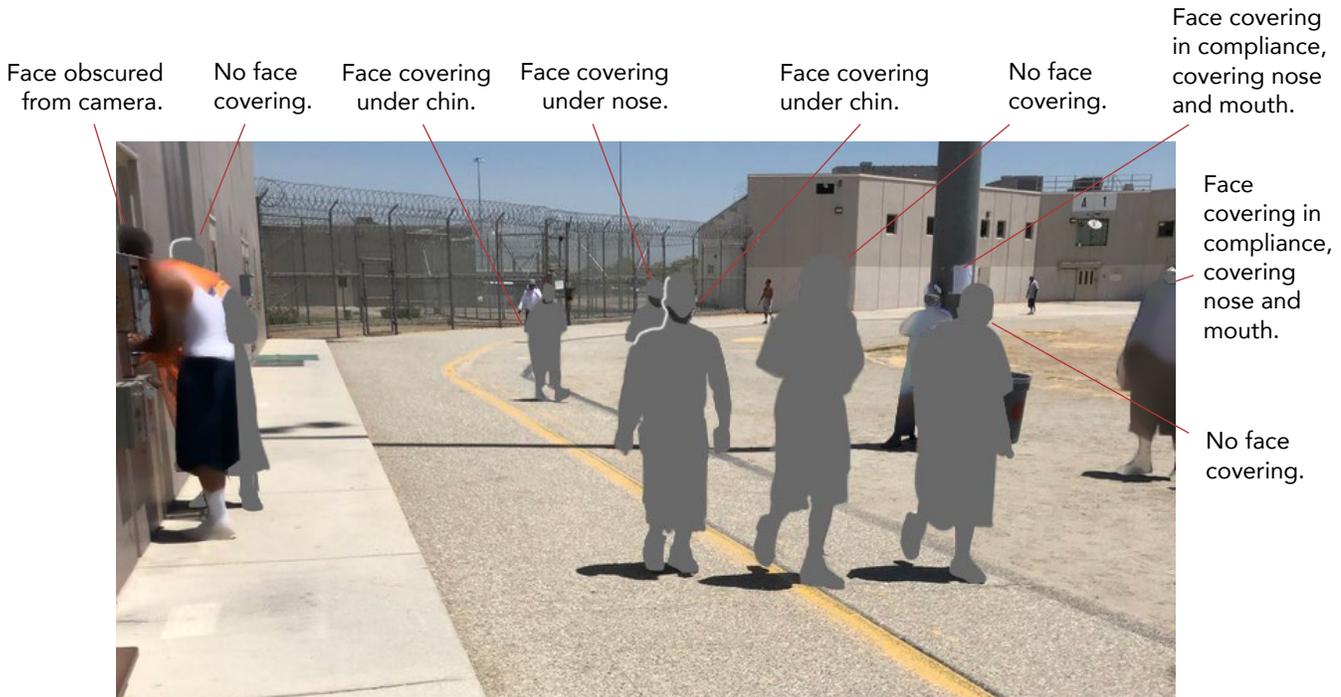


Photo 8. North Kern State Prison. Incarcerated persons on an exercise yard. Several are not physical distancing or properly wearing face coverings. (Photo taken by OIG staff on July 16, 2020, at the prison in Delano, California.)

## Prison Staff Also Reported Noncompliance with Face Covering and Physical Distancing Guidelines

To obtain departmental staff's perspective regarding staff's and incarcerated persons' compliance with the department's guidance related to COVID-19, including face covering and physical distancing directives, we sent surveys to these employees—about 12,000 people—at seven prisons. We asked, for example, whether staff had observed noncompliance with the institutions' enforcing face covering requirements. A significant number of staff members who responded to the survey indicated they had observed staff or incarcerated persons not wearing face coverings. As Table 1 below shows, of the 4,042 staff members who chose to answer this particular question, 1,271 (31 percent) reported they had observed staff or incarcerated persons failing to comply with face covering requirements. Regarding physical distancing, 1,540 staff members who responded (38 percent) stated they had observed staff or incarcerated persons not complying with physical distancing requirements.

### The OIG Surveyed All Staff at the Following Seven Prisons:

- Avenal State Prison
- California Health Care Facility
- California Institution for Men
- California Institution for Women
- California State Prison, Los Angeles County
- Chuckawalla Valley State Prison
- San Quentin State Prison

Source: The Office of the Inspector General.

**Table 1. Prison Staff Survey Responses Related to Face Coverings and Physical Distancing**

Prison	Number of Prison Staff Who Responded to Our Survey	Number of Survey Respondents Who Responded That They Have Seen Staff or Incarcerated Persons Not Wearing Face Coverings	Percent	Number of Survey Respondents Who Responded That They Have Seen Staff or Incarcerated Persons Not Complying With Physical Distancing Requirements	Percent
California State Prison, Los Angeles County	469	194	41%	197	42%
San Quentin State Prison	613	227	37%	277	45%
California Health Care Facility	1267	389	31%	487	38%
California Institution for Women	487	143	29%	217	45%
California Institution for Men	572	158	28%	195	34%
Chuckawalla State Prison	241	61	25%	64	27%
Avenal State Prison	393	99	25%	103	26%
<b>Totals</b>	<b>4,042</b>	<b>1,271</b>	<b>31%</b>	<b>1,540</b>	<b>38%</b>

Source: The Office of the Inspector General's analysis of its survey conducted with departmental staff at seven prisons.

### **Department Officials Took Little Action to Hold Staff and Incarcerated Persons Accountable When Those Individuals Did Not Properly Wear Face Coverings or Adequately Maintain Physical Distance from Others**

On July 1, 2020, during a hearing held by the California State Senate Public Safety Committee, in response to a question about reports of staff failing to wear face coverings while working at the department's prisons, the department's then-Secretary<sup>3</sup>—its highest-ranking official—was asked about the department's face covering requirements. The Secretary responded that state employee unions understand that face coverings are required and that state employee unions understand that “if progressive discipline has to be taken on employees who fail to comply or don't comply that there's an understanding that it's a requirement not only by the Department of Corrections, by the Receiver's office, but it's just the right thing to do as the State.” On the day of the Secretary's testimony, the department reiterated the Secretary's statements in writing, both on its public website and in a memorandum that it sent to management at all 35 prisons. In that memorandum, department management stated that it is vital staff adhere to face covering directives to protect the health of the staff, their families, and incarcerated persons.

However, the department's actions have not closely matched its public statements and directive to prison management. Our review of employee discipline records and our interviews with wardens at five prisons revealed that despite the secretary's testimony at a legislative hearing and the department's written statements and directive, prison management took very little action to enforce face covering and physical distancing requirements. When staff members fail to comply with departmental requirements, supervisors and managers can take multiple steps to bring those staff members into compliance, starting with a verbal warning and progressing all the way up to punitive action, such as a suspension. The fact that supervisors and managers rarely took any of these options to enforce the department's requirements is alarming because our observations and the observations of departmental staff we surveyed at seven prisons demonstrated the frequent apathy of prison staff toward the requirements, thus necessitating enforcement of the management's requirements.

According to a departmental website that details the department's COVID-19 response efforts, staff working or performing duties on institutional grounds are required to wear a face covering; those who do not comply could face progressive discipline. Moreover, on July 1, 2020, the department issued a memorandum emphasizing that it is vital that staff adhere to the department's face covering directive to protect the health of the staff, their families, and the incarcerated population. The memorandum further stated that departmental management expected

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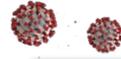
3. California Department of Corrections and Rehabilitation Secretary Ralph Diaz announced his retirement on August 28, 2020, effective October 1, 2020.

prison supervisors and managers to employ the progressive discipline process, and that supervisors and managers must be vigilant in the enforcement of the face covering directive.

The progressive discipline process typically begins with a verbal warning by a supervisor or manager to the noncompliant staff member.<sup>4</sup> If the staff member repeats the behavior, the next step in the progressive discipline process usually consists of issuing the staff member a written record of counseling, followed by a letter of instruction outlining requirements for the staff member to bring his or her performance to an acceptable level. If the behavior continues, the staff member may receive some form of punitive action, such as a salary reduction or suspension.

On August 19, 2020, to determine whether supervisors and managers at the five prisons we sampled have been enforcing the department's safety protocols, we asked the department to provide us with documentation of all progressive disciplinary actions the prisons' supervisors and managers have taken since February 1, 2020, for staff's failure to comply with the department's COVID-19 directives. Although we had observed departmental staff frequently disregard face covering and physical distancing requirements, as Table 2 below demonstrates, we found that, both before and after the department's July 1 memorandum communicating its expectation that supervisors and managers employ the progressive discipline process, supervisors and managers at the five prisons took very little action to correct staff's noncompliance with the department's face covering or physical distancing directives. Given the risk of staff members introducing COVID-19 infection into prisons from the community, we find the prison supervisors' and managers' lack of concern for enforcing the department's basic safety protocols troubling because it sends the message to staff that disregarding face covering requirements is tolerated, thus increasing the risk to the health and safety of staff and incarcerated persons.

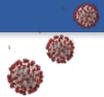
4. Progressive discipline is meant as a general guideline; hiring authorities may skip certain lower-level steps in the process should circumstances or behavior warrant more serious corrective or adverse action.



*Comment from a Staff Member  
at California State Prison,  
Los Angeles County,  
in Response to the OIG Survey*

“The majority of custody staff refused to wear PPE and when this was reported to supervisors their repeated response was that the mandates were unenforceable because these were adults.”

Source: OIG survey of all staff at seven prisons.



We requested a list and copies of all progressive disciplinary actions from the five selected prisons. Based on our review of the documentation provided by the five prisons, we found that supervisors and managers took very few actions to enforce the department's face covering and physical distancing directives. Although the five sampled prisons employ a total of 10,382 employees, as of September 2, 2020, prison supervisors and managers had taken just 29 actions over a period spanning seven months for noncompliance with the department's face covering or physical distancing requirements, and almost all the actions taken were the lowest levels of the progressive discipline process: namely, verbal warnings and instances of written counseling. Supervisors and managers at California Institution for Men, a prison the department reports to have had more than 1,000 confirmed COVID-19 cases among its incarcerated population and more than 200 confirmed cases among its staff as of September 2020, did not report having taken a single action. The lack of actions by the prisons' supervisors and managers is surprising because during our monitoring visits, OIG staff observed firsthand prison staff members failing to comply with face covering requirements. In addition, during testimony at the July 1 California Senate Public Safety Committee hearing, the Federal Receiver testified that a team from his office visited several prisons to determine whether staff and incarcerated persons were complying with the department's COVID-19 requirements, including wearing face coverings and practicing physical distancing. According to the Federal Receiver, that team reported that one prison was not taking COVID-19 seriously enough, and that prison was California Institution for Men.

**Table 2. Summary of Documentation Provided by Five Sampled Prisons of Disciplinary Actions Taken by Supervisors and Managers for Staff Members Failing to Comply with Face Covering or Physical Distancing Requirements**

Prisons		California Institution for Men	California Institution for Women	California Correctional Healthcare Facility	California State Prison, Los Angeles County	San Quentin State Prison
Total Number of Employees		1,736	1,192	3,933	1,588	1,933
Number of Discipline Actions Taken	Prior to July 1 memorandum	0	9	2	1	1
	After July 1 memorandum	0	7	7	2	0
	<b>Total</b>	<b>0</b>	<b>16</b>	<b>9</b>	<b>3</b>	<b>1</b>
Type of Discipline Taken	Verbal Counseling	0	0	7	0	0
	Written Counseling	0	16	1	1	1
	Letter of Instruction	0	0	1	1	0
	Referrals for Investigation or Punitive Action	0	0	0	0	0
	Punitive Action	0	0	0	1	0

Source: California Department of Corrections and Rehabilitation documentation of prisons' progressive discipline actions provided to the Office of the Inspector General.

San Quentin State Prison's supervisors' and managers' lack of response to staff members' noncompliance is especially alarming since, as of September 2020, the department has reported more than 2,100 incarcerated persons and more than 270 staff member cases of COVID-19 at that prison, including 26 incarcerated persons and one staff member who have died due to the virus. According to the department's response to our request, San Quentin State Prison's supervisors and managers took only one action, an instance of written counseling. Among the five sampled prisons, prison management only issued one punitive action, to a staff member at California State Prison, Los Angeles. That prison also issued a letter of instruction to one staff member. All other actions taken by supervisors and managers were instances of either verbal or written counseling, the two lowest levels of the progressive discipline process.

The fact that the department's scant enforcement activities were limited to the lowest levels of progressive discipline further demonstrated the disregard of the department's supervisors and managers for enforcing the department's COVID-19 requirements. Significantly, we found that the supervisors' and managers' failure to enforce COVID-19 requirements was not limited to the five prisons. Our staff reviewed every formal request for investigation and punitive action in the department since February 1, 2020, and we found that, as of September 2, 2020, prison wardens statewide requested formal investigations or punitive actions for misconduct related to face covering or physical distancing requirements for only seven of the department's more than 63,000 staff members. We find that number surprisingly low, given the prevalence of noncompliance observed by our staff and the departmental staff we surveyed.

The department's supervisors' and managers' lack of enforcement may have been partially the result of the department's communication of its expectation in its memorandum of July 1, 2020. That memorandum does not definitively direct supervisors and managers to issue corrective action when they observe noncompliance with the face covering requirement. Instead, the memorandum creates an "expectation" rather than a "mandate." Leaving enforcement of the directive to the discretion of the supervisor may have contributed to supervisors' and managers' lenient enforcement of the department's directives.

In addition to noting that the five prisons' supervisors and managers have taken very little action to correct staff noncompliance, we interviewed the wardens at the five prisons, who reported imposing no discipline on incarcerated persons for failing to wear face coverings or failing to adhere to physical distancing guidelines. With such little effort by prison staff, including supervisors and managers, to comply with and enforce the department's guidelines, the noncompliance we observed seems likely to continue, putting the health of prison staff and incarcerated persons at risk.

### **At a Time When the Department Should Have Tightened Its Implementation of Protective Measures Against the Spread of COVID-19, It Loosened Its Guidelines**

In the department's early response to the pandemic, the department outlined its clear expectations that staff and incarcerated persons, with very few exceptions, wear face coverings and physically distance to the extent possible. On April 16, 2020, the department issued a memorandum requiring staff and incarcerated persons to wear a face covering once an adequate supply of face coverings had been delivered to the prison. It further directed that staff working or performing duties on institutional grounds shall wear a cloth face covering "at a minimum," and reiterated its recommendation that staff maintain physical distancing requirements when moving about the prison for routine tasks. The memorandum also directed that incarcerated persons shall wear a cloth face covering within the prison during any situation that requires movement outside of a cell or while in a dorm setting, during interactions with other incarcerated persons, and while moving to and from health care appointments and medication administration areas.

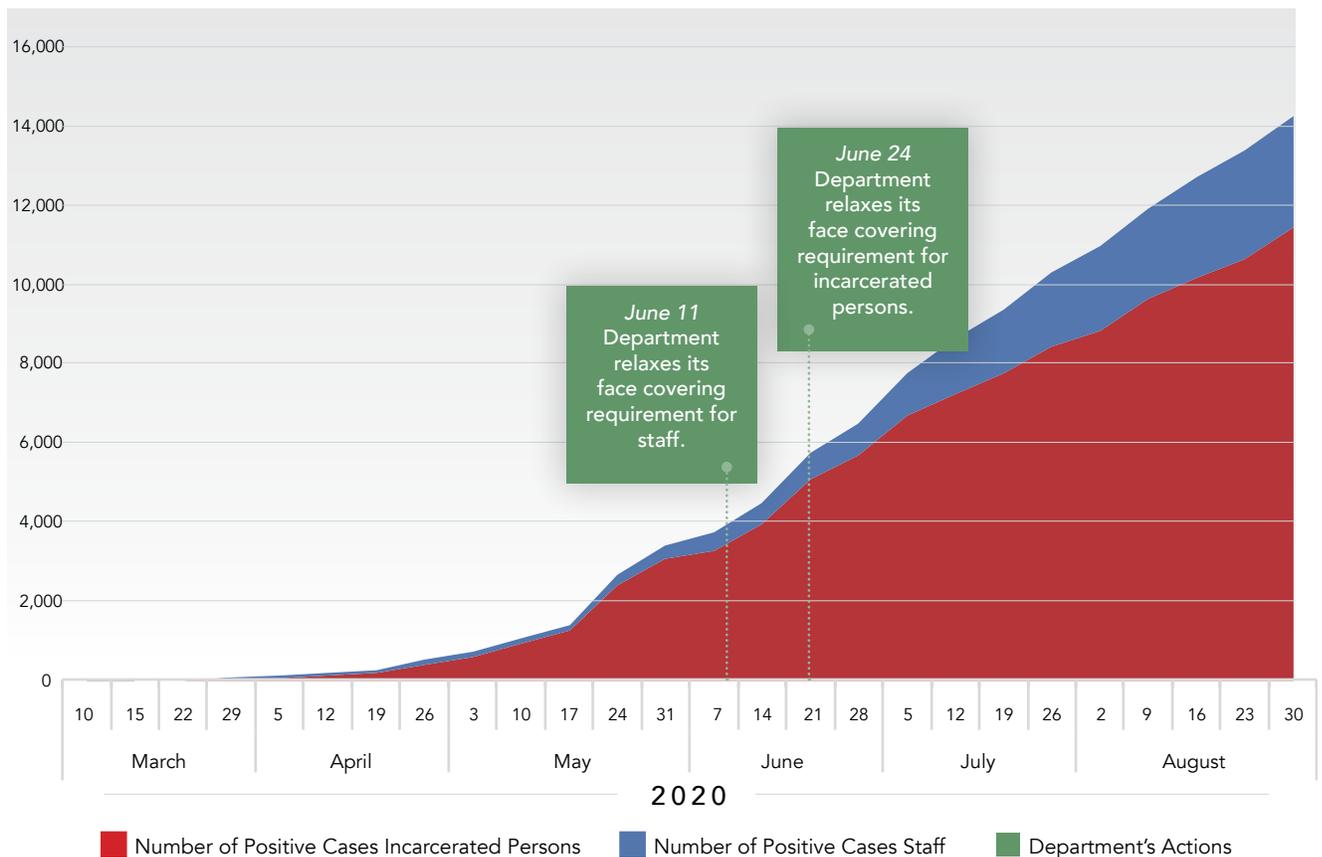
This mandate achieved two public safety objectives: first, it made the wearing of cloth face coverings mandatory at all times by using directive "shall" language; and second, it provided an extra layer of guidance by recommending physical distancing in addition to wearing face coverings. The mandate made clear the obligation of departmental staff and incarcerated persons to comply.

However, on June 11, 2020, despite reporting increasing cases of COVID-19 among the staff and incarcerated population, the department's Secretary and the Federal Receiver issued a memorandum that undermined the mandate of April 16. The department relaxed its required safety protocols when it issued the memorandum titled "Update to the March 13, 2020 memorandum message to employees regarding COVID-19." The new memorandum stated, in part, that staff working or performing duties on prison grounds shall wear cloth or other approved face coverings at all times, with the exception of when in an outdoor setting where six feet of physical distancing can be accomplished. The memorandum also exempted staff from wearing a face covering when alone in an office space or tower (unless someone enters the space), and noted that failure to follow the directives may result in progressive discipline. Because this memorandum was signed by the Secretary and the Federal Receiver, it carried the authority of both the department's highest-ranking executive and the Federal Receiver, who is responsible for the department's delivery of health care. This memorandum explicitly superseded the April 16 memorandum by relaxing the requirement for wearing a face covering. It further relaxed the mandate by including permissive language regarding accountability when it stated that progressive discipline "may" result.

In addition to loosening face covering requirements for staff on June 11, the department later relaxed the requirements for the incarcerated population. On June 24, the department issued another memorandum, titled "Update to the California Prison Authority Cloth Face Barrier/Masks." This memorandum stated, in part, "Effective immediately, inmates will not be required to wear a facemask if they are in an outdoor setting and able to practice social distancing by following the six feet distance with staff or other inmates." The memorandum superseded, in part, the April 16 memorandum that required incarcerated persons to wear a cloth face covering within the prison during any situation that required movement outside of a cell or while in a dorm setting, during interactions with other incarcerated persons, and during movement to and from health care appointments and medication administration areas.

As Figure 7 demonstrates, the department relaxed its face covering requirements at a time when cases of COVID-19 were increasing among both its staff and incarcerated population. On June 11, the date the department issued the memorandum relaxing its face covering

**Figure 7. Time Line of the Department's Actions Relaxing Its Face Covering Requirements and the Number of Confirmed Cases Among Its Prison Staff and Incarcerated Population**



Source: Unaudited data from the California Department of Corrections and Rehabilitation's population and staff COVID-19 trackers.

requirements for staff, data the department provided to support its public COVID-19 tracker showed 3,217 cumulative confirmed cases of COVID-19 among incarcerated persons, an increase of 32 percent from the 2,431 cases the department reported 10 days earlier on June 1. In addition, during the same 10-day period, the department's data indicated that cases of COVID-19 among departmental staff increased from 355 to 522, an upswing of 47 percent.

Not only do the June 11 and June 24 memoranda weaken the department's face covering requirements, the memoranda's updated requirements are also impractical and potentially dangerous because they do not account for the volatile nature of the prison environment. For example, according to these memoranda, a staff member could remove his or her face covering when walking alone across the yard but would need to don the face covering quickly should an incident occur requiring an immediate response. However, in the event of such an emergency, staff and incarcerated persons may be less likely to don a cloth face covering and may thereby inadvertently infect others when responding to the emergency. In a setting that is not a congregate living environment, where dangerous emergency conditions will not inevitably occur, the memorandum may be appropriate, but not in prisons. The memorandum ignores the setting in which it is implemented, where incarcerated persons regularly come into contact with staff members and other incarcerated persons. Since the purpose of the department's face covering requirement is to prevent the spread of the virus among staff and incarcerated persons, the department should more strictly require face coverings than does the community at large, given the contagiousness of the virus and the vulnerability of the incarcerated population. Instead, this memorandum undermines the goal of the face covering requirement in the first instance by inadvertently creating opportunities for the virus to spread.

The June 11 memorandum relaxing face covering requirements for staff also undermines the supervisors' ability to hold staff accountable for their lack of compliance: the new memorandum blurs the otherwise clear line established in the memorandum of April 16, 2020, which specifically required strict adherence, with very few exceptions, to the face covering policies. The clear guidelines permitted clear enforcement. After the memorandum of June 11, 2020, however, before a supervisor could hold a staff member accountable, the supervisor must show that the staff member did not wear the face covering and did not achieve six feet of physical distancing. As a result, when challenged about their failure to adhere to the face covering requirement, staff could respond by noting they believed they were in an area that included six feet of space; the burden would then shift to the supervisor to demonstrate that the staff member who was not properly wearing a face covering was indeed in a place where the requisite distance could not be achieved. However, the reality is that in a prison environment, there are few "safe" gaps of six feet or more that cannot be closed in an instant when an emergency

erupts; the consequence of the June 11 memorandum is that supervisors will have a more difficult time holding staff accountable for failure to comply with the potentially life-saving face covering mandate.

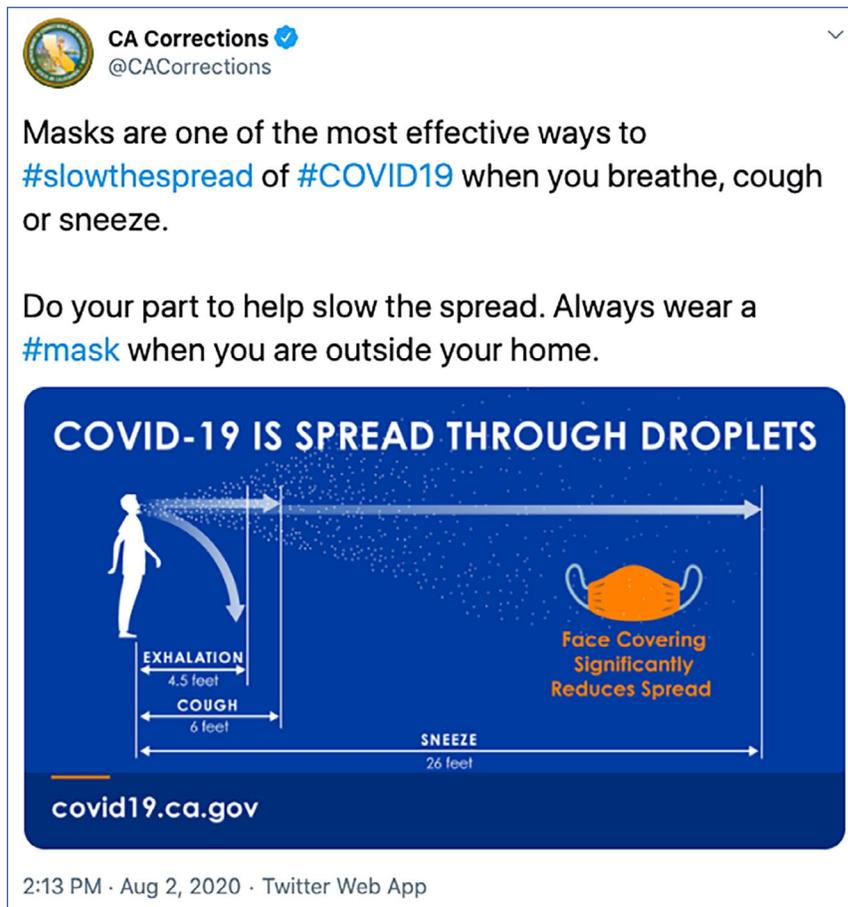
Even the department's own social media posts demonstrate the department's inconsistent messaging about face covering requirements. For example, after the department issued memoranda relaxing face covering requirements for staff and incarcerated persons on June 11 and June 24, two posts on the department's twitter.com account, which were likely viewed by multiple staff members, contradicted the memoranda. First, as shown in Figure 8, a July 31 post on the department's twitter.com timeline encouraged people to "wear a mask whenever you leave your home." Just two days later, as provided below in Figure 9, another post on the department's twitter.com timeline pointed out that face coverings are one of the most effective ways to slow the spread of COVID-19, which may spread through droplets that can travel more than six feet. Because, as the post points out, COVID-19 may be spread through droplets that can travel more than six feet, the department's allowing its staff and incarcerated population to not wear face coverings when outside and maintaining six feet of physical distance seems to unnecessarily increase the risk of the virus's spread. The result of this inconsistent messaging may have been that staff dismissed these basic safety protocols as not serious.

**Figure 8. July 31, 2020, Twitter.com Post from California Department of Corrections and Rehabilitation Encouraging Wearing Face Coverings**



Source: California Department of Corrections and Rehabilitation's social media account on twitter.com.

**Figure 9. August 2, 2020, Twitter.com Post from California Department of Corrections and Rehabilitation Encouraging Wearing Face Coverings**



Source: California Department of Corrections and Rehabilitation's social media account on twitter.com.

As of October 2020, the department has reported more than 13,000 confirmed cases of COVID-19 among its incarcerated population and more than 3,000 cases among staff. In addition, the department has reported the deaths of 69 incarcerated persons and 10 staff members who were infected with the virus. Considering the risk that individuals without symptoms can spread COVID-19, and considering increasing evidence from the scientific community that face coverings are effective in slowing the spread of COVID-19, it is essential that the department's staff and incarcerated population consistently wear face coverings whenever they may come into close contact with other individuals. However, unless departmental management clearly communicates face covering guidelines that are enforceable, and ensures that managers and supervisors consistently take action when they observe noncompliance, the department will continue to undermine its ability to enforce the basic safety protocols of wearing face coverings and practicing physical distancing. If the department is unable to properly implement and enforce such basic safety protocols, it is unclear how it can succeed in all of its efforts to prevent or minimize further outbreaks of COVID-19.

## Recommendations

To ensure that staff and incarcerated persons consistently wear face coverings and practice physical distancing as its directives require, the department should mandate that all supervisors and managers take corrective action when they observe staff fail to adhere to face covering or physical distancing directives. Moreover, the department should implement a process for all of its supervisors and managers to document and track noncompliance with policies on face covering and physical distancing so they can track repeat offenses and take additional corrective and adverse actions as necessary.

In addition, we recommend that the department modify its directives to require—with minimal, but reasonable, exceptions—staff and incarcerated persons wear a face covering even if they believe they can physically distance. One exception to the face covering mandate, for example, could be when a staff member is alone in his or her office or when eating or drinking.

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## Response to the OIG's Report

STATE OF CALIFORNIA — DEPARTMENT OF CORRECTIONS AND REHABILITATION

GAVIN NEWSOM, GOVERNOR

**OFFICE OF THE SECRETARY**  
P.O. Box 942883  
Sacramento, CA 94283-0001



October 20, 2020

Mr. Roy Wesley  
Office of the Inspector General  
10111 Old Placerville Road, Suite 110  
Sacramento, CA 95827

Dear Mr. Wesley:

The California Department of Corrections and Rehabilitation (the Department) submits this letter in response to COVID-19 Review Series, Part Two. Thank you for the opportunity to review and comment on the draft report.

The Department has reviewed the draft report prepared by the Office of the Inspector General. COVID-19 is a constantly emerging and rapidly evolving situation. The Department recognizes its responsibility to clearly communicate the importance of adhering to physical distancing and face covering protocol in order to mitigate the spread of COVID-19 among staff and the incarcerated population. Further, the Department will continue its effort to consistently enforce those policies and procedures. The Department continues to review its policies and procedures to ensure appropriate measures are put into place while simultaneously minimizing the impact of COVID-19 on our operations.

If you have further questions, please contact me at (916) 323-6001.

Sincerely,

  
KATHLEEN ALLISON  
Secretary

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# COVID-19 REVIEW SERIES

## *Part Two*

**The California Department  
of Corrections and Rehabilitation  
Distributed and Mandated the Use of  
Personal Protective Equipment and  
Cloth Face Coverings; However,  
Its Lax Enforcement Led to  
Inadequate Adherence  
to Basic Safety Protocols**

OFFICE *of the*  
INSPECTOR GENERAL

*Roy W. Wesley*  
Inspector General

*Bryan B. Beyer*  
Chief Deputy Inspector General

STATE of CALIFORNIA  
October 2020

**OIG**