



DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

MANAGEMENT ADVISORY MEMORANDUM

24-016

DECEMBER 2023

Notification of Concerns Regarding the
Federal Bureau of Prisons' Use of Temporary
Secure Enclosures with Limited Space for
Lengthy Time Periods

INVESTIGATIONS DIVISION



December 12, 2023

Management Advisory Memorandum

To: Colette S. Peters
Director
Federal Bureau of Prisons

A handwritten signature in blue ink that reads "Michael E. Horowitz".

From: Michael E. Horowitz
Inspector General

Subject: Notification of Concerns Regarding the Federal Bureau of Prisons' Use of Temporary Secure Enclosures with Limited Space for Lengthy Time Periods

The purpose of this memorandum is to advise you of the Department of Justice (DOJ or Department) Office of the Inspector General's (OIG) concerns arising from the Federal Bureau of Prisons' use of secure enclosures with limited space to hold inmates for lengthy periods at its facilities.¹ The OIG identified these concerns during an investigation in which an inmate, during an Immediate Use of Force, was placed in such a secure enclosure measuring three feet wide by three feet deep and seven feet tall for approximately 21 hours.² The following is a photograph of the small secure enclosure that was used in the incident that led to the OIG investigation referenced in this memorandum:³

During this investigation and other investigations, we learned that it is a common practice for BOP employees to utilize secure enclosures of these or similar dimensions to temporarily hold inmates for various reasons, such as when there is a need to leave the inmate temporarily unattended while moving the inmate between standard cells or to other locations within a facility. However, the BOP does not have any

¹ Some BOP personnel interviewed during the OIG's investigations used the word "cages" to describe the temporary secure enclosures. In response to a draft of this memorandum, the BOP preferred to refer to the secure enclosures as "temporary holding cells."

² An immediate use of force occurs when correctional officers use force to control an inmate whose conduct "constitutes an immediate, serious threat to the inmate, staff, others, or to institution security and good order."

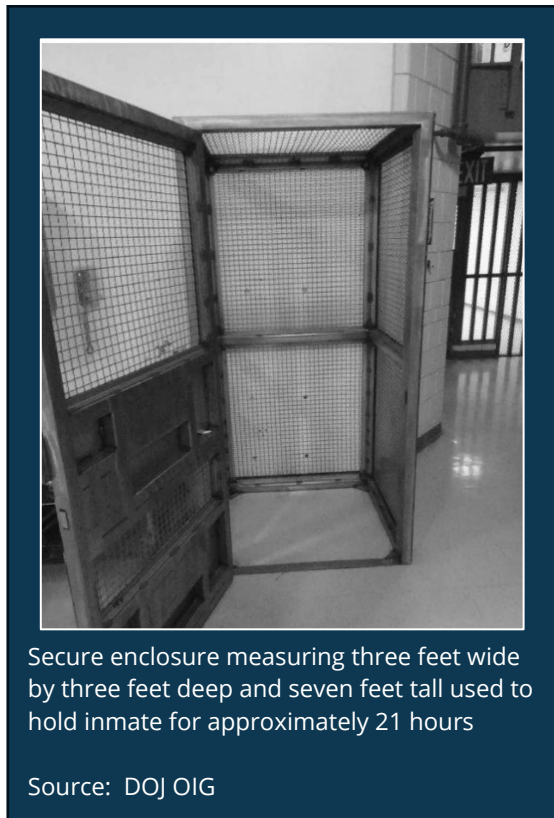
³ After reviewing a draft of this memorandum, the BOP told us that holding cells "vary in size" and that the small enclosure used in the incident the OIG is investigating "is not representative of all temporary holding cells used throughout BOP."

written guidance regarding the use of temporary secure enclosures, such as the appropriate size, the length of time an inmate may remain in such an enclosure, or how an inmate should be monitored while in the secure enclosure. In this memorandum, the OIG makes two recommendations to address the concerns we identified.

Relevant Authorities

There are no BOP policies or procedures that reference the use of secure enclosures to temporarily hold inmates.

The BOP's Correctional Services Procedures Manual, effective October 19, 2012, states that, "Institutions with secure cell space are required to lock the inmates in their cells for all official counts, unless the inmates are on out-counts in areas such as Food Service, Hospital, visiting room, etc." The Correctional Services Procedures Manual also requires each institution to conduct a minimum of five official inmate counts during every 24-hour period. The Correctional Services Procedures Manual does not state how or whether an inmate is counted when the inmate is in a temporary holding cell.



Secure enclosure measuring three feet wide by three feet deep and seven feet tall used to hold inmate for approximately 21 hours

Source: DOJ OIG

BOP's policy concerning uses of force entitled, Use of Force and Application of Restraints, effective August 29, 2014 ("Use of Force Policy"), states that BOP staff are authorized to use force "only as a last alternative after all other reasonable efforts to resolve a situation have failed," and staff "must use only that amount of force necessary to gain control of the inmate, to protect and ensure the safety of inmates, staff and others, to prevent serious property damage, and to ensure institution security and good order." The Use of Force Policy differentiates between immediate and calculated uses of force. An "Immediate Use of Force" is permissible when the inmate's conduct "constitutes an immediate, serious threat to the inmate, staff, others, or to institution security and good order." A "Calculated Use of Force," on the other hand, "occurs in situations where an inmate is in an area that can be isolated (e.g., a locked cell, a range) and where there is no immediate, direct threat to the inmate or others. When there is time for the calculated use of force, staff must first determine if the situation can be resolved without resorting to force...."

The Use of Force Policy also contains guidelines regarding the use of restraints. The policy states that "staff are authorized to apply physical restraints necessary to gain control of an inmate who appears to be dangerous" under specified circumstances. The Use of Force Policy provides numerous requirements and safeguards regarding the use of different types of restraints. For example, an inmate who is placed in four-point restraints must be reviewed every two hours by a Lieutenant to ensure that the inmate is released from restraints as soon as possible and to afford the inmate the opportunity to use a toilet. In addition, Psychology Services staff will examine inmates in four-point restraints at least once during every 24-hour period that the inmate is restrained. However, the Use of Force Policy does not define the term "restraints" or state whether placement in a temporary holding cell or secure enclosure that significantly impairs an inmate's movement is considered a restraint.

The Issue

The OIG has learned, during the course of multiple investigations at multiple facilities and based on reviews of surveillance footage and interviews with BOP staff, that the BOP has used secure enclosures smaller than standard cells, which contain only enough space for a single person and do not have room for a bed or toilet, as temporary holding cells for inmates. The OIG found that the BOP has used such facilities when there is a need to leave an inmate temporarily unattended while moving the inmate between standard cells or to other locations within a facility, or for other reasons such as separating inmates following an altercation. The OIG further found that the BOP has no written policies or procedures regarding the use of secure enclosures as temporary holding cells.

In one investigation, the OIG found that the BOP left an inmate in a secure enclosure measuring three feet wide by three feet deep and seven feet tall for approximately 21 hours, after the inmate was removed from his standard cell during an immediate use of force. The inmate was placed in the secure enclosure so that the inmate's standard cell could be searched. However, the inmate was not returned to his standard cell immediately after the cell was searched because the inmate refused to be handcuffed. For approximately eight hours, the inmate stood in the secure enclosure, which did not contain a chair or any furnishings. The inmate then agreed to be handcuffed in order to receive a chair and be taken to the bathroom. After the inmate used the bathroom, staff returned the inmate to the secure enclosure, with a chair, rather than his standard cell due to miscommunication or lack of communication among BOP officials. The inmate then remained in the holding cage with a chair for an additional twelve hours. At one point during those twelve hours, the chair was removed. In addition, while the inmate may have been offered the opportunity to be handcuffed to use the bathroom again, he did not use the bathroom during the final twelve hours in the secure enclosure.

A BOP official informed the OIG that secure enclosures are not intended for prolonged confinement because they do not contain beds or toilets. However, as noted above, this is not reflected in any BOP policy or procedure documents. Without specific policy, the decision to use a secure enclosure as a temporary holding facility, the appropriate size of any secure enclosure, how an inmate is monitored while in a secure enclosure, and how long an inmate remains in a secure enclosure are entirely reliant on staff discretion. Additionally, BOP policy does not state whether the use of a three feet wide by three feet deep and seven feet tall secure enclosure as a temporary holding facility is considered a restraint given that an inmate who is confined in this way is subjected to extremely limited movement and other potential liberty deprivations. If such secure enclosures are not considered a restraint, an inmate so confined would not be protected by any safeguards in BOP regulations regarding the use of restraints, such as periodic examination by Psychology Services or medical staff.

Conclusions

The BOP has placed inmates in secure enclosures smaller than standard cells, but the BOP does not have any policies or procedures governing the use of such secure enclosures or the length of time an inmate may be confined in them. This places inmates at risk of physical and psychological harm.

Recommendations

The OIG recommends that the BOP take the following action to remedy the concerns identified above:

1. Determine whether a secure enclosure in which an inmate's movement is significantly restricted due to its size is considered a restraint and, if so, update its policies to make this clear.

2. Amend its policies to address secure enclosures, including the appropriate use(s) of a secure enclosure, the physical dimensions of an appropriate secure enclosure, the approvals required for using secure enclosures as temporary holding cells, how inmates should be monitored and treated while confined in secure enclosures, and how long an inmate may be kept in a secure enclosure.

The OIG provided a draft of this memorandum to the BOP, and the BOP's response is incorporated as Appendix 1. The BOP indicated in its response that it agreed with the recommendations. Appendix 2 provides the OIG's analysis of the BOP's response and a summary of the action necessary to close the recommendations. The OIG requests that the BOP provide an update on the status of its response to the recommendations within 90 days of the issuance of this memorandum. If you have any questions or would like to discuss the information in this memorandum, please contact me at (202) 514-3435 or Sarah E. Lake, Assistant Inspector General for Investigations, at (202) 616-4730.

cc: Bradley Weinsheimer
Associate Deputy Attorney General
Department of Justice

Appendix 1: The BOP's Response



U.S. Department of Justice

Federal Bureau of Prisons

Office of the Director

Washington, DC 20534

December 4, 2023

MEMORANDUM FOR MICHAEL E. HOROWITZ
INSPECTOR GENERAL

FROM: Colette S. Peters, Director

A handwritten signature in blue ink, appearing to read "Colette S. Peters", is written over the printed name of the Director.

SUBJECT: Response to the Office of Inspector General's (OIG) Draft MAM:
Notification of Concerns Regarding the Use of Temporary Secure
Enclosures with Limited Space for Lengthy Time Periods

The Federal Bureau of Prisons (FBOP) appreciates the opportunity to formally respond to the Office of the Inspector General's above-referenced draft MAM. FBOP values OIG's assessment regarding the use of temporary secure enclosures (holding cells) in FBOP facilities.

The circumstances recounted by OIG in its Memorandum have galvanized FBOP's efforts to prevent issues in the future. FBOP has already begun to reinforce its guidance to employees on this topic. On November 28, 2023, FBOP's Correctional Programs Division held a nationwide FBOP meeting at which employees were instructed in the proper use of temporary holding cells. This guidance will serve as FBOP's immediate articulation of appropriate parameters for the use of holding cells pending a more permanent change to policy.

Earlier this year, FBOP's leadership announced its new mission as "corrections professionals who foster a humane and secure environment and ensure public safety by preparing individuals for successful reentry into our communities." FBOP's new core values include accountability, integrity, respect, compassion, and correctional excellence. As reflected in our mission and core values, FBOP is committed to providing a safe environment for both employees and adults in our custody.

Recommendation 1: Determine whether a secure enclosure in which an inmate's movement is significantly restricted due to its size is considered a restraint and, if so, update its policies to make this clear.

FBOP Response: FBOP concurs with this recommendation and notes that although FBOP does not consider such secure enclosures or temporary holding cells to be restraints, Program

Statement 5500.14, the Correctional Services Procedures Manual, will be updated to offer guidance on the use of such temporary holding cells.

Recommendation 2: Amend its policies to address secure enclosures, including the appropriate use(s) of a secure enclosure, the physical dimensions of an appropriate secure enclosure, the approvals required for using secure enclosures as temporary holding cells, how inmates should be monitored and treated while confined in secure enclosures, and how long an inmate may be kept in a secure enclosure.

FBOP Response: FBOP concurs with this recommendation and intends to update Program Statement 5500.14, The Correctional Services Procedures Manual to provide guidance on secure enclosures.



Appendix 2: Office of the Inspector General Analysis of BOP's Response

The OIG provided a draft of this memorandum to the BOP, and the BOP's response is incorporated as Appendix 1. The BOP indicated in its response that it agreed with the recommendations.

The following provides the OIG's analysis of the BOP's response and a summary of the action necessary to close the recommendation. The OIG requests that the BOP provide an update on the status of its response to the recommendation within 90 days of the issuance of this memorandum.

Recommendation 1: Determine whether a secure enclosure in which an inmate's movement is significantly restricted due to its size is considered a restraint and, if so, update its policies to make this clear.

Status: Resolved.

BOP Response: The BOP reported the following:

[Federal Bureau of Prisons (FBOP)] concurs with this recommendation and notes that although FBOP does not consider such secure enclosures or temporary holding cells to be restraints, Program Statement 5500.14, the Correctional Services Procedures Manual, will be updated to offer guidance on the use of such temporary holding cells.

OIG Analysis: The BOP's response is responsive to the recommendation. The BOP has stated that it does not consider secure enclosures or temporary holding cells to be restraints, but that it will update the relevant policy to offer guidance on the use of temporary holding cells. The OIG will consider whether to close this recommendation after the BOP makes appropriate revisions to its policy to clarify whether secure enclosures in which an inmate's movement is significantly restricted due to its size is considered a restraint and make other appropriate revisions to its policy regarding the use of secure enclosures.

Recommendation 2: Amend its policies to address secure enclosures, including the appropriate use(s) of a secure enclosure, the physical dimensions of an appropriate secure enclosure, the approvals required for using secure enclosures as temporary holding cells, how inmates should be monitored and treated while confined in secure enclosures, and how long an inmate may be kept in a secure enclosure.

Status: Resolved.

BOP Response: The BOP reported the following:

FBOP concurs with this recommendation and intends to update Program Statement 5500.14, The Correctional Services Procedures Manual to provide guidance on secure enclosures.

OIG Analysis:

The BOP's response is responsive to the recommendation. The BOP has stated that it intends to update The Correctional Services Procedures Manual to provide guidance on secure enclosures. The OIG will consider whether to close this recommendation after the BOP amends the relevant policy to address secure enclosures, including the appropriate use(s) of a secure enclosure, the physical dimensions of an appropriate secure enclosure, the approvals required for using secure enclosures as temporary holding

cells, how inmates should be monitored and treated while confined in secure enclosures, and how long an inmate may be kept in a secure enclosure.