



Office of the Inspector General
United States Department of Justice

Statement of Michael E. Horowitz
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before the

U.S. House of Representatives
Committee on Oversight and Government Reform

concerning

"Firearms and Munitions at Risk: Examining Inadequate Safeguards"

July 6, 2016

Mr. Chairman, Congressman Cummings, and Members of the Committee:

Thank you for inviting me to testify regarding the Federal Bureau of Prisons' (BOP) management of armory munitions and equipment. The primary responsibility of BOP is to protect public safety by ensuring that federal offenders serve their sentences in prisons and other facilities that are safe and secure. The proper authorization, use, and tracking of armory munitions and equipment are critical factors in fulfilling this responsibility. Without such documentation and inventory of munitions and equipment, these items may be unaccounted for, which could potentially lead to serious consequences in the federal prison environment, or could lead to thefts and possibly misuse of these dangerous items.

As the Committee is aware, the Office of the Inspector General (OIG) conducts extensive oversight of BOP and has released numerous reports assessing the safety and security of staff and inmates and the rising costs associated with the federal prison system. Since 2004, the OIG has consistently included both the rising costs of the federal prison system and the safety and security of BOP staff and inmates in its annual report of the Top Management and Performance Challenges facing the Department of Justice.

Following an OIG investigation that resulted in a member of BOP's Special Operations Response Team pleading guilty to stealing stun munitions ("flash bang" devices) from the Administrative Maximum (ADX) Federal Correctional Complex Florence in Colorado during tactical training, the OIG conducted an audit to assess BOP's controls and practices for safeguarding armory munitions and equipment. We evaluated the accuracy of BOP armory inventories from fiscal year (FY) 2013 through December 2015, and conducted site-work at seven BOP armories. We found several deficiencies that increase the risk that armory munitions and equipment could be lost, misplaced, or stolen without being detected. The audit report, which we issued in March 2016, can be found on our OIG website at: <https://oig.justice.gov/reports/2016/a1617.pdf>.

In our report, we identified weaknesses in BOP's controls over tracking armory munitions and equipment but no significant issues with its tracking of firearms. Most significantly, we found that while BOP's armory inventory tracking system (SOS) provides current inventory data, including item descriptions, quantity, and locations within the facility, it does not capture data for tracking increases and decreases in inventory over time or the reasons for these changes. As a result, BOP security officers, who are responsible for the institutions' armories, can move inventory in and out of armories and change information in SOS without leaving any record of such changes. Moreover, expired munitions that have been stored for more than five years and remain on site are not required to be included in periodic inventory reports, further limiting what BOP knows about armory inventories and increasing the risk that armory munitions and equipment could be lost, misplaced, or stolen. This could present a serious threat to the safety and security at federal prisons, or elsewhere.

In addition to its SOS system, BOP uses the SENTRY Property Management System (SPMS) to track firearms and a select group of other items, such as communications and detection equipment. Items tracked in SPMS are subject to additional inventory controls that decrease the risk that firearms could be lost, misplaced, or stolen. However, we found discrepancies between SOS and SPMS that indicated that certain information in SOS is neither complete nor accurate. For example, in some cases SPMS identified certain items as disposed while the same items were listed as still in use in SOS. We determined that a primary cause of the discrepancies was the fact that BOP's requirements for tracking controlled property through SPMS are completely independent from the requirements for tracking armory munitions and equipment through SOS.

We also found that BOP did not always adequately document the authorization of the armory munitions and equipment and whether they were used. We identified a weakness related to the requirement that the authorizing official be listed on the equipment issue form. An individual completing the form, who is generally the Security Officer, is required to list the authorizing official. However, the authorizing official is not required to sign the form. Without the signature of an authorizing official, there is no way of knowing whether or not the use of the items listed on the equipment issue form was actually approved. Additionally, the equipment issue form requires the individual returning items to the armory to attest that all the expendable items, such as ammunition, that were removed from the armory were used, or if not, to list the items and quantities that were returned. Since the form only requires the initials of the person attesting to this information, in many instances we could not determine who initialed the form. However, when we were able to identify the individual making the attestation, we found that the majority of these forms were initialed by the Security Officer or other armory staff, not the person who checked out the items and had knowledge of what was actually expended outside of the armory. We also found that at four of the seven armories where we conducted site-work, the Security Officer did not use the required authorization form when personally removing items from the armory, despite a BOP requirement to the contrary.

Our audit also found that BOP's controls are not adequate to ensure that only authorized armory munitions and equipment are stored in its armories. We compared seven BOP armory inventories to BOP's list of authorized munitions and equipment and identified instances where BOP institutions were maintaining unauthorized chemical agents or ammunition. Further, we were not able to determine whether the majority of the chemical agents and stun munitions in the seven facilities we examined were authorized because, in most instances, the armories were using a product from a different manufacturer than what was identified in the authorized list, the names of the munitions on BOP's list of authorized munitions were outdated, or BOP's list lacked adequate descriptions to clearly match to existing materials.

Finally, at six of the seven institutions where we conducted site-work, we found that armory staff did not properly document the dates of periodic inventories and test fires, thereby creating the risk that items could have been erroneously

reported as having being inventoried or test fired. There were many instances where institutions predated or postdated their reports or used the same date for every item in the report. Our audit also identified inventory errors that BOP institutions should have identified during their quarterly physical inventories, but did not.

Our report made 14 recommendations to BOP to: improve BOP's tracking of armory munitions and equipment; reconcile BOP inventory databases on a regular basis; ensure that use of armory munitions and equipment is properly authorized and documented; ensure that Security Officers complete the requisite forms before removing anything from the armory; require that only authorized munitions and equipment are stored in its armories and unauthorized items are immediately removed; and update its policies with respect to minimum inventory and retention requirements. BOP agreed with all of our recommendations.

Prison safety and security remains an issue of utmost concern and one of the Department's top management challenges. The significance of this challenge was again demonstrated last month in a report we issued assessing BOP's efforts to prevent contraband from being introduced into BOP facilities. We found that, during the period of our review, recoveries of weapons, narcotics, and tobacco in BOP institutions increased significantly, while seizures of cell phones decreased slightly. For example, in FY 2014, BOP recovered 2,410 weapons in BOP institutions, a 5% increase from FY 2012. We also determined that BOP had not effectively implemented its 2013 staff search policy to deter staff introduction of contraband. In a report the OIG issued back in 2003, we recommended that BOP revise its policies to require searches of staff and their property when they enter institutions. After more than 10 years of negotiation with its union, BOP implemented a new staff search policy in 2013. However, in June 2015, the Federal Labor Relations Authority ordered BOP to stop using the 2013 staff search policy following a union challenge to it. As a result, more than 13 years after our 2003 report, BOP still has no comprehensive and effective staff search policy. In our review, we made 11 recommendations to BOP to improve its ability to interdict contraband and to ensure the safety and security of staff, visitors, and inmates. The report can be found on our OIG website at: <https://oig.justice.gov/reports/2016/e1605.pdf>.

Contraband in BOP prisons can represent not only a life-threatening danger to BOP staff and inmates, but also to those in law enforcement, such as Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), and OIG agents, who investigate serious criminal conduct in federal prisons. My Office knows those dangers all too well. In June 2006, during attempted arrests by OIG and FBI agents of six correctional officers at a BOP prison on charges involving smuggling of contraband and sexual abuse of inmates, one of the corrupt correctional officers drew a weapon that should not have been in the prison and shot both a BOP staff member and an OIG Special Agent, William "Buddy" Sentner. Agent Sentner returned fire, killing the corrupt correctional officer and likely saving the lives of his fellow agents and innocent bystanders. The BOP staff member survived his wounds; Agent Sentner did not. Such tragic events

demonstrate the critical need for the BOP to have an effective staff search policy to keep dangerous contraband out of prison and to make sure it has sufficient measures to control and account for all of the munitions and other weapons that are legally kept in its armories.

This concludes my prepared statement, and I will be pleased to answer any questions that the Committee may have.



Michael E. Horowitz was confirmed as Inspector General for the Department of Justice (DOJ) by the U.S. Senate on March 29, 2012. He was sworn in as the fourth confirmed Inspector General on April 16, 2012.

As Inspector General, Mr. Horowitz oversees a nationwide workforce of more than 400 special agents, auditors, inspectors, attorneys, and support staff whose mission is to detect and deter waste, fraud, abuse, and misconduct in DOJ programs and personnel, and to promote economy and efficiency in Department operations.

Mr. Horowitz most recently worked as a partner at Cadwalader, Wickersham, & Taft LLP, where he focused his practice on white collar defense, internal investigations, and regulatory compliance. He also was a board member of the Ethics Resource Center and the Society for Corporate Compliance and Ethics. From 2003 to 2009, Mr. Horowitz served as a Presidentially appointed and Senate confirmed Commissioner on the U.S. Sentencing Commission. As Commissioner, he was instrumental in rewriting the guidelines for corporate compliance programs, and for fraud, antitrust, intellectual property, and money laundering offenses.

Mr. Horowitz previously worked for DOJ in the Criminal Division at Main Justice from 1999 to 2002, first as Deputy Assistant Attorney General and then as Chief of Staff. Prior to joining the Criminal Division, he was an Assistant U.S. Attorney for the Southern District of New York from 1991 to 1999. From 1997 to 1999, Mr. Horowitz was the Chief of the Public Corruption Unit, and from 1995 to 1997, he was a Deputy Chief of the Criminal Division. In 1995, he was awarded the Attorney General's Award for Distinguished Service for his work on a complex police corruption investigation.

Before joining the DOJ, Mr. Horowitz was an associate at Debevoise & Plimpton and clerked for Judge John G. Davies of the U.S. District Court for the Central District of California.

Mr. Horowitz earned his Juris Doctor, *magna cum laude*, from Harvard Law School and his Bachelor of Arts, *summa cum laude*, from Brandeis University.