



Limited-Scope Review of the Federal Bureau of Prisons' Strategies to Identify, Communicate, and Remedy Operational Issues



EVALUATION AND INSPECTIONS DIVISION

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EXECUTIVE SUMMARY

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Introduction

The U.S. Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this limited-scope review after certain operational issues became so serious at U.S. Penitentiary (USP) Atlanta and Metropolitan Correctional Center (MCC) New York that, in 2021, the Federal Bureau of Prisons (BOP) significantly limited operations at the former and closed the latter. The DOJ OIG sought to assess how critical issues at BOP institutions are identified, communicated to BOP Executive Staff, and remediated.

At the outset of our limited-scope review, then BOP Executive Staff told us they had been largely aware of the long-standing operational issues at USP Atlanta and MCC New York and expressed confidence in the BOP's existing mechanisms to communicate information about operational issues. However, they also described four foundational, enterprise-wide challenges that they said limited their ability to remedy institution operational issues, specifically:

- weaknesses in the BOP's internal audit function,
- delays in the BOP's employee discipline process,
- inadequacy of BOP assessments of institution staffing level needs, and
- the BOP's inability to address its aging infrastructure.

In light of then BOP Executive Staff's prior awareness of the USP Atlanta and MCC New York operational issues, we modified the scope of this review following these initial meetings to focus on these four causes and the scope of the challenges, their effects on institutional operations, and the Executive Staff's efforts to remedy them.

Recommendations

In this report we make five recommendations to the BOP to ensure that its institutions operate safely and effectively.

Results in Brief

Four mission-critical, enterprise-wide management challenges were identified by then BOP Executive Staff as contributing to significant operational issues at BOP institutions and substantially affecting their ability to manage BOP operations. We found that, during their tenure, the BOP's then Executive Staff had not been able to take actions to effectively remedy them.

In a written response to a draft of this report, former BOP Director Michael Carvajal said the challenges we discuss in this report were "long-established" prior to his February 2020 appointment. He added that then Executive Staff "acknowledged and made attempts to address these issues in some fashion, although they may not have been corrected or completed for various reasons." He also noted that his appointment and 2-plus-year tenure coincided with the onset of the coronavirus disease 2019 pandemic and that responding to the pandemic "required prioritization of resources behind life safety."

We recognize that these four operational issues are long-standing and that the onset of the pandemic emergency made it more difficult to address them. Nonetheless, BOP leadership's inability to effectively address the challenges discussed in this report contributed, in part, to the persistence of long-standing, known operational issues at institutions such as USP Atlanta and the lack of progress in remediating them. We believe that responding to the challenges identified in this report should be an urgent priority not only for the new BOP Director but also for DOJ and all of the BOP's stakeholders because in some cases the BOP will need their assistance to address these challenges.

Deficiencies in the BOP's Internal Audit Process Impacted BOP Executives' Confidence in Their Reports and Ratings of Institutional Conditions

We identified significant deficiencies with the BOP's internal audit process. We found that audit ratings may

not accurately reflect conditions at BOP institutions and that the specific audit ratings at USP Atlanta were in stark contrast to actual conditions there.

The former BOP Director and other members of the then Executive Staff questioned the efficacy of the audit process because institution personnel have known when audits will occur and audit teams may not have been truly independent. Further, many then Executive Staff members questioned whether the BOP's overwhelmingly positive enterprise-wide audit ratings reflected actual institution conditions. Validating this concern, we found that the USP Atlanta internal audit conducted in January 2020 rated USP Atlanta's inmate management efforts as Acceptable despite identifying numerous significant issues. Multiple members of the then Executive Staff, including the former Director, acknowledged that this rating was inappropriate.

Insufficient Internal Investigative Staffing Has Resulted in a Substantial Backlog of Unresolved Employee Misconduct Cases

We found the BOP is unable to effectively investigate and adjudicate employee misconduct cases because it is not sufficiently staffed. The vast majority of employee misconduct cases are investigated by BOP Special Investigative Agents (SIA). As of September 2022, the BOP had approximately 60 SIAs on board to investigate 7,893 open employee misconduct cases. In addition, as of the same date, the BOP had not yet imposed discipline in 2,279 other cases in which an investigation sustained an allegation of misconduct. Further, due to its case management system limitations, the BOP cannot readily provide summary data describing how long it takes, on average, to complete investigations and impose discipline on offending employees.

Due to this backlog of investigations and adjudications, the BOP is unable to effectively enforce its Standards of Employee Conduct. Further, it allows employees who may have engaged in misconduct, as well as those found to have engaged in misconduct, to remain employed by the BOP for extended periods of time.

The OIG found that, although the BOP's leadership at that time was aware that the employee discipline process was not operating effectively, few actionable steps were taken to improve it. As of March 2023, the BOP had plans to hire an additional 46 staff to investigate employee misconduct. In its written response to a draft of this report, the BOP told the OIG

that it believes it will be able to clear its employee misconduct investigative backlog within 24 months.

While we appreciate the BOP prioritizing this issue, we remain concerned that, even if this hiring plan and other proposed reforms are fully implemented, the BOP may remain unable to keep up with the volume of its employee misconduct investigations.

The BOP Does Not Fully Understand Its Staffing Needs, Impacting Its Ability to Safely and Effectively Operate Its Institutions and Manage Its Operations

We found that the BOP does not know whether the number of staff it represents as necessary to manage its institutions safely and effectively is accurate. The absence of reliable information about appropriate staffing levels makes it difficult for the BOP to determine whether its institutions are appropriately staffed, thereby impacting its ability to ensure the safe and effective operation of its institutions. Further, the absence of this information makes it difficult for the BOP to communicate its needs to stakeholders in the executive and legislative branches.

The BOP Lacks an Infrastructure Strategy, Exacerbating Its Infrastructure Challenges and Creating Significant Management Issues

BOP Executive Staff commonly cited the BOP's inability to address its aging infrastructure as a foundational, enterprise-wide challenge that limited its ability to remedy institution operational issues. A recently released OIG audit report details how the BOP's lack of an infrastructure strategy affected its ability to address its infrastructure requirements and request adequate funding to meet its infrastructure needs. This results in increasing maintenance costs and, in the most extreme circumstances, having to shutter institutions and relocate inmates because needed maintenance and repairs have resulted in unsafe conditions.

The BOP's inability to address backlogged major repair projects with available resources created particularly acute issues at numerous institutions, including MCC New York, which the BOP closed in October 2021 due to its failing infrastructure. In this limited-scope report, we provide additional detail about the historical scope and pervasiveness of facilities issues at MCC New York, BOP officials' inability to remedy these issues in a timely manner, and the negative affect these issues have had on BOP operations.

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Introduction

Background

The Federal Bureau of Prisons (BOP) has long-standing operational challenges that have negatively affected its ability to operate its institutions safely and effectively. In recent years, in congressional testimony and budget justifications, the BOP has cited staff limitations and aging infrastructure as chief among these challenges.¹ The U.S. Department of Justice (DOJ) Office of the Inspector General (OIG) has also reported on these issues, as well as other challenges effecting the physical safety and security of BOP institutions and the BOP's ability to deliver healthcare to inmates.² Despite the BOP's awareness of these challenges, it has not been able to take action to effectively remedy many of them.

In 2021, the long-term effects of some of these unaddressed challenges became so serious at two BOP institutions that the BOP decided to significantly limit operations at one and close the other. During the summer of 2021, the BOP significantly limited operations at U.S. Penitentiary (USP) Atlanta due to serious operational security concerns at the institution, including the inability of staff there to prevent the introduction of drugs and other contraband into the institution. In October of that year, the BOP also closed Metropolitan Correctional Center (MCC) New York due to its failing physical infrastructure, although the institution had also been experiencing serious operational security issues related to deficiencies in staff supervision and security camera functionality.

In light of the severity of the operational issues at USP Atlanta and MCC New York, in February 2022 the OIG initiated this limited-scope review to assess how the BOP considers operational issues identified through

The BOP at a Glance

The BOP operates 121 institutions that are generally categorized by the security classification (i.e., minimum, low, medium, and high) of the inmates that they house. The BOP also operates detention centers that house pre-sentenced inmates as well medical centers where the BOP provides care for inmates of all security levels. As of April 2023, approximately 145,300 inmates were housed in 121 of the BOP's institutions and the BOP had approximately 34,400 employees on board.

As of the same month, approximately 7,500 other inmates were housed in privately managed Residential Reentry Centers and approximately 5,650 inmates were on home confinement.

Source: BOP

¹ DOJ, [FY 2023 Performance Budget Congressional Submission: Federal Prison System Salaries and Expenses](https://www.justice.gov/d9/pages/attachments/2022/04/08/bop_fy_2023_presidents_budget_se_narrative_-_final.pdf), www.justice.gov/d9/pages/attachments/2022/04/08/bop_fy_2023_presidents_budget_se_narrative_-_final.pdf (accessed January 13, 2023). See also DOJ, [FY 2023 Performance Budget Congressional Submission: Federal Prison System Buildings and Facilities](https://www.justice.gov/d9/pages/attachments/2022/04/08/bop_fy_2023_presidents_budget_bf_narrative_-_final.pdf), www.justice.gov/d9/pages/attachments/2022/04/08/bop_fy_2023_presidents_budget_bf_narrative_-_final.pdf (accessed January 13, 2023). See also Michael Carvajal, Director, Federal Bureau of Prisons, before the U.S. House of Representatives Committee on the Judiciary, "Oversight of the Bureau of Prisons," February 3, 2022.

² The OIG's Top Management and Performance Challenges for 2022 cites staffing shortages and institutional infrastructure as component challenges associated with improving the management of the federal prison system. DOJ OIG, [Department of Justice Top Management and Performance Challenges 2022](https://oig.justice.gov/reports/top-management-and-performance-challenges-facing-department-justice-2022), oig.justice.gov/reports/top-management-and-performance-challenges-facing-department-justice-2022.

Additionally, the OIG has posted on its website a compendium of non-investigative reports that highlight many of the BOP's longstanding challenges. DOJ OIG, [Compendium of Non-Investigative Reports on the Federal Bureau of Prisons](https://oig.justice.gov/news/compendium-non-investigative-reports-federal-bureau-prisons), oig.justice.gov/news/compendium-non-investigative-reports-federal-bureau-prisons.

internal and external oversight processes and products, how identified issues are communicated to BOP Executive Staff, and how the BOP takes action to remedy those issues. During our fieldwork (February 2022–January 2023), BOP Director Michael Carvajal resigned his position, and in August 2022 Colette S. Peters assumed the position of BOP Director. Although our fieldwork spanned the tenures of two Directors, we note that the data, findings, and analysis in the [Results of the Review](#) primarily focus on BOP operations prior to current Director Peters’ tenure.

The BOP’s Organizational Structure During the Time of Our Review

The BOP’s mission is to protect public safety by ensuring that federal offenders serve their sentences of imprisonment in facilities that are safe, humane, cost-efficient, and appropriately secure and to provide reentry programming to ensure their successful return to the community. At the time of our limited-scope review, to help the BOP Director achieve that broad mandate, the BOP Director’s Executive Staff was composed of a Deputy Director, six Regional Directors who oversaw operations at BOP institutions, and eight Assistant Directors who managed the BOP’s mission support divisions. The Executive Staff also included the Chief Executive Officer of Federal Prison Industries and the Director of the National Institute of Corrections.³ The Director, Deputy Director, Assistant Directors, and leaders of Federal Prison Industries and the National Institute of Corrections were based at the BOP’s Central Office in Washington, D.C. The Regional Directors were located at BOP offices within their geographic areas of responsibility.

The BOP Director has responsibility for daily oversight of the agency, including but not limited to safety and security issues, policy development, enterprise-wide budgeting and resource allocation, human resource management, and congressional and other stakeholder engagement. Primary responsibility for handling daily operational oversight of institutions is with the Deputy Director and Regional Directors. Regional Directors provided support and oversight to the institutions in their respective regions, but day-to-day operational responsibility for the respective institutions lays with the Wardens. For an update on recent changes to the BOP’s organizational structure, see the text box below.

³ The areas of operation for the six Regional Directors during our review were the (1) Northeast, (2) Mid-Atlantic, (3) North-Central, (4) Southeast, (5) South-Central, and (6) Western Regions. The eight Assistant Directors manage the following mission-support divisions or offices: (1) Correctional Programs Division; (2) Health Services Division; (3) Human Resource Management Division; (4) Reentry Services Division; (5) Administration Division; (6) Information, Policy, and Public Affairs (IPPA) Division; (7) Program Review Division (PRD); and (8) Office of General Counsel. Federal Prison Industries, which does business as UNICOR, is a government corporation within the BOP that provides employment to staff and inmates at federal prisons throughout the United States. The National Institute of Corrections, among other mission areas, provides training and technical assistance to state and local correctional agencies.

Recent Changes to BOP's Organizational Structure

The BOP has recently adjusted its organizational structure and added a new position of Associate Deputy Director. While this position remained vacant as of April 2023, once filled the Associate Deputy Director will oversee the administrative divisions of the BOP that are responsible for enterprise-wide budgeting and resource allocation, human resource management, information technology, and internal auditing. The BOP has also removed the public affairs function from the IPPA Division and established the Office of Congressional and Public Affairs. The IPPA Division has been renamed the Information Technology and Data Division.

In a response to a draft of this report, former Director Carvajal said that he proposed these changes during his tenure, and now that they have been implemented, he believes they should provide BOP executive leadership the ability to provide “better oversight and span of control to address long-standing challenges, including the four mission-critical issues mentioned in this review.”

Source: BOP and former BOP Director Michael Carvajal

Events Resulting in the BOP Significantly Limiting USP Atlanta Operations

In January 2020, a BOP internal audit program review team identified 13 deficiencies in USP Atlanta's Correctional Services program area. In addition to these 13 deficiencies, the program review team identified four additional areas of concern with the Correctional Services program area. Nonetheless, the program review team gave an Acceptable rating to USP Atlanta's Correctional Services program area. In the months following this program review, conditions at USP Atlanta did not substantively improve.⁴

In August 2020, the then Southeast Regional Director tasked a team, independent of the Program Review Division (PRD), to perform a security assessment of USP Atlanta. The security assessment reviewed areas including and beyond those reviewed during the Correctional Services program review and concluded that “USP Atlanta present[ed] significant security concern for the Southeast Region” and “both national and local policies are being violated on a regular basis.” The security assessment team identified deficiencies that mirrored those identified by the program review team. For example, the security assessment team found that:

- Special Investigative Services (SIS) staff did not properly log and store evidence, and large bags of narcotics were observed on the floor with no chain of custody documentation;
- inmate orderlies in the Special Housing Unit were not supervised by staff; and
- staff were unaware of proper firearm loading and unloading procedures.

The security assessment also identified deficiencies in areas that the Correctional Services program review did not specifically examine. For example, 142 out of 263 security cameras throughout the institution were found to be inoperable or working improperly. Additionally, the security assessment team found that over 170 employee misconduct investigations were delinquent at the time of the review and stated, “There appears to be no consequences for staff not performing their duties in accordance with policy.”⁵

⁴ According to a former USP Atlanta Warden, who served in this role from June 2019 to September 2021, the institution's ability to improve its performance was hampered by the onset of the coronavirus disease 2019 pandemic. He cited specific challenges with maintaining a full complement of custody staff.

⁵ The BOP generally defines a misconduct investigation as delinquent if it has not been completed within 120 days. We

Within a week of receiving the security assessment report at the end of August 2020, the then Southeast Regional Director, in consultation with the then BOP Deputy Director, reassigned USP Atlanta's Warden to a regional office. Between the reassignment of the former Warden and the end of March 2021, the then Southeast Regional Director assigned a series of other Southeast Region institution Wardens to serve as acting Warden of USP Atlanta, each serving for a few weeks at a time. It was not until the end of March 2021 that the then Southeast Regional Director assigned an acting Warden to serve at USP Atlanta for a longer period. According to that acting Warden, the then Regional Director decided to appoint him for a longer period because USP Atlanta allowed 225 coronavirus disease 2019 vaccines to expire earlier in March, prior to his arrival.⁶

Upon his arrival, the acting Warden concluded that many of the deficiencies identified in the August 2020 security assessment had not been addressed and none of the deficiencies related to the USP Atlanta SIS Department's handling of evidence had been corrected. In response, the acting Warden requested a Correctional Services Specialist to conduct an assessment of the evidence and evidence handling procedures within the SIS Department. The assessment, which was finalized in May 2021 and addressed to the then Southeast Regional Director, found that USP Atlanta's SIS Department had not properly inventoried or maintained a chain of custody for 1,050 cell phones, various narcotics, and other contraband and concluded that the "discrepancies identified in the Institutional Security Assessment conducted in August 2020, have not be [sic] rectified."

On June 3, 2021, after an inmate died by suicide while under the influence of methamphetamine, the acting Warden locked down the institution to conduct an institution-wide search for contraband. A week after the search commenced, USP Atlanta received an anonymous call alleging that a firearm had been smuggled into the institution. Given the severity of this allegation, the then BOP Director was informed and on June 12 assigned 45 additional staff to USP Atlanta to hasten the search of the facility. The search continued through July 31. While the search did not result in recovery of the alleged firearm, the 2-month institution-wide search found and confiscated the following:

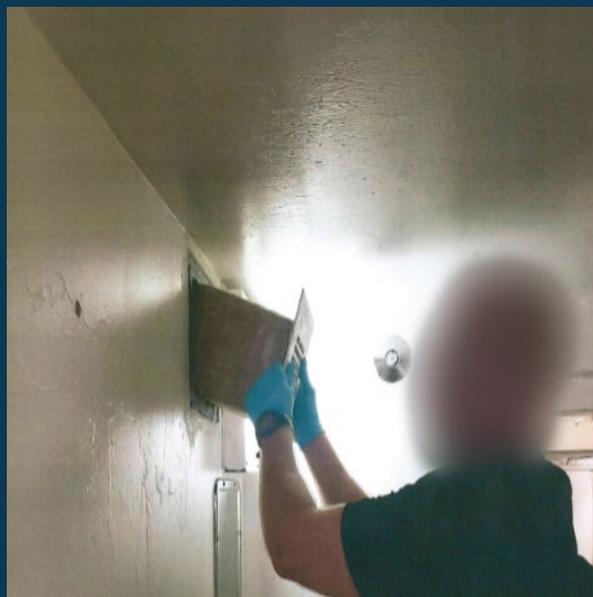
- 705 cell phones;
- 134 inmate-fashioned weapons; and
- 103 discrete packages of narcotics, including:
 - 1 package of 1,014 grams (more than 2 pounds) of marijuana,
 - 1 package of 170 grams (more than 0.37 pound) of methamphetamine, and
 - enough contraband prescription pills to fill approximately 1.5 1-gallon food storage bags.⁷

discuss delays in investigating employee misconduct cases at all BOP institutions in a subsequent [section](#) of the report.

⁶ We did not request to speak with the then Southeast Regional Director as he retired from the BOP in October 2021, prior to the initiation of this review.

⁷ Contraband confiscation totals were included in search team memorandum and communication.

The BOP headquarters official who was assigned to lead the search told us that that the volume of contraband discovered at USP Atlanta was unprecedented and the most he had seen during his 20-year career. In a memorandum to the Assistant Director for the Correctional Programs Division, the search team leader explained that inmates were able to exploit the institution's infrastructure deficiencies by hiding contraband within interior walls. We provide images detailing the results of the search below.



Examples of Contraband Discovered During the June–July 2021 Search of USP Atlanta

Source: BOP (The OIG modified the top left and bottom right images to anonymize the individuals.)

When asked about the results of the search at USP Atlanta, the then BOP Director, Michael Carvajal, told the OIG that it was “an embarrassment to the agency” and added that “he should have fired every single person from the Regional Director to the Warden all the way down to every employee at Atlanta.” In a written response to a draft of this report, Carvajal added that he “was well aware that I could not realistically have fired everyone.” He added that, “Not only would I not have been supported, but it also wasn’t and currently isn’t realistic and/or legal within the current [U.S. Office of Personnel Management] and agency policies, Collective Bargaining agreement, etc.”

Ultimately, in consultation with the former Director, the BOP reassigned approximately 40 USP Atlanta supervisors, including 3 Associate Wardens, and transferred approximately 1,200 inmates to other BOP institutions. According to the current Warden of USP Atlanta, the BOP intends to reclassify USP Atlanta as a low security institution. As of April 2023, approximately 1,450 inmates were housed at the institution.

Scope and Methodology of the Limited-Scope Review

To achieve the objectives of this limited-scope review, the OIG reviewed a wide range of BOP performance documentation and policies and interviewed the BOP’s then Executive Staff, as well as the former Director’s Chief of Staff. During the period of our fieldwork (February 2022–January 2023), there was turnover among the Executive Staff and multiple Executive Staff members we interviewed no longer serve in those roles.

When we initiated this limited-scope review, we expected to focus on whether and how critical issues at BOP institutions were communicated across the organization. We initially found that the BOP uses a variety of mechanisms to communicate critical information throughout the organization, including from the institution level to the Executive Staff level and among Executive Staff members. These mechanisms include Executive Staff incident reporting guidelines that inform how critical, real-time information should be relayed from institution Wardens to Regional Directors, who in turn notify the Deputy Director and the rest of the Executive Staff. Additionally, Executive Staff hold weekly meetings to keep each other informed of ongoing and acute issues within their respective areas of responsibility, as well as quarterly weeklong meetings that afford Executive Staff an opportunity to engage, more substantively, on issues that have a wide-ranging effect on the BOP as a whole, including major policy decisions and senior staff selections.

During the early stages of our limited-scope review, Executive Staff members generally told us that communication through these mechanisms, as well as Executive Staff communication in general, was effective. No member of the Executive Staff we interviewed made strong assertions that communication was ineffective, and, regarding information about critical operational issues at USP Atlanta and MCC New York, we found that Executive Staff had known that these institutions had serious operational issues prior to 2021. Regarding the operational issues at USP Atlanta, the then BOP Director, Michael Carvajal, told the OIG that “Atlanta has been that way for years”; regarding the infrastructure problems at MCC New York, the former Deputy Director described them as “10 years in the making.”

However, although the Executive Staff in place during our limited-scope review generally did not express concerns about how critical operational issues are communicated across the BOP, many members of the Executive Staff described a similar set of mission-critical, enterprise-wide challenges, some of which the BOP has cited for many years, that they believed limited their ability to address specific operational issues when they arose and, more generally, to ensure that BOP institutions operated safely and effectively. Specifically, members of the BOP’s then Executive Staff cited the following foundational challenges:

- weaknesses in the BOP's internal audit function,
- delays in the BOP's employee discipline process,
- inadequacy of BOP assessments of institution staffing level needs, and
- the BOP's inability to address its aging infrastructure.

Given that Executive Staff expressed confidence in the BOP's existing mechanisms to communicate information about operational issues, had been aware of long-standing operational issues at USP Atlanta and MCC New York, and consistently cited the four challenges described above, we modified the scope of this review to focus less on how and when operational issues and challenges were identified and communicated to Executive Staff, focusing instead on the causes of these four foundational challenges, their effects on institution operations, and the Executive Staff's efforts to remedy them. For more information about the scope and methodology of this review, see [Appendix 1](#).

Results of the Review

The BOP's Executive Staff in place during our limited-scope review told us that four mission-critical, enterprise-wide management challenges contributed to significant operational issues at BOP institutions and substantially affected their ability to manage BOP operations. Yet, we found that, despite being aware of these four challenges and their effects, the then Executive Staff had not been able to take actions to effectively remedy them during their tenure, which contributed in part to the persistence of long-standing, known operational issues at institutions such as USP Atlanta and MCC New York.

Deficiencies in the BOP's Internal Audit Process Impacted BOP Executives' Confidence in Their Reports and Ratings of Institutional Conditions

According to BOP policy, the BOP's internal audit process, known as program review, is "intended to determine compliance with applicable regulations, policies, and adequacy of internal controls, and the effectiveness, efficiency, and quality of program and operations."⁸ However, we found that program reviews, which have provided BOP institutions with overwhelmingly positive ratings in recent years, may not produce accurate assessments of actual conditions at institutions and may provide false assurances that problematic institutions are operating effectively. We additionally found that BOP Executive Staff, including the former BOP Director and former Deputy Director, were aware that program review was not operating effectively and questioned the degree to which ratings reflected conditions at BOP institutions. In fact, the former BOP Director told the OIG that he believed that program review had not changed in 30 years and "has failed us." In a written response to a draft of this report, Carvajal added that "it is well documented through oversight from several outside agencies and entities that the Program Review process has not appropriately revealed major deficiencies and corrective action has not been properly effectuated."

In sharing their perspectives, several Executive Staff, including the Assistant Director for the Program Review Division (PRD), stated their concern that program review teams historically may not have been fully independent. In relation to the program review process, the former Deputy Director described a culture in which reviewers may be hesitant to criticize other institutions or their fellow BOP staff due to fears of retaliation and compromising future promotional opportunities. The former Director made similar statements questioning the independence of program reviewers. Several Executive Staff members also questioned the efficacy of the program review process because institution personnel have known when a program review will be conducted as much as a year in advance.

A January 2020 program review of USP Atlanta illustrated many of the concerns we identified with the BOP's program review process, especially our concern that program review ratings may not be appropriately aligned with the underlying findings of the program review. As described in detail below, during our review of documentation from that program review, we found that the program review team identified serious operational deficiencies, such as staff intentionally breaking institution drug detection equipment and falsifying records attesting that they had conducted rounds. Nevertheless, the review team gave the institution an overall rating of Acceptable. Multiple members of the Executive Staff, including the former Director and the Assistant Director for the PRD, acknowledged that this rating was inappropriate given the

⁸ BOP Program Statement 1210.23, [Management Control and Program Review Manual](https://www.bop.gov/policy/progstat/1210_023.pdf), August 21, 2002, www.bop.gov/policy/progstat/1210_023.pdf (accessed August 26, 2022).

substandard conditions at the institution and the troubling findings of the program review team. The Assistant Director for the PRD told the OIG that the lessons learned from this error informed his efforts to reform the program review process, and the former Director also told the OIG that he encouraged these efforts. As we describe in greater detail in this section, the BOP has subsequently made some progress in implementing reforms to program review and is currently testing additional potential changes to the process.

Program Review Process and Ratings

The BOP conducts program reviews on 18 program areas of an institution's operations, and the BOP has established a specific audit plan for each program area.⁹ The PRD in the BOP Central Office manages the entire program review process and selects individuals to serve on program review teams. Program review teams are led by Reviewers in Charge (RIC), who are permanent PRD employees. Until February 2022, the BOP assigned institution and regional staff members to program review teams to conduct reviews in the same region as their home institution or office.¹⁰

Based on the results of the program review, the RIC assigns a preliminary rating to each program area of an institution. This rating must be approved and finalized by the Assistant Director for the PRD. Ratings are as follows: Superior, Good, Acceptable, Deficient, or At Risk. According to BOP policy, program review ratings are determined by the number of deficiencies identified during a review and the degree to which those deficiencies affect the ability of the institution to perform the vital functions of a program area.¹¹

The OIG analyzed recent program review ratings assigned to each program area at all BOP institutions between March 2017 and March 2020. Because BOP policy dictates that the longest amount of time that should pass between program reviews of a specific program area is 3 years, the scope of our analysis began in March 2017.¹² Further, the OIG did not extend its analysis beyond March 2020 because the BOP suspended the majority of program reviews in March 2020 due to the coronavirus disease 2019 pandemic.¹³

The OIG found that 80 percent of the most recent program reviews produced a Superior or Good rating, 19 percent produced an Acceptable rating, and only 1 percent produced a rating of Deficient or At-Risk. In

⁹ The BOP performs program reviews on the following program areas: (1) Computer Services, (2) Correctional Programs, (3) Correctional Services, (4) Education, (5) Facilities, (6) Financial Management, (7) Food Service, (8) Health Services, (9) Human Resources, (10) Psychology, (11) Religious Services, (12) Safety, (13) UNICOR, (14) Residential Reentry, (15) Female Offenders, (16) Employee Assistance Program, (17) Volunteer Services, and (18) Trust Fund.

¹⁰ BOP Program Statement 1210.23.

¹¹ BOP Program Statement 1210.23. According to the policy, the assigned rating also dictates the schedule for the next review of that program area. For example, program areas that receive a Superior or Good rating are reviewed every 3 years, those that receive an Acceptable rating every 2 years, and those that receive a Deficient rating every 18 months. If a program area receives an At Risk rating, the Warden will determine when all necessary actions to correct deficiencies have been taken and will, at that point, request closure from the PRD Assistant Director. Subsequently, the PRD will schedule a full program review on that program area at the institution within 12 months.

¹² BOP Program Statement 1210.23.

¹³ Prior to the pandemic, the BOP conducted, on average, 400 program reviews in a year. From April 2020 through March 2022, the BOP conducted 36 program reviews.

Table 1 below, we provide additional detail about program review ratings and a description of the BOP’s criteria for each rating.

Table 1

Most Recent Program Review Ratings and Associated Criteria, by Program Area at Every Institution, March 2017–March 2020

Rating	Criteria	Count	Percentage
Superior	All vital functions of the program area exceed national targets and have a history of strong internal controls resulting in zero or very minimal deficiencies.	417	36%
Good	All vital functions of the program area are sound. Internal controls are strong and there are zero or limited procedural deficiencies.	508	44%
Acceptable^a	Although deficiencies may exist, they do not detract from the adequate accomplishment of the vital functions of the program area. Internal controls are such that there are no performance breakdowns that would keep the program area from continuing to accomplish its mission.	215	19%
Deficient	One or more vital functions of the program area are not being performed at an acceptable level.	15	1%
At Risk	The program area is impaired to the point that it is not presently accomplishing its overall mission. Internal controls do not demonstrate substantial continued compliance and are not sufficient to reasonably ensure that acceptable performance can be expected in the future.	1	<1%
Total		1,156	100%^b

^a According to BOP policy, Acceptable is the “baseline” for the rating system and each program area is assumed to be performing at this level at the beginning of the review.

^b Due to rounding, totals slightly exceed 100 percent.

Source: BOP program review results data and BOP Program Statement 1210.23

Executive Staff Expressed Skepticism About Program Review

Several BOP Executive Staff expressed skepticism about the degree to which program review ratings reflect operational reality at institutions and questioned the efficacy of the program review process. They identified two reasons for this. First, program review teams may not have been fully independent and, as a result, may have been hesitant to criticize other institutions.¹⁴ According to the former Deputy Director,

¹⁴ Program Statement 1210.23 states that program review will strive for close adherence to “generally accepted government auditing standards” (GAGAS), which stresses the importance of independence in conducting review engagements. Specifically, the GAGAS states that “in all matters relating to the GAGAS engagement, auditors and audit organizations must be independent from an audited entity” and that “auditors and audit organizations should avoid situations that could lead reasonable and informed third parties to conclude that the auditors and audit organizations are not independent and thus are not capable of exercising objective and impartial judgment on all issues associated

program review team members may not have been able to independently perform program reviews of other institutions due to the existence of a BOP “good ole’ boy system” in which colleagues do not want to be overly critical of one another. He added that team members have been afraid to be identified as “strict reviewers” because such a characterization could risk their chance of future promotion within the BOP. He suggested that the BOP no longer include institution staff as program review team members because there is “too much pressure for institution staff to evaluate their coworkers.”

A Regional Director similarly told us that there has been a pervasive “you scratch my back, I’ll scratch yours” culture within the program review process because program review team members are usually assigned to conduct program reviews at institutions within the same region as their home institution.¹⁵ As a result, the Regional Director explained, for example, that a program review team member from Institution A may be hesitant to criticize Institution B because the program review team that will subsequently review Institution A may include a staff member from Institution B. When we asked the former BOP Director whether he thought the program review team selection process was appropriate, he shared similar concerns about team member independence.

Second, several BOP Executive Staff questioned the efficacy of the program review process because institution staff have historically known when a program review will take place. As stated in the BOP’s policy, BOP institutions are given at least 30 calendar days prior to the review; the Assistant Director of the PRD stated that institutions have been given as much as a year’s prior notice.¹⁶ The former BOP Director explained that, with advance notice of a program review, institutions have prioritized getting ready for a program review and passing a test instead of achieving sustained compliance with BOP policy. Both the former Director and former Deputy Director stated that program reviews should be conducted unannounced. We note that under current policy a program review team could conduct an unannounced program review; however, the practice has been rare according to the Assistant Director for the PRD.¹⁷

USP Atlanta’s 2020 Correctional Services Program Review Rating Did Not Accurately Reflect Operational Conditions at the Institution

In January 2020, a program review team issued a report stating that USP Atlanta’s Correctional Services program area, the program area most directly related to an institution’s ability to operate securely and safely manage inmates, was “performing all vital functions and has good internal controls.” As a result, the program review team gave USP Atlanta’s Correctional Services program area a rating of Acceptable.

Despite this overall positive rating, the program review team actually found 13 deficiencies in USP Atlanta’s Correctional Services program area, including 6 deficiencies relevant to the vital function of providing “a safe

with conducting the engagement and reporting on the work.” See U.S. Government Accountability Office (GAO), “[Government Accounting Standards \(2018 Revision, April 2021 Technical Update\)](#),” April 14, 2021, www.gao.gov/products/gao-21-368g (accessed September 7, 2021).

¹⁵ Historically, the PRD has assigned institution or regional staff members to program review teams to conduct reviews in the same region as their home institution or office. As mentioned above, the RIC is a PRD based team member.

¹⁶ BOP Program Statement 1210.23.

¹⁷ In a [subsequent section](#), we detail the actions that previous BOP Executive Staff took to address these issues with program review.

and secure environment for all staff and inmates through communication and demonstration of operational procedures” and 1 deficiency relevant to the vital function of providing “staff with guidance, training, and equipment to respond to a wide variety of emergency situations.” In addition to these 13 deficiencies, the program review team identified 4 additional areas of concern with the Correctional Services program area. The deficiencies and areas of concern that the program review team found included the following:

- Special Investigative Services (SIS) staff did not properly control evidence and could not account for an undefined volume of methamphetamine, 14.9 ounces of an unknown powder, and 4 small bags of unknown pills;
- staff intentionally broke institution drug detection equipment;
- staff permitted inmate orderlies to serve meals to Special Housing Unit (SHU) inmates, which directly violated local policy, and orderlies were observed passing SHU inmates other items beneath cell doors and assisting SHU inmates in their efforts to pass items to one another;
- staff falsified records attesting that they had conducted SHU rounds, as well as emergency preparedness training records; and
- a staff member posted to a watchtower overlooking the facility and its perimeter did not follow proper procedures for unloading an M-16 rifle and shotgun and was not familiar with proper escape pursuit procedures.

Notably, a separate BOP report concerning USP Atlanta also offered a grim description of the Correctional Services Department at USP Atlanta as it existed during the period of the January 2020 program review. A recommendation in that report, which reconstructed the circumstances of an inmate suicide on June 3, 2021, noted the “complacency, indifference, inattentiveness, and lack of compliance with BOP policies and procedures” by Correctional Services staff at USP Atlanta, resulting in a “dangerous and chaotic environment of hopelessness and helplessness” that left inmates “to their own means to improve their quality of life.” As such, the report described a state of operations that we believe no reasonable person could characterize as Acceptable. We provide the recommendation related to the inmate’s suicide in the text box below and will provide a more complete assessment of nonnatural inmate deaths at all BOP institutions in a forthcoming report.¹⁸

¹⁸ As part of our ongoing oversight of the BOP, the OIG has been conducting a separate review that is assessing the circumstances surrounding nonnatural inmate deaths and evaluating how the BOP seeks to prevent future deaths. We will make our report on that separate review public in the near future. See DOJ OIG, [“Review of Federal Bureau of Prisons Inmate Deaths in Custody,”](https://oig.justice.gov/node/16531) oig.justice.gov/node/16531.

Recommendation From a Psychological Reconstruction of an Inmate Suicide that Occurred at USP Atlanta on June 3, 2021

Establish a Safe and Humane Institutional Culture

Between 2012 and 2021, 13 inmates have died by suicide at USP Atlanta, and five of those deaths occurred between October 2019 and June 2021. Past reconstruction teams have made many of the same recommendations noted below in this report: the need for attention to detail, adherence to BOP policy, and regard for human life among Correctional Services staff and, at times, other departments. Once again, this reconstruction revealed complacency, indifference, inattentiveness, and lack of compliance with BOP policies and procedures. These lapses contribute to a dangerous and chaotic environment of hopelessness and helplessness, leaving inmates to their own means to improve their quality of life.

Considering this persistent culture and that the rate of inmate suicide at USP Atlanta is increasing, we recommend intensive Southeast Regional Office oversight of all housing units at USP Atlanta. Based on the seriousness, chronicity, and dangerous conditions, as a component of this oversight we recommend an Institution Character Profile (ICP) be conducted with utmost urgency and led by Central Office staff with participation from the Southeast Regional Office staff.

Source: Psychological Reconstruction of Inmate Suicide That Occurred on June 3, 2021

We asked the current Assistant Director for the PRD, who approved the final rating, why an Acceptable rating was given. The Assistant Director told the OIG that the Acceptable rating was not appropriate, given the findings of the program review, and took responsibility for the error. We note that, at the time USP Atlanta's Correctional Services program review report was finalized for his review, the Assistant Director was new in the position, having been appointed approximately 2 months prior.

Ongoing Efforts to Reform Program Review

The Assistant Director for the PRD told the OIG that the lessons learned from this error informed his efforts to reform the program review process, and that the former Director also told the OIG that he encouraged these efforts.¹⁹ To address concerns with the existing rating system, the PRD is evaluating whether it should abandon the rating system altogether and instead institute a result-reporting model that lists each standard being evaluated and clearly states whether or not the institution achieved the standard. The Assistant Director for the PRD believes that this model may remove the subjectivity from the current rating process, as well as the risk that ratings provide false assurance that problematic institutions are operating effectively. The BOP is also testing additional potential changes to the program review process, including implementing a model wherein all 18 program areas are reviewed at once, as opposed to having the 18 areas reviewed separately over the course of multiple years. The Assistant Director believes that this approach may allow program review teams to identify, at once, how management deficiencies affect all of an institution's operations as opposed to identifying how those deficiencies manifest one program area at a time. The

¹⁹ We also note that the former Director established a committee to ensure that the BOP was more responsive to addressing recommendations made by the OIG and the GAO. The former Director also asked the OIG for assistance in training BOP program review teams concerning audit best practices. Due to the OIG's role as an independent oversight entity, we were unable to provide specific training to BOP staff; but we did provide a general overview of the OIG's mission and organizational structure.

Assistant Director added that, for at least the rest of fiscal year (FY) 2023, the PRD will conduct both program area-specific and pilot comprehensive program reviews as it considers the best model moving forward.

In addition to reforms under consideration or in the process of being implemented, we identified two reforms to the program review process, implemented under the leadership of the former BOP Director, both of which help to address issues we described above. First, to address auditor independence, the PRD no longer utilizes institution staff as program review team members and instead composes program review teams with only Central Office and regional office staff.²⁰ Second, to address concerns with undue advance notice of program reviews, institutions are now notified no more than 45 days before the program review is initiated. The Assistant Director added that he hopes in the future to reduce the 45-day timeline to only a few days but acknowledged that it may be difficult to do so at present because of how a program review disrupts an institution's operations.

The OIG believes that these are important first steps; but, given the severity of the underlying concerns and the duration for which they have persisted without being addressed, we believe that the BOP will need to apply long-term attention to ensure that it produces results that accurately reflect conditions at institutions.

Recommendations

To ensure that program reviews of all program areas produce results that accurately reflect conditions at institutions, we recommend that the BOP:

1. Determine whether an alternative method for reporting the results of a program review is appropriate, and implement that method. If the BOP does not implement a new method for reporting the results of a program review, require that program review reports include a clear justification as to why a program area received the assigned rating.
2. Assess whether the existing program review process and proposed reforms to the process ensure that it is sufficiently independent. Based on the results of that assessment, take additional corrective action to ensure the independence of the program review process.
3. Implement methods to reduce the notice given to institutions in advance of a program review so the BOP can, when it deems appropriate, conduct more program reviews with limited advance notice.

Insufficient Internal Investigative Staffing Has Resulted in a Substantial Backlog of Unresolved Employee Misconduct Cases

The BOP's employee discipline process is intended to enforce Standards of Employee Conduct that help to ensure the efficient operations of the BOP.²¹ However, we found that the BOP is unable to effectively enforce those standards because it is not sufficiently staffed to investigate and adjudicate the volume of its

²⁰ The Assistant Director for the PRD added that regional staff will not review institutions within their regions.

²¹ BOP Program Statement 3420.11, [Standards of Employee Conduct](#), December 6, 2013, www.bop.gov/policy/progstat/3420_011.pdf (accessed February 22, 2023).

employee misconduct cases. The vast majority of employee misconduct cases are investigated by BOP Special Investigative Agents (SIA), who are located at BOP institutions. As of September 2022, the BOP had approximately 60 SIAs on board to investigate 7,893 open employee misconduct cases. In addition to these open misconduct cases, we found that, as of the same date, the BOP had not yet imposed discipline in another 2,279 cases in which an investigation was completed and an allegation of misconduct had been sustained. Due to limitations of the BOP's employee misconduct case management system, the BOP cannot readily provide summary data describing how long it takes on average to complete misconduct investigations and impose discipline on offending employees; however, BOP Executive Staff members and staff anecdotally explained that in cases of minor, administrative misconduct it can take up to 2 years for the BOP to investigate such misconduct and then impose discipline.

We found that the then Director and then Deputy Director were aware that the employee discipline process was not operating effectively. In fact, the then BOP Director described the employee discipline process as "horrible" and the then BOP Deputy Director said, "It takes too long to get anything done." In a written response to a draft of this report, the former BOP Director said that the "Deputy Director and I placed much emphasis on this issue with the other then Executive Staff and also addressed Wardens and other management officials during training and Video Conferences." Additionally, he stated that an Advisory Group was established that included BOP staff, as well as staff from the Office of the Deputy Attorney General, which made recommendations to hire more staff to work on the employee discipline process. However, Carvajal explained that the BOP ultimately prioritized hiring additional Correctional Officers over additional staff to work on the employee discipline process. Despite the efforts described by the former Director, the OIG found that ultimately the former Director and the then Executive Staff made little progress to improve the employee misconduct process during their tenures.

More recently, in September 2022, the BOP informed the OIG of plans to hire additional staff to investigate employee misconduct. In a March 2023 written response to a draft of this report, the BOP told the OIG that it believes it can clear its employee misconduct investigative backlog within 24 months. While we appreciate that the BOP is prioritizing this issue and is hiring staff to investigate employee misconduct, we remain concerned that, even if this hiring plan, as well as other proposed reforms, were to be fully implemented, the BOP may remain unable to keep up with the volume of its employee misconduct investigations.

In the sections below, we describe the BOP's employee discipline process and present summary data detailing the composition of open cases. We also detail additional concerns with the current process and explain further the new BOP Director's proposed changes.

Employee Discipline Process

The BOP employee discipline process consists of two phases: (1) the investigative phase, when the BOP investigates alleged employee misconduct and determines whether the allegation should be sustained, and (2) the adjudicative phase, when the BOP imposes discipline. To provide additional context for this part of the employee discipline process, we describe the entire process below.²²

²² As part of this review, the OIG did not assess the adequacy of BOP misconduct investigations or disciplinary actions or the appropriateness of the findings or disciplinary actions taken in particular cases. However, in a recent Management

The Investigative Phase

According to the Chief of the BOP's Office of Internal Affairs (OIA), when a Warden becomes aware of any possible misconduct at a BOP institution, the Warden or a designee must report the allegation, along with supporting documentation, to the OIA within 24 hours.²³ After receiving the allegation, the OIA reviews the supporting documentation and classifies the alleged misconduct into three categories:

- **Category 1:** misconduct that would constitute a prosecutable offense, such as physical or sexual abuse of persons in custody, fraud or extortion, false statements, falsification of documents, and trafficking of contraband.²⁴
- **Category 2:** misconduct that would not likely result in criminal prosecution but that constitutes serious misconduct such as threatening assault, workplace violence, off-duty misconduct resulting in felony arrest, and falsification of employment documents.
- **Category 3:** allegations of misconduct that ordinarily have less effect on institutional operations, such as unprofessional conduct, failure to follow instructions, and absence without leave.²⁵

Before opening an investigation, the OIA refers all misconduct allegations to the DOJ OIG for its review. The OIG determines which allegations it will accept for investigation and refers all other matters to the OIA for handling.²⁶ If the OIG declines to investigate an allegation, the OIA generally determines whether the

Advisory Memorandum to the BOP, the OIG identified concerns with the BOP's treatment of inmate statements in investigations of alleged misconduct by BOP employees. See DOJ OIG, [Management Advisory Memorandum: Notification of Concerns Regarding the Federal Bureau of Prisons' \(BOP\) Treatment of Inmate Statements in Investigations of Alleged Misconduct by BOP Employees](#), Investigations Report 23-001 (October 2022), oig.justice.gov/reports/management-advisory-memorandum-notification-concerns-regarding-federal-bureau-prisons-bop.

²³ The OIA Chief told us that the OIA most commonly receives allegations of employee misconduct from institution Wardens. However, there are other ways that allegations of employee misconduct can be reported. For example, anyone can directly report allegations of employee misconduct to the OIA or the DOJ OIG directly.

²⁴ Potentially prosecutable offenses, such as traffic violations or driving under the influence/while impaired, are included in Category 3.

²⁵ The OIA Chief explained that BOP policy has not been updated to reflect the current process by which Category 3 cases are referred to the OIA. The relevant policy states that local institutions can open misconduct investigations and need only to inform the OIA about new investigations on a monthly basis. See BOP Program Statement 1210.24, [Internal Affairs, Office of](#), May 20, 2003, www.bop.gov/policy/progstat/1210_024.pdf (accessed February 22, 2023).

²⁶ The OIG investigates the most serious, and often most complex, allegations of BOP employee misconduct, including allegations of criminal misconduct. OIG investigations frequently require coordination with prosecutor's offices and, as result, investigation periods can be lengthy. As of September 30, 2022, the OIG had 265 open cases of alleged misconduct related to BOP employees. Given the availability of its investigative resources, the OIG is limited in the number of allegations of BOP employee misconduct it can investigate; however, approximately 50 percent of the OIG's investigative caseload consists of BOP cases, with the other approximately 50 percent of the caseload covering all other DOJ components.

When the OIG declines to investigate an allegation of BOP employee misconduct, it categorizes the allegation as either a Monitored Referral or a Management Review before returning the allegation to the investigative jurisdiction of the BOP. If the OIG categorizes the allegation as a Monitored Referral, the BOP must forward a report of its completed investigation to the OIG. If the OIG categorizes the allegation as a Management Review, the BOP is not required, as a matter of course, to inform the OIG of the outcome of its investigation unless the OIG requests a report.

allegation should be investigated by its own OIA Special Agents or referred to local institution SIA.²⁷ The OIA's 21 Special Agents tend to investigate more complex allegations of BOP employee misconduct than do SIAs; but, as stated above, the vast majority of misconduct allegations are investigated by the approximately 60 SIAs. After an OIA Special Agent or an institution SIA completes an investigation of the alleged misconduct, the investigator develops an investigative summary and provides the summary to senior members of the OIA for review. After reviewing the investigative summary, OIA staff determines whether an allegation against an employee should be sustained.

Of all 7,893 cases assigned to SIAs in the investigative phase of the employee discipline process as of September 2022, approximately half had been classified by the OIA as Category 3, a quarter as Category 2, and a quarter as Category 1. We summarize these totals in Table 2 below.

Table 2

BOP Employee Misconduct Cases Being Investigated by SIAs, by Category, September 2022

	Category 1	Category 2	Category 3	Total
Total	1,759	1,916	4,218	7,893

Note: These totals include only cases of alleged employee misconduct involving employees assigned to BOP institutions.

Source: OIA employee discipline case management system

According to the BOP, after a local investigation is authorized, the SIA should complete an investigation within 120 days. Based on our analysis of investigative data, we found that this standard is effectively meaningless because, as of September 2022, 86 percent (6,749 of 7,893) of investigations were still open after 120 days. The OIA could not readily tell us how long on average it takes to complete an investigation because, for purposes of calculating the duration of an investigation, the reporting capability of its employee discipline case management system is limited to tracking whether an investigation has been open for more or less than 120 days.

The Adjudicative Phase

If an allegation is sustained, regardless of whether the investigation was conducted by the OIG, OIA Special Agents, or local institution staff, the OIA sends the investigative case file back to the home institution of the employee under investigation and the following steps occur:

²⁷ Other institution staff or members of an institution's management team are occasionally assigned to conduct employee misconduct investigations.

- **First**, local human resources staff, in coordination with a discipline proposing official (who is usually the offending employee’s department head) draft a disciplinary proposal letter consistent with the Standards of Employee Conduct table of penalties.²⁸
- **Second**, the draft proposal letter is reviewed by the regional human resources office before it is sent by institution human resources staff to the Employment Law Branch within the BOP’s Office of General Counsel. Employment Law Branch staff review the investigative case file and disciplinary proposal for technical and legal sufficiency which includes confirming whether the proposed charge(s) and discipline are appropriate.
- **Third**, the proposing official issues the disciplinary proposal to the employee.
- **Fourth**, the employee is provided an opportunity to respond to a deciding official (usually the institution Warden) orally, in writing, or both.
- **Fifth**, local human resources staff consult with the deciding official and draft a disciplinary decision letter. This letter is again reviewed by the regional human resources office before it is sent by institution human resources staff to the Employment Law Branch. Employment Law Branch staff then review the letter for legal and technical sufficiency.
- **Sixth**, the deciding official may officially impose a penalty, which depending on the offense, can range from an official reprimand up to removal from federal service.

In addition to the 7,893 cases assigned to SIAs in the investigative phase of the employee discipline process, we found that as of September 2022 there were another 2,279 employee misconduct cases that were sustained by the OIA but awaiting disciplinary action. We summarize these totals in Table 3 below.

Table 3

BOP Employee Misconduct Cases Pending Disciplinary Action, by Category, September 2022

Status	Category 1	Category 2	Category 3	Total
Total	276	431	1,572	2,279

Source: OIA employee discipline case management system

Insufficient Resources to Address the Backlog of Employee Misconduct Cases

The OIA Chief, several Wardens, and members of the BOP’s then Executive Staff told us that SIA staff shortages at institutions limit the BOP’s ability to address the volume of open employee misconduct investigations. Specifically, as of July 2022 the BOP had approximately 60 SIAs nationwide to conduct investigations at the BOP’s 121 institutions. According to the OIA Chief, the other members of an

²⁸ Depending on the nature of the employee’s underlying misconduct, the employee may also face criminal prosecution.

institution's management team may conduct an employee misconduct investigation if the institution does not have an SIA. However, the Chief said that the BOP maintains no central list of non-SIA staff who may investigate employee misconduct.

The OIA Chief, several Wardens, and members of the BOP's then Executive Staff also described delays in the adjudicative process and expressed concern with the amount of time it takes the Employment Law Branch to review disciplinary actions for legal sufficiency. As of January 2023, Employment Law Branch attorneys were available to work on employee misconduct matters although they are also assigned other legal work, which, according to the BOP's Office of General Counsel, includes managing a heavy litigation caseload. The Associate General Counsel of the Employment Law Branch also told the OIG that the branch has high turnover because of the volume of work assigned to its staff.²⁹

The BOP's Proposals to Improve the Effectiveness of the Employee Discipline Process

In September 2022, the BOP proposed hiring additional investigators to investigate employee misconduct. Specifically, the BOP intends to hire 28 additional SIAs to serve at BOP institutions. In addition to the new SIA positions, the BOP intends to approximately double the number of Special Agents assigned to its OIA (from 21 positions in July 2022 to 39 positions). OIA Special Agents generally investigate more complex and serious allegations of employee misconduct than do their SIA colleagues assigned to BOP institutions. The OIA Chief stated that the hiring process is ongoing and she hopes to have new staff onboarded by spring 2023. Further, the Employment Law Branch intends to hire approximately 10 additional staff, including 6 attorneys and 4 Employee Relations Specialists, to work on employee misconduct matters.

In addition to this hiring initiative, we were told that current BOP leadership plans to make additional reforms to the employee discipline process. First, BOP leadership intends to increase the OIA's oversight of misconduct investigations. Second, to increase SIA independence from institution management, SIAs will report to the OIA as opposed to institution Wardens. Third, BOP leadership plans to streamline the legal review process when imposing discipline of less than 10 days for certain offense types. Finally, in a March 2023 written response to a draft of this report, the BOP told the OIG that, as a result of these efforts, it believes it can clear its employee misconduct investigative backlog within 24 months. While we appreciate that the BOP is prioritizing this issue and is hiring staff to investigate employee misconduct, we remain concerned that, even if this hiring plan, as well as other proposed reforms, were to be fully implemented, the BOP may remain unable to keep up with the volume of its employee misconduct investigations.

Recommendation

To improve its employee discipline process, we recommend that the BOP:

4. Develop a specific, multiyear plan for how the BOP will evaluate its ongoing and proposed changes to the employee discipline process, as well as key performance indicators, by year, to decrease the

²⁹ Because the BOP's investigative case management system is not configured to report information about the timeliness of different phases of the investigative and adjudicative process, we cannot independently verify the degree to which the Employment Law Branch, or other stakeholders in the investigative and adjudicative process, including SIAs, institution management, and the BOP's Human Resource Management Division, individually have contributed to process delays.

backlog of its employee misconduct cases and adjudications.

The BOP Does Not Fully Understand Its Staffing Needs, Impacting Its Ability to Safely and Effectively Operate Its Institutions and Manage Its Operations

For FY 2022, the BOP was funded to maintain a staffing level of 36,422; but it represented that its authorized positions, or the number of staff it believed was necessary to safely manage its institutions, was 38,995.³⁰ We found, however, that this target may not have accurately reflected the BOP's staffing needs: during the course of our fieldwork, several members of the BOP's Executive Staff told us they did not know whether the authorized target it was trying to reach was the appropriate number of positions necessary for the BOP to operate effectively or whether that number was too high or too low. Understanding and achieving appropriate staffing levels is vitally important for the BOP to ensure the safe and effective operation of its institutions. Further, it is necessary for the BOP to communicate reliable information to executive and legislative branch stakeholders who ultimately determine how much funding the BOP should receive. In the sections below, we detail BOP staffing levels since FY 2016 and explain why the BOP's authorized staff position totals may not be aligned with its actual staffing needs.

The BOP's Authorized and Funded Staffing Levels, FYs 2016–2022

We found that the authorized and funded staffing levels at the BOP have varied over time. In FY 2016, the number of staff the BOP believed was necessary to safely manage its institutions was 43,130. Recognizing that it had not been receiving the funding required to hire to this level for years, the BOP, in collaboration with the Office of Management and Budget and congressional stakeholders, cut the BOP's authorized position total to 37,974 in FY 2017 to better reflect actual staffing levels. As shown in Figure 1 below, since 2017, the BOP's authorized position totals have slightly increased over time. According to the BOP, these increases reflect new staffing requirements related to the activation of USP Thomson (which occurred gradually between FY 2015 and FY 2017) and the passage of the First Step Act in 2018. As of FY 2022, the BOP's authorized position total was 38,995.

As also shown in Figure 1, in FY 2019 the funded position total, or the total number of positions the BOP believes it can support with available funding, decreased from the prior year total. This is because the BOP's actual, on-board staffing levels significantly decreased between FYs 2017 and 2019.³¹ As a result, the BOP and Congress agreed that it was appropriate to adjust the amount of funding the BOP should allocate to staff salaries. This adjustment in turn caused the FY 2019 funded-position total to decrease from prior years. Since FY 2019, the BOP's funded-position total has increased as the BOP has received additional

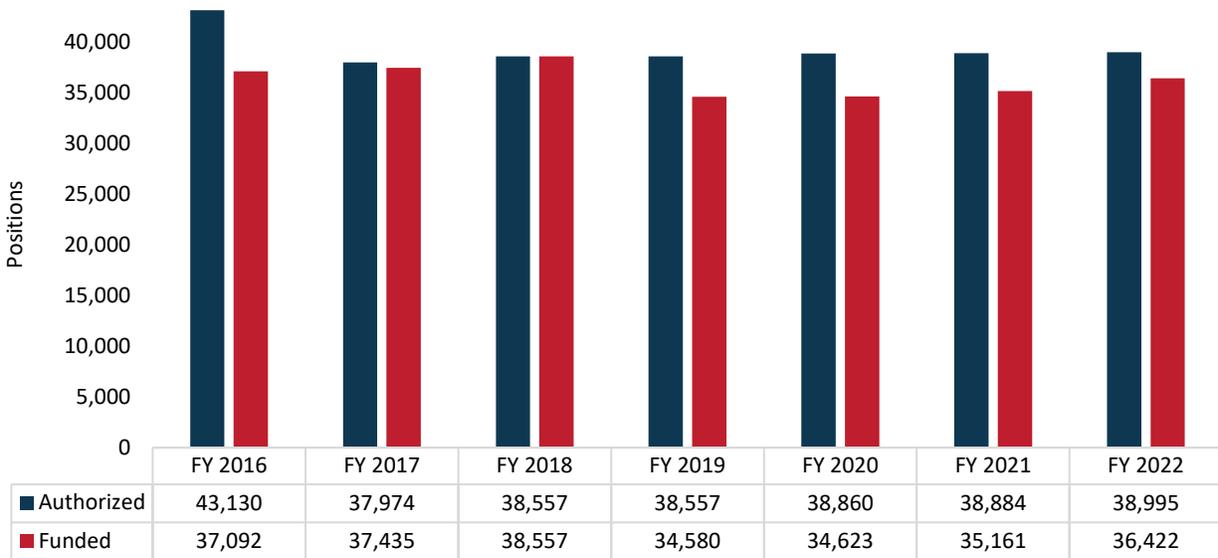
³⁰ This section details the authorized positions allocated to and funded by the BOP's Salaries and Expenses appropriation line item and not the positions that are authorized and funded through the BOP's Building and Facilities appropriation line item. For FY 2021, 59 authorized positions were allocated to the BOP's Building and Facilities appropriation line item, of which 49 were funded for that fiscal year. This section does not detail positions allocated to UNICOR, which are funded by the revenue derived in part from the sale of items manufactured by BOP inmates. For FY 2021, UNICOR was allocated 1,950 authorized positions, 753 of which were funded with non-appropriated revenue.

³¹ Reductions in on-board staff were due in part to a hiring freeze that prevented the BOP from addressing attrition during this time.

funding to hire more staff. As of FY 2022, the BOP estimated that Congress had provided funding to fill 36,422 of those positions in that fiscal year.

Figure 1

BOP Authorized and Funded Positions, FYs 2016–2022



Note: Figure 1 details only those authorized positions allocated to and funded by the BOP’s Salaries and Expenses appropriation line item.

Source: BOP Administration Division

Authorized Staffing Levels May Not Be Aligned with Current Staffing Needs

As stated above, we found that, during the course of our fieldwork, BOP leadership did not know whether the authorized target it was trying to reach, approximately 38,995 positions, was the appropriate number of positions necessary for the BOP to operate effectively or whether that number was too high or too low. The BOP’s Assistant Director for the Administration Division, the division responsible for formulating the BOP’s budget, told us that she is not sure whether the authorized position number is accurate because it has not been validated for many years. She added that the correct number may be greater than or less than the authorized number. The Assistant Director for the Human Resource Management Division shared similar concerns. Additionally, the BOP’s then Deputy Director suggested that the authorized position number may be accurate but acknowledged that, because the BOP has long been operating below its authorized staffing level, he had limited information to determine whether the authorized staffing level was appropriate. In comparison, the BOP’s Union President stated that he believes that authorized positions should be returned to FY 2016 levels, approximately 43,000, and that the BOP should be funded to hire staff to that number.

We believe that the BOP’s uncertainty about its appropriate, enterprise-wide authorized position level stems in part from the way the BOP eliminated approximately 5,100 authorized positions in FY 2017. As stated above, in making this adjustment the BOP sought to align authorized positions with funded positions.

However, when eliminating these authorized positions, the BOP did so in a nonstrategic, ad hoc way. The BOP eliminated various authorized positions because they were vacant at the time instead of performing a workforce analysis to determine where staffing cuts should be made.³² We further found that since FY 2017 authorized position totals have slightly increased while inmate population totals have decreased approximately 14 percent (185,600 in FY 2017 to 159,200 in FY 2022), indicating that authorized position totals may not be calibrated to inmate population totals.

We also found that the authorized position totals are not always adjusted to reflect population changes at the institution level. Specifically, the OIG recently visited two institutions and found that their authorized positions were misaligned with actual staffing needs. At USP Thomson, on-board staffing levels were well below authorized position totals (499 of 603 positions, or 83 percent) at the time of our visit in June 2022; but, because the inmate population was also well below the institution's rated capacity (984 of 1,690 inmates, or 58 percent of the rated capacity) at that time, institution management believed that the on-board staff were sufficient for the institution to operate effectively.³³ At Federal Correctional Complex (FCC) Hazelton, the percentage of authorized positions filled with on-board staff was much higher than it was at USP Thomson (780 of 834, or 94 percent) at the time of our visit in November 2021. However, FCC Hazelton's Warden told us that the institution needed a staffing complement above its authorized position total because the institution's inmate population was far greater than the institution's rated capacity (3,370 of 2,867, or 118 percent of the rated capacity). The Warden also told us that because of staff shortages, particularly among staff who directly supervise inmates, institution management had to routinely mandate staff to work multiple overtime shifts. When asked about the effects of overtime, many FCC Hazelton staff members told us that they were concerned about the negative effect excessive overtime can have on their attentiveness to supervising inmates.³⁴ Additionally, the FCC Hazelton Warden told us that he believes that the BOP has challenges in right sizing its staff levels across all institutions (a sentiment echoed by the Assistant Director for Administration) and expressed frustration that other institutions he had worked at were overstaffed and underpopulated, adding that at FCC Hazelton he could use the excess positions from overstaffed institutions.

The potential misalignment of authorized positions and operational needs also appears to be a risk when staffing allocations are considered according to security level. As noted in the BOP's 2023 performance budget, as of February 2022 the BOP's medium and high security facilities were experiencing overcrowding while low and minimum security institutions were not. Although we did not perform a complete analysis of the BOP's authorized positions to inmate population levels to assess fully the sufficiency of position

³² The GAO came to this conclusion in a February 2021 report on BOP staffing. See GAO, [Bureau of Prisons: Opportunities Exist to Better Analyze Staffing Data and Improve Employee Wellness Programs](#), GAO-21-213 (February 2021), www.gao.gov/assets/gao-21-123.pdf (accessed February 22, 2023). This conclusion was separately reiterated to the OIG by the BOP's Assistant Director for the Administration Division.

³³ As of February 2023, USP Thomson was in the process of eliminating its Special Management Unit. As a result, the number of inmates housed at the institution may significantly change.

³⁴ Not only does excessive overtime create safety risks, it also has financial implications. In 2020, the OIG reported that BOP staff worked over 6.5 million overtime hours in FY 2019, which was the equivalent of over 3,107 full-time positions and cost more than \$300 million. See DOJ OIG, [Management Advisory: Analysis of the Federal Bureau of Prisons' Fiscal Year 2019 Overtime Hours and Costs](#), Audit Report 21-011 (December 2020), oig.justice.gov/reports/management-advisory-analysis-federal-bureau-prisons-fiscal-year-2019-overtime-hours-and.

allocations by institution or by security level, we nevertheless believe that the BOP's system-wide population is currently at increased risk that allocated positions are not optimally aligned.

Conclusion

Understanding and achieving appropriate staffing levels is vitally important for the BOP to ensure the safe and effective operation of its institutions. It is also vitally important that the BOP be able to communicate reliable information about appropriate staffing levels to executive and legislative branch stakeholders who ultimately determine how much funding the BOP should receive. However, as we described above, the BOP does not fully understand what its staffing levels should be at an enterprise level, nor does it appear to have an optimal alignment of allocated positions at an institution level. In response to a 2021 U.S. Government Accountability Office report that also identified concerns with how the BOP calculates its staffing levels, the BOP hired an outside firm to help it implement a reliable method to calculate appropriate staffing levels.³⁵ The BOP told us that, in addition to considering inmate population levels, the firm is also considering other factors such as institution security levels and the physical layout of institutions in developing staffing calculations. BOP officials told us that they intend to act on the firm's findings and recommendations soon.

Recommendation

To ensure the effective operation of BOP institutions, we recommend that the BOP:

5. Develop and implement a reliable method to calculate appropriate staffing levels at the enterprise and institution levels. Such a method should seek to baseline appropriate staffing levels for the current inmate population and be flexible to account for future population changes overall and among institutions as well as other factors (e.g., institution security level and layout) that determine appropriate staffing levels. Once such a method is developed, communicate the need to align funding levels with appropriate staffing levels to executive and legislative branch stakeholders.

The BOP Lacks an Infrastructure Strategy, Exacerbating Its Infrastructure Challenges and Creating Significant Management Issues

During the course of this limited-scope review, BOP Executive Staff commonly cited the BOP's inability to address its aging infrastructure as a foundational, enterprise-wide challenge that limited its ability to remedy institution operational issues. At the same time the OIG was conducting this limited-scope review, it was also conducting an audit of the BOP's efforts to maintain and construct its institutions. The resulting report, which was issued on May 3, 2023, similarly determined that the BOP has a large and growing list of unfunded modernization and repair needs, with a total estimated cost approaching \$2 billion.³⁶ Further, the OIG found that the BOP's ability to address its infrastructure requirements is affected by its lack of an infrastructure strategy and failure to request adequate funding to meet its infrastructure needs. This results in increasingly costly maintenance and, in the most extreme circumstances, having to shutter institutions and relocate inmates because the lack of maintenance and repairs result in unsafe conditions. The OIG's audit report contains two recommendations to assist the BOP in improving the effectiveness of its

³⁵ GAO, *Bureau of Prisons: Opportunities Exist*.

³⁶ DOJ OIG, [The Federal Bureau of Prisons' Efforts to Maintain and Construct Institutions](https://oig.justice.gov/reports/federal-bureau-prisons-efforts-maintain-and-construct-institutions), Audit Report 23-064 (May 2023), oig.justice.gov/reports/federal-bureau-prisons-efforts-maintain-and-construct-institutions.

facilities management planning. The audit report also contains high-level information about specific facilities issues that have negatively affected multiple institutions, including MCC New York, which the BOP closed in October 2021 due to its failing infrastructure.

In the section below, we provide details, in addition to those presented in the audit report, about the history, scope, and pervasiveness of facilities issues at MCC New York, BOP officials' inability to remedy these issues in a timely manner, and the negative affect these issues have had on BOP operations.

MCC New York's Closure Illustrates the Effects of Unresolved Major Repair Issues

In October 2021, the BOP closed MCC New York due to the institution's failing physical infrastructure. This decision was informed in part by the results of an independent architecture and engineering (A&E) firm's August 2021 assessment, which found that "the general deterioration of equipment and fixtures in the building create unsafe conditions for staff and inmates." However, the BOP had been aware of the long-standing infrastructure problems at MCC New York since at least 2005, when it commissioned a different A&E firm to perform a similar assessment. The BOP estimates that, in the 16 years between the 2005 and 2021 facilities assessments, it spent \$12 million dollars to address facilities issues at the institution. Yet, the BOP currently estimates that MCC New York will require an additional \$230 million in repairs. Given the breadth of work that needs to be completed, the BOP determined that it would not be able to simultaneously conduct major repairs and safely house inmates at the institution.

Specifically, in 2021, the A&E firm found that MCC New York's fire alarm control panel, which would indicate where in the institution a fire alarm had gone off, was no longer operational. Therefore, in the event of a fire, staff would have to search through smoke-filled areas to locate the fire. Additionally, fire and smoke dampers, which would prevent the distribution of smoke, were nonfunctional or nonexistent. As a result, smoke would easily spread throughout the institution via heating and cooling vents. The A&E firm also identified a lack of vandal proofing on sprinklers and found that many were damaged or corroded. Further, the firm explained that overhead sprinkler pipes were accessible in inmate cells and inmates regularly used them to do pull-ups.

The A&E firm also found that the institution's electrical system was not in good working condition and that most components of the electrical system were near the end of or past their useful life, increasing the risk of a power outage. Additionally, the A&E firm found the ventilation in the institution overall to be very poor or absent in certain spaces and recommended that MCC New York completely replace its heating, ventilation, and air conditioning system due to a number of system weaknesses. Finally, the A&E firm noted that, due to structural failures of a loading dock above the kitchen, large chunks of concrete had broken off and fallen into the kitchen, posing a serious risk of injury or death.³⁷

³⁷ Additional building components that must be improved include the fire pump, emergency generator, building automation system, water piping, domestic water heaters, sewage lift station, elevators, roofing, exterior façade, doors, and interior finishes.

The picture below, taken during an OIG visit to MCC New York in March 2022, about 6 months after the institution was closed, highlights the state of the damaged kitchen ceiling.³⁸



MCC New York's Collapsed Kitchen Ceiling

Source: OIG, March 17, 2022 (About 6 Months After the Institution Was Closed)

The then Deputy Director told us that that the BOP had tried to keep the institution operating for as long as it could, but he acknowledged that the BOP likely should have closed MCC New York at least 10 years before it did. He added that, by the time the BOP closed MCC New York, conditions there had become "horrendous." In response to the closure of MCC New York, the BOP transferred many MCC New York inmates to its other New York City institution, Metropolitan Detention Center (MDC) Brooklyn.³⁹ Similar to MCC New York, MDC Brooklyn has experienced significant facilities issues in recent years. In 2019, the OIG

³⁸ For more pictures illustrating the conditions at MCC New York as of March 2022, see a [digital experience](#) that accompanies our audit report, *The Federal Bureau of Prisons' Efforts to Maintain and Construct Institutions*.

³⁹ MDC Brooklyn is an administrative institution that can house approximately 1,700 federal pretrial inmates and federal inmates serving sentences. According to the BOP, it also transferred some MCC New York inmates to Federal Correctional Institution Otisville in Otisville, New York. Since the closure of MCC New York and transfer of its inmates, additional inmates who would have otherwise been assigned to MCC New York have been assigned to MDC Brooklyn and other institutions.

reported that long-standing temperature regulation issues at MDC Brooklyn caused temperatures in its West Building at times to fall below or exceed the BOP's acceptable range of 68 degrees Fahrenheit.⁴⁰ The OIG attributed MDC Brooklyn's temperature regulation issues to long-standing, unaddressed maintenance and repair issues with the institution's heating, ventilation, and air conditioning system.

As of January 2023, MCC New York remains closed and, according to BOP officials, the BOP does not have funding available to begin repairs necessary to eventually reopen the institution. As a result, the BOP has no estimated timeline for when or whether it plans to reopen MCC New York.

⁴⁰ DOJ OIG, [Review and Inspection of MDC Brooklyn Facilities Issues and Related Impact on Inmates](https://oig.justice.gov/reports/review-and-inspection-metropolitan-detention-center-brooklyn-facilities-issues-and-related), Evaluation and Inspections Report 19-04 (September 2019), oig.justice.gov/reports/review-and-inspection-metropolitan-detention-center-brooklyn-facilities-issues-and-related.

Conclusion and Recommendations

Conclusion

The BOP has long-standing operational challenges that negatively affect its ability to operate its institutions safely and effectively. In recent years, in congressional testimony and budget justifications, the BOP has cited staff limitations and aging infrastructure as chief among these challenges. The OIG has also reported on these issues, as well as other challenges effecting the physical safety and security of BOP institutions and the BOP's ability to deliver healthcare to inmates. Despite the BOP's prior Executive Staff being aware of these challenges, it had not been able to take actions to effectively remedy them. In 2021, the long-term effects of some of these unaddressed challenges became so serious at USP Atlanta that the BOP decided to significantly limit operations at the institution due to serious operational security concerns, including the inability of staff there to prevent the introduction of drugs and other contraband. In October of that year, the BOP also closed MCC New York due to its failing physical infrastructure.

In response to the actions the BOP took at these two institutions, the OIG initiated this limited-scope review to assess how operational issues at BOP institutions are identified and communicated to BOP Executive Staff, as well as how the BOP takes action to remedy them. To achieve the objectives of this limited-scope review, the OIG reviewed a wide range of BOP performance documentation and policies and conducted interviews with the BOP's then Executive Staff, as well as the then Director's Chief of Staff. During our limited-scope review, we found that the BOP utilized a variety of mechanisms to communicate critical information throughout the organization, including from the institution level to the Executive Staff level and among Executive Staff members. While we did not test fully how information about operational issues was relayed through these communication mechanisms, Executive Staff members generally told us that communication through these mechanisms, as well as Executive Staff communication in general, was effective.

In addition to describing how operational issues are communicated to them, many members of the Executive Staff told us that there were enterprise-wide challenges that limited their ability to remedy institution operational issues. These challenges included:

- weaknesses in the BOP's internal audit function,
- delays in the BOP's employee discipline process,
- inadequacy of BOP assessments of institution staffing level needs, and
- the BOP's inability to address its aging infrastructure.

Given that Executive Staff expressed confidence in the BOP's existing mechanisms to communicate information about operational issues, had been aware of long-standing operational issues at USP Atlanta and MCC New York, and were also aware of the four challenges described above, we modified the scope of this review to focus less on how and when operational issues and challenges were identified and communicated to Executive Staff, focusing instead on the underlying causes of these challenges, their effects on institution operations, and the Executive Staff's efforts to remedy them.

Specifically, we found that BOP-internal, enterprise-wide audit ratings may not accurately reflect actual conditions at BOP institutions due to a variety of contributing factors, including independence concerns, and we concluded that the specific audit ratings at USP Atlanta were in stark contrast to the actual conditions there.

With respect to the BOP's employee discipline process, we found that the BOP is unable to timely and effectively investigate employee misconduct cases because it is not sufficiently staffed to investigate and adjudicate the volume of its employee misconduct cases. The vast majority of employee misconduct cases are investigated by Special Investigative Agents (SIA), who are located at BOP institutions, and, as of September 2022, the BOP had approximately 60 SIAs on board to investigate 7,893 open employee misconduct cases. Due to this backlog and the associated delays in imposing discipline, the BOP cannot enforce Standards of Employee Conduct that help to ensure the efficient operations of its institutions.

For staffing, we found that the BOP does not know whether its authorized position total, which is the number of staff it believes necessary to effectively manage its institutions, is accurate. The absence of this information makes it difficult for the BOP to assess the adequacy of staffing levels, thereby undermining its ability to ensure the safe and effective operation of its institutions.

Lastly, we found that Executive Staff commonly cited the BOP's inability to address its aging infrastructure as a foundational, enterprise-wide challenge that limited its ability to remedy institutional operational issues. Further, other recently released OIG work concluded that the BOP's ability to address its infrastructure requirements is affected by its lack of an infrastructure strategy and failure to request adequate funding to meet its infrastructure needs. This results in increasingly costly maintenance and, in the most extreme circumstances, having to shutter institutions and relocate inmates because the lack of maintenance and repairs result in unsafe conditions. Because the BOP has been unable to address backlogged major repair projects with available resources, unresolved major repair issues were particularly acute at numerous institutions, including MCC New York, which the BOP closed in October 2021.

Taken together, the findings in this report demonstrate that the BOP is facing multiple mission-critical challenges, some of which it lacks accurate information about scope and impact. Further, we found that the Executive Staff at the time of our limited-scope review had not been able to take action to effectively remedy these four challenges, despite being aware of them, and in some cases could not address them without assistance from entities beyond the BOP's and DOJ's control. While we credit the former and current BOP officials we spoke to for their awareness of these challenges, we are concerned that little progress has been made to address them. We therefore believe that responding to the issues identified in this report should be an urgent priority for the BOP, DOJ, and all of the BOP's stakeholders.

Recommendations

To ensure that BOP institutions operate safely and effectively, we recommend that the BOP:

1. Determine whether an alternative method for reporting the results of a program review is appropriate, and implement that method. If the BOP does not implement a new method for reporting the results of a program review, require that program review reports include a clear justification as to why a program area received the assigned rating.

2. Assess whether the existing program review process and proposed reforms to the process ensure that it is sufficiently independent. Based on the results of that assessment, take additional corrective action to ensure the independence of the program review process.
3. Implement methods to reduce the notice given to institutions in advance of a program review so the BOP can, when it deems appropriate, conduct more program reviews with limited advance notice.
4. Develop a specific, multiyear plan for how the BOP will evaluate its ongoing and proposed changes to the employee discipline process, as well as key performance indicators, by year, to decrease the backlog of its employee misconduct cases and adjudications.
5. Develop and implement a reliable method to calculate appropriate staffing levels at the enterprise and institution levels. Such a method should seek to baseline appropriate staffing levels for the current inmate population and be flexible to account for future population changes overall and among institutions as well as other factors (e.g., institution security level and layout) that determine appropriate staffing levels. Once such a method is developed, communicate the need to align funding levels with appropriate staffing levels to executive and legislative branch stakeholders.

Appendix 1: Purpose, Scope, and Methodology

Standards

The OIG conducted this limited-scope review in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation* (December 2020).

Purpose and Scope

In light of the severity of the operational issues at USP Atlanta and MCC New York, in February 2022 the OIG initiated a limited-scope review to assess how the BOP considers operational issues identified through internal and external oversight processes and products, how identified issues are communicated to BOP Executive Staff, and how the BOP takes action to remedy those issues. During the period of our fieldwork (February 2022–January 2023), the then BOP Director, Michael Carvajal, resigned his position and Colette S. Peters assumed the position of BOP Director. Despite the fact that our fieldwork spanned the tenures of two Directors, we note that our findings and analysis in the [Results of the Review](#) focus on BOP operations prior to current Director Peters' tenure.

When we initiated this limited-scope review, we expected to focus on whether and how critical issues at BOP institutions were communicated across the organization. We initially found that the BOP uses a variety of mechanisms to communicate critical information throughout the organization, including from the institution level to the Executive Staff level and among Executive Staff members. These mechanisms include Executive Staff incident reporting guidelines that inform how critical, real-time information should be relayed from institution Wardens to Regional Directors, who in turn notify the Deputy Director and the rest of the Executive Staff. Additionally, Executive Staff hold weekly meetings to keep each other informed of ongoing and acute issues within their respective areas of responsibility, as well as quarterly weeklong meetings that afford Executive Staff an opportunity to engage more substantively on issues that have an effect on the BOP as a whole, including major policy decisions and senior staff selections.

During the early stages of our limited-scope review, Executive Staff members generally told us that communication through these mechanisms, as well as Executive Staff communication in general, was effective. No member of the Executive Staff we interviewed made strong assertions that communication was ineffective, and, regarding information about critical operational issues at USP Atlanta and MCC New York, we found that Executive Staff had known that these institutions had serious operational issues prior to 2021.

However, although the Executive Staff generally did not express concerns about how critical operational issues are communicated across the BOP, many members of the Executive Staff described a similar set of mission-critical, enterprise-wide challenges, some of which the BOP has cited for many years, that they believed limited their ability to address specific operational issues when they arose and, more generally, to ensure that BOP institutions operate safely and effectively. Specifically, members of the BOP's Executive Staff cited the following foundational challenges:

- weaknesses in the BOP's internal audit function,
- delays in the BOP's employee discipline process,

- inadequacy of BOP assessments of institution staffing level needs, and
- the BOP's inability to address its aging infrastructure.

Given that Executive Staff expressed confidence in the BOP's existing mechanisms to communicate information about operational issues, had been aware of long-standing operational issues at USP Atlanta and MCC New York, and consistently cited the four challenges described above, we modified the scope of this limited-scope review to focus less on how and when operational issues and challenges were identified and communicated to Executive Staff, focusing instead on the causes of these four foundational challenges, their effects on institution operations, and the Executive Staff's efforts to remedy them.

Methodology

Our fieldwork, conducted from February 2022 through January 2023, included interviews, data collection and analysis, policy and document reviews, and a site visit. Additionally, this review leveraged the fieldwork of two other OIG reviews of the BOP currently in progress. The following sections provide additional information about our methodology.

Interviews

During the course of our fieldwork, which occurred between February 2022 and January 2023, the OIG conducted interviews with the BOP's Executive Staff, which included then BOP Director Michael Carvajal, then Deputy Director Gene Beasley, the former acting Chief of Staff, the BOP's six Regional Directors, and the BOP's 10 Assistant Directors who manage the BOP's three mission-focused divisions, 5 mission-support divisions, and 2 special program offices. With respect to non-senior BOP management assigned to the BOP's Central Office, we spoke with the Chief of the Office of Internal Affairs, the Chief of the Facilities Management Branch, and the Administrator for Intelligence and Counter Terrorism. With respect to institution-based staff, we interviewed current and former permanent and acting Wardens and Associate Wardens at MCC New York and USP Atlanta. Furthermore, we interviewed subject matter experts who were involved in limiting operations at USP Atlanta in summer 2021 and closing MCC New York in October 2021.

Data Collection and Analysis

We collected and analyzed raw data and data reports provided by the BOP concerning its staffing levels, unresolved major repair projects, program review results, and employee misconduct cases. We also collected public data about the BOP's Salaries and Expenses and Building and Facilities appropriations line items from the BOP's congressional budget justifications from FYs 2017–2022. Further, we reviewed past work performed by the U.S. Government Accountability Office, specifically its February 2021 report, *Bureau of Prisons: Opportunities Exist to Better Analyze Staffing Data and Improve Employee Wellness Programs*.

Policy and Document Review

The team reviewed BOP policy directives, guidance, and documents related to executive communication, staffing, facilities management, correctional management, internal control activities, and employee misconduct. Additionally, the team reviewed documentation detailing the conditions at MCC New York between 2005 and 2021 and USP Atlanta between 2020 and 2022.

Site Visit

We conducted an in-person site visit to MCC New York in March 2022, during which we toured the facility and observed the infrastructure of the building.

Fieldwork Leveraged from Concurrent OIG Reviews of the BOP

While performing this limited-scope review, the OIG was conducting a concurrent review of the circumstances surrounding nonnatural inmate deaths and evaluating how the BOP seeks to prevent future deaths. We will make our report on that separate review public in the near future. To support our conclusions in this limited-scope review, we include some of the testimony and documentary evidence we collected during the concurrent review. Specifically, we include the testimony of both management staff at USP Thomson and Federal Correctional Complex Hazelton. We also include information describing the circumstances of an inmate suicide that occurred at USP Atlanta on June 3, 2021.

We include information in this limited-scope review from a recently completed DOJ OIG audit report on the BOP's efforts to maintain and construct institutions.⁴¹ The limited-scope review team and the audit team concurrently conducted fieldwork, collaborated on areas relevant to both efforts, and collectively toured MCC New York.

Limitations of the Limited-Scope Review

Given the complexity of the four challenges we detail in the [Results of the Review](#), each challenge could merit its own full-scope review. Such full-scope reviews would collect additional testimony from BOP personnel, particularly those at BOP institutions, and would review additional data specific to each challenge. Despite the methodological limitations of this limited-scope review, the OIG agrees with the BOP's Executive Staff that the foundational challenges they identified are significantly undermining BOP operations. This is because we have similarly identified, and observed the effects of, many of the same challenges through our past and ongoing work.⁴² Therefore, we believe the evidence we present and conclusions we draw in this limited-scope report to be sufficient to meaningfully inform BOP leadership as it seeks to address these challenges moving forward.

⁴¹ DOJ OIG, *The Federal Bureau of Prisons' Efforts to Maintain and Construct Institutions*.

⁴² The OIG's Top Management and Performance Challenges for 2022 cites staffing shortages and institutional infrastructure as component challenges associated with improving the management of the federal prison system. DOJ OIG, [Department of Justice Top Management and Performance Challenges 2022](#), oig.justice.gov/reports/top-management-and-performance-challenges-facing-department-justice-2022.

Additionally, the DOJ OIG has posted on its website a compendium of its non-investigative reports on the BOP that highlight many of the BOP's longstanding challenges. DOJ OIG, ["Compendium of Non-Investigative Reports on the Federal Bureau of Prisons,"](#) oig.justice.gov/news/compendium-non-investigative-reports-federal-bureau-prisons.

Appendix 2: The BOP's Response to the Draft Report



U.S. Department of Justice

Federal Bureau of Prisons

Office of the Director

Washington, DC 20534

April 26, 2023

MEMORANDUM FOR RENE L. ROCQUE
ASSISTANT INSPECTOR GENERAL
EVALUATION AND INSPECTIONS DIVISION

FROM:


Colette S. Peters
Director

SUBJECT:

Response to the Office of Inspector General's (OIG) Formal Draft Report:
Limited-Scope Review of the Federal Bureau of Prisons' Strategies to
Identify, Communicate, and Remedy Operational Issues, Assignment
Number A-2022-003.

The Bureau of Prisons (BOP) appreciates the opportunity to provide a formal response to the Office of the Inspector General's above referenced report. The BOP offers the following comments regarding the report and its recommendations.

Recommendation One: Determine whether an alternative method for reporting the results of a program review is appropriate, and implement that method. If the BOP does not implement a new method for reporting the results of a program review, require that program review reports include a clear justification as to why a program area received the assigned rating.

BOP's Response: The BOP concurs with this recommendation. BOP's understanding of this recommendation based on the exit conference process is that the OIG is recommending BOP consider whether an alternative method for documenting and rating program review results is appropriate. As noted in the report, BOP is already in the process of exploring new methods for documenting and rating program review results.

Recommendation Two: Assess whether the existing program review process and proposed reforms to the process ensure that it is sufficiently independent. Based on the results of that assessment, take additional corrective action to ensure the independence of the program review process.

BOP's Response: The BOP concurs with this recommendation. BOP will assess whether its existing program review process and proposed reforms to the process ensure that it is sufficiently independent. Based on the results of that assessment, BOP will take additional

corrective action as appropriate to ensure the independence of the program review process.

Recommendation Three: Implement methods to reduce the notice given to institutions in advance of a program review so the BOP can, when it deems appropriate, conduct more program reviews with limited advance notice.

BOP's Response: The BOP concurs with this recommendation. BOP will review the use of advanced notice and implement methods to reduce the notice given to institutions in advance of a program review so that BOP can, when it deems appropriate, conduct more program reviews with limited advance notice.

Recommendation Four: Develop a specific, multiyear plan for how the BOP will evaluate its ongoing and proposed changes to the employee discipline process, as well as key performance indicators, by year, to decrease the backlog of its employee misconduct cases and adjudications.

BOP's Response: The BOP concurs with this recommendation. The Office of Internal Affairs (OIA) generates a monthly report that identifies the number of staff misconduct allegations pending at each institution, and stratifies all pending investigations based on the length of time the investigation has been pending. As the proposed changes to the investigatory process are implemented, the expectation is that delinquency is reduced, and the majority of pending cases are timely (completed within 120 calendar days of release). Performance appraisals of investigators in the field as well as supervisory staff will be based upon their ability to not only complete new cases in a timely manner, but also to continue to drive down the number of delinquent cases. All investigatory staff will receive more training and will have access to more support from both a supervisory and investigatory perspective.

One year after full implementation of changes to the investigatory process, it is projected that the number delinquent cases will be reduced by 50%, with exceptions for those matters that involve outside law enforcement investigations and extended, uncontrollable absence of the subject. During year two, it is projected that the backlog of delinquent cases will be eliminated.

Throughout this process, the monthly numbers and feedback from additional investigators and supervisors in the field will provide OIA with real-time information regarding weaknesses in the system and staffing level issues, and adjustments will be made accordingly.

The Executive Staff approved additional positions for the Employment Law Branch. It is anticipated that once the positions are filled and those staff are trained, timeliness of review will improve. General timelines for disciplinary letter review have been established and communicated to staff and supervisors and will be a factor considered in their performance appraisals.

Recommendation Five: Develop and implement a reliable method to calculate appropriate staffing levels at the enterprise and institution levels. Such a method should seek to baseline appropriate staffing levels for the current inmate population and be flexible to account for future population changes overall and among institutions as well as other factors (e.g.

institution security level and layout) that determine appropriate staffing levels. Once such a method is developed, communicate the need to align funding levels with appropriate staffing levels to executive and legislative branch stakeholders.

BOP's Response: The BOP concurs with this recommendation but notes that it is already developing an objective staffing tool and that appropriate staffing levels are not solely tied to the current inmate population. Once a method is developed, BOP will communicate the need to align funding levels with appropriate staffing levels to executive and legislative branch stakeholders.

Appendix 3: OIG Analysis of the BOP's Response

The OIG provided a draft of this report to the BOP for its comment. The BOP's response is included in [Appendix 2](#) to this report. The OIG's analysis of the BOP's response and the actions necessary to close the recommendations are discussed below.

Recommendation 1

Determine whether an alternative method for reporting the results of a program review is appropriate, and implement that method. If the BOP does not implement a new method for reporting the results of a program review, require that program review reports include a clear justification as to why a program area received the assigned rating.

Status: Resolved.

BOP Response: The BOP concurs with this recommendation. BOP's understanding of this recommendation based on the exit conference process is that the OIG is recommending BOP consider whether an alternative method for documenting and rating program review results is appropriate. As noted in the report, BOP is already in the process of exploring new methods for documenting and rating program review results.

OIG Analysis: The BOP's planned actions are responsive to the recommendation. We also note that the BOP's interpretation of this recommendation is consistent with the OIG's intent. By September 1, 2023, please describe the progress the BOP has made in exploring and implementing new methods for documenting and rating program review results.

Recommendation 2

Assess whether the existing program review process and proposed reforms to the process ensure that it is sufficiently independent. Based on the results of that assessment, take additional corrective action to ensure the independence of the program review process.

Status: Resolved.

BOP Response: The BOP concurs with this recommendation. BOP will assess whether its existing program review process and proposed reforms to the process ensure that it is sufficiently independent. Based on the results of that assessment, BOP will take additional corrective action as appropriate to ensure the independence of the program review process.

OIG Analysis: The BOP's planned actions are responsive to the recommendation. By September 1, 2023, please describe the progress the BOP has made in assessing whether its existing program review process and proposed reforms to the process ensure that it is sufficiently independent, as well as any corrective action the BOP has taken or plans to take to ensure the independence of the program review process.

Recommendation 3

Implement methods to reduce the notice given to institutions in advance of a program review so the BOP can, when it deems appropriate, conduct more program reviews with limited advance notice.

Status: Resolved.

BOP Response: The BOP concurs with this recommendation. BOP will review the use of advanced notice and implement methods to reduce the notice given to institutions in advance of a program review so that BOP can, when it deems appropriate, conduct more program reviews with limited advance notice.

OIG Analysis: The BOP's planned actions are responsive to the recommendation. By September 1, 2023, please describe the progress the BOP has made in reviewing the use of advance notice of a program review and implementing methods to reduce the notice given to an institution in advance of a program review.

Recommendation 4

Develop a specific, multiyear plan for how the BOP will evaluate its ongoing and proposed changes to the employee discipline process, as well as key performance indicators, by year, to decrease the backlog of its employee misconduct cases and adjudications.

Status: Resolved.

BOP Response: The BOP concurs with this recommendation. The Office of Internal Affairs (OIA) generates a monthly report that identifies the number of staff misconduct allegations pending at each institution, and stratifies all pending investigations based on the length of time the investigation has been pending. As the proposed changes to the investigatory process are implemented, the expectation is that delinquency is reduced, and the majority of pending cases are timely (completed within 120 calendar days of release). Performance appraisals of investigators in the field as well as supervisory staff will be based upon their ability to not only complete new cases in a timely manner, but also to continue to drive down the number of delinquent cases. All investigatory staff will receive more training and will have access to more support from both a supervisory and investigatory perspective.

One year after full implementation of changes to the investigatory process, it is projected that the number of delinquent cases will be reduced by 50%, with exceptions for those matters that involve outside law enforcement investigations and extended, uncontrollable absence of the subject. During year two, it is projected that the backlog of delinquent cases will be eliminated.

Throughout this process, the monthly numbers and feedback from additional investigators and supervisors in the field will provide OIA with real-time information regarding weaknesses in the system and staffing level issues, and adjustments will be made accordingly.

The Executive Staff approved additional positions for the Employment Law Branch. It is anticipated that once the positions are filled and those staff are trained, timeliness of review will improve. General timelines

for disciplinary letter review have been established and communicated to staff and supervisors and will be a factor considered in their performance appraisals.

OIG Analysis: The BOP's planned actions are responsive to the recommendation. By September 1, 2023, please describe the progress the BOP has made in executing its plan. Such an update should include key performance indicators that describe employee misconduct case backlog levels, as well as investigative and adjudicative staffing levels.

Recommendation 5

Develop and implement a reliable method to calculate appropriate staffing levels at the enterprise and institution levels. Such a method should seek to baseline appropriate staffing levels for the current inmate population and be flexible to account for future population changes overall and among institutions, as well as other factors (e.g., institution security level and layout) that determine appropriate staffing levels. Once such a method is developed, communicate the need to align funding levels with appropriate staffing levels to executive and legislative branch stakeholders.

Status: Resolved.

BOP Response: The BOP concurs with this recommendation but notes that it is already developing an objective staffing tool and that appropriate staffing levels are not solely tied to the current inmate population. Once a method is developed, BOP will communicate the need to align funding levels with appropriate staffing levels to executive and legislative branch stakeholders.

OIG Analysis: The BOP's planned actions are responsive to the recommendation. By September 1, 2023, please describe the progress the BOP has made in developing an objective staffing tool.