



June 2020

# FEDERAL PRISONS

## Additional Analysis Needed to Determine Whether to Issue Pepper Spray to Minimum Security Prisons

# GAO Highlights

Highlights of [GAO-20-342](#), a report to congressional committees

## Why GAO Did This Study

Within the Department of Justice, BOP is responsible for housing male and female federal inmates at 122 prisons in a safe environment for staff and inmates. Pepper spray is one of the methods BOP employees use to enhance their safety. *The Eric Williams Correctional Officer Protection Act of 2015* includes a provision for GAO to examine certain matters related to the issuance of pepper spray to officers and employees in BOP prisons.

This report addresses (1) what is known about the effectiveness and cost of issuing pepper spray in BOP's high, medium, low, and administrative security prisons; (2) BOP's position on expanding the issuance of pepper spray to minimum security prisons and the support used to make this decision; and (3) the challenges, if any, BOP officials identified as affecting the safety of BOP employees and the steps, if any, BOP has taken to address them. To address these objectives, GAO reviewed BOP policies, guidance, incident reports, and cost data on pepper spray use and interviewed knowledgeable officials at BOP headquarters and nine prisons at three locations, selected to represent varying security levels and other characteristics.

## What GAO Recommends

GAO recommends that BOP conduct an analysis to determine if its decision to not issue pepper spray to minimum security prisons should remain in effect. The Department of Justice concurred with the recommendation.

View [GAO-20-342](#). For more information, contact Gretta L. Goodwin at (202) 512-8777 or [goodwin@gao.gov](mailto:goodwin@gao.gov).

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# FEDERAL PRISONS

## Additional Analysis Needed to Determine Whether to Issue Pepper Spray to Minimum Security Prisons

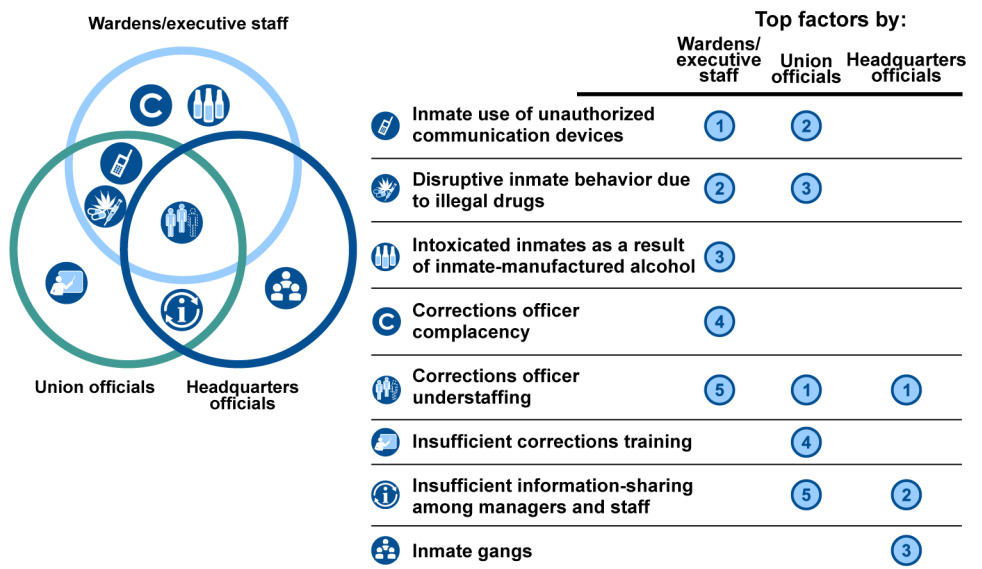
### What GAO Found

Pepper spray is an effective tool for reducing the time needed to control incidents involving inmates and for reducing any related injury to Bureau of Prisons (BOP) employees, according to a 2012 BOP pilot study and BOP officials interviewed by GAO. BOP first issued pepper spray to employees in high security prisons in August 2012 and to medium, low, and administrative security prisons in subsequent years. Officials estimated that a canister of pepper spray costs \$7 to \$14. However, the total cost to purchase pepper spray and train employees on its use is not readily available because purchases are tracked at the prison level, and pepper spray training costs are commingled with other training costs.

BOP determined that it would not issue pepper spray to minimum security prisons. BOP headquarters officials stated that this decision was made because inmates at such prisons are usually nonviolent offenders, among other reasons. However, GAO's analysis of BOP data found 47 reported incidents that included assaults on staff and other inmates across BOP's seven minimum security prisons in 2018. In addition, 56 of 73 officials GAO interviewed said pepper spray should be expanded to minimum security prisons. BOP officials stated they were not aware of an analysis of incident data or other information to support its decision but said that the decision remains appropriate. However, by analyzing available data on incidents that have occurred at minimum security prisons, BOP could better inform its decision on whether to issue pepper spray to employees at minimum security prisons.

BOP officials rated the following factors as having the most significant impact on BOP employee safety, as shown in the figure below. BOP officials stated that they are taking steps to mitigate factors impacting safety.

**Most Significant Factors That Impact BOP Employee Safety, as Identified by BOP Officials**



Source: GAO analysis of 17 interviews with 32 Bureau of Prisons (BOP) employees. | GAO-20-342

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# Contents

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Letter		1
	Background	5
	Issuance of Pepper Spray for Prison Employees Is Broadly Reported as Effective, and Agency-wide Costs of Pepper Spray Are Not Clear	10
	BOP Decided Not to Issue Pepper Spray at Minimum Security Prisons, but Has Not Conducted an Analysis to Support Its Decision	13
	BOP Reported a Number of Challenges to Ensuring Officer Safety and Is Taking Steps to Help Mitigate Them	15
	Conclusions	18
	Recommendation for Executive Action	19
	Agency Comments	19
Appendix I	BOP Employee and Officer Safety Structured Questions	22
Appendix II	BOP-rated Challenges That Could Impact the Safety of Employees	24
Appendix III	GAO Contact and Staff Acknowledgments	27
Tables		
	Table 1: BOP Security Levels and Number of Prisons by Level, as of August 2019	5
	Table 2: BOP Adjudication of Inappropriate Use of Pepper Spray Cases	11
Figures		
	Figure 1: Time Line for Use of Pepper Spray in BOP Prisons	6
	Figure 2: Some BOP Employee Protective Equipment Worn and Communication Skills Used in the Secure Perimeter of Prison	9
	Figure 3: Most Significant Factors That Impact BOP Employee Safety, as Indicated by BOP Officials	16

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Figure 4: Responses by Headquarters Officials on Factors That Impact Employee Safety	24
Figure 5: Responses by Wardens and Their Executive Staff on Factors That Impact Employee Safety	25
Figure 6: Responses by Union Officials on Factors That Impact Employee Safety	26

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### Abbreviations

BOP	Bureau of Prisons
DOJ	Department of Justice

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June 22, 2020

### Congressional Committees

The Bureau of Prisons (BOP), located within the Department of Justice (DOJ), is responsible for confining offenders in a controlled, safe, and humane prison environment, while providing a safe workplace where staff can perform their duties without fear of injury or assault. One of the methods BOP employees use to enhance their safety is carrying Oleoresin Capsicum Spray, also known as pepper spray.<sup>1</sup> Pepper spray may be used to (1) incapacitate or disable disruptive, assaultive, or armed inmates or others posing a threat to the safety of others, or posing a threat to prison security and good order; and (2) prevent serious property damage. In 2018, BOP issued a policy requiring pepper spray to be issued to all staff working in high, medium, low, and administrative security prisons.<sup>2</sup>

In March 2016, the *Eric Williams Correctional Officer Protection Act of 2015* was enacted and, among other things, includes a provision for GAO to evaluate the effectiveness of issuing pepper spray to officers and employees in BOP prisons that are not minimum or low security prisons; evaluate the advisability of issuing pepper spray to officers and employees in BOP minimum and low security prisons and the cost to do so; and suggest ways to improve the safety of officers and employees in BOP prisons.<sup>3</sup> In this report, we address the following questions:

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<sup>1</sup>BOP employees typically carry a 3-4 ounce canister of pepper spray with a full cone spray. Under ideal circumstances, the full cone spray has an effective range of 10 to 12 feet.

<sup>2</sup>Administrative security prisons have special missions, such as the detention of pretrial offenders; the treatment of inmates with serious or chronic medical problems; or the containment of extremely dangerous, violent, or escape-prone inmates.

<sup>3</sup>*Eric Williams Correctional Officer Protection Act of 2015*, Pub. L. No. 114-133, § 3, 130 Stat. 296, 297-98 (2016). According to this Act, the Director of BOP is required to issue, on a routine basis, oleoresin capsicum spray to (1) any officer or employee of BOP who is (a) employed in a prison that is not a minimum or low security prison and (b) may respond to an emergency situation in such a prison; and (2) to such additional officers and employees of prisons as the Director determines appropriate, in accordance with this section of the Act. BOP began issuing pepper spray to low security prisons before the Act was enacted, which impacted the scope of our work.

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1. What is known about the effectiveness and cost of issuing pepper spray in BOP's high, medium, low, and administrative security prisons?
  2. What is BOP's position on expanding the issuance of pepper spray to minimum security prisons, and what level of support did the agency use to arrive at this decision?
  3. What challenges, if any, from the perspective of BOP officials, affect the safety of BOP employees, and what steps, if any, has BOP taken to address them?

To address each of our three objectives, we visited a total of nine of the 122 BOP-managed prisons at three different locations—United States Penitentiary Atlanta (Georgia) which contains medium, minimum, and administrative security prisons; Federal Correctional Complex Coleman (Florida) which contains high, medium, low, and minimum security prisons; and Federal Medical Center Devens (Massachusetts) which is an administrative medical prison with a minimum security prison. We selected these prisons to visit based on their missions, co-location of multiple security levels, and participation in BOP's pilot study on pepper spray that was conducted from August 2012 through December 2013. We visited a total of one high, two medium, one low, three minimum, and two administrative security level prisons. During our site visits to these nine prisons, we interviewed 90 BOP employees from a range of roles, including wardens and executive staff, union officials, correctional officers, and medical or health care staff within the prisons. In addition, we toured the prisons and observed corrections activities to better understand the working environment. Our observations and discussions with officials during our site visits are not generalizable, but they provided valuable insight into the effectiveness of pepper spray, whether pepper spray should be issued to minimum security prisons, and factors impacting the safety of BOP employees in prisons.

To describe what is known about the effectiveness and cost of issuing pepper spray in high, medium, low, and administrative security prisons, we reviewed BOP's policy on the issuance of pepper spray to officers and employees in high, medium, low, and administrative security prisons, as well as reports and other documentation regarding the use and effectiveness of pepper spray in federal prisons. We also reviewed BOP's pepper spray guidance and the results of BOP's pilot study on pepper spray. Additionally, we reviewed BOP data from incident reports involving pepper spray use in federal prisons from 2016 through 2018. To determine the reliability of data from BOP's incident reports and pepper spray pilot study, we reviewed data system documentation, such as the

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user manual for TRUIINTEL—BOP’s database that captures information on incidents—and interviewed agency officials about data quality. We determined that the data were sufficiently reliable for purposes of describing the characteristics of BOP prisons, the number and kinds of incidents, and the reported impact of the use of pepper spray on incident containment times and BOP employee injuries.

We also interviewed BOP headquarters officials; wardens and their executive staff; correctional officers; union officials; and medical or health-care staff, among others, about the effectiveness of pepper spray. Additionally, we analyzed fiscal years 2017 through 2019 BOP budget data, where available, on the costs of pepper spray and related training. We chose the time frames for the incident reports and cost data because it allowed us to obtain information about the use of pepper spray before and after the enactment of the *Eric Williams Correctional Officer Protection Act of 2015*.

To respond to our inquiry on the cost of pepper spray and its related training, BOP headquarters officials sent out a data call to each of its 122 prisons. According to BOP headquarters officials, all prisons submitted cost data. However, we found the data to be of undetermined reliability. Specifically, we were not able to independently validate data provided by BOP on the costs of pepper spray and related training. This information is recorded by 122 individual prisons at the local level, and some of the pepper spray related training costs are commingled with broader training costs. Further, according to BOP budget officials, individual prisons may capture the cost of pepper spray and related training differently. Finally, we interviewed BOP internal affairs officials about inappropriate use of force incidents that involved pepper spray. We analyzed documentation of incidents to determine how they were adjudicated.

To describe BOP’s position on expanding the issuance of pepper spray to minimum security prisons, and assess the level of support BOP used to arrive at this decision, we reviewed BOP’s existing policy regarding issuing pepper spray to officers and employees at minimum security prisons. We also assessed BOP’s decision on not issuing pepper spray to minimum security prisons against BOP policy and *Standards for Internal*

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*Control in the Federal Government.*<sup>4</sup> Further, we analyzed data from BOP's TRUIINTEL database for calendar year 2018 on the number of incidents at minimum security prisons. We determined that the data were sufficiently reliable for capturing information on incidents. Additionally, we interviewed BOP officials at headquarters and at the prison level—including wardens and their executive staff, correctional officers, union officials, and health-care staff, among others who work in the prisons—to obtain their perspectives about issuing pepper spray to employees at minimum security prisons.

To determine what challenges, if any, from the perspective of BOP officials, affect the safety of BOP employees, and what steps, if any, BOP has taken to address them, we interviewed a total of 90 BOP employees—four BOP headquarters officials; 18 wardens and their executive staff; 10 union officials; and 58 other officials, including correctional officers and health-care staff. Specifically, we interviewed BOP headquarters officials, wardens and their executive staff, and union officials about 15 selected factors that may affect the safety of BOP employees and officers in prisons.<sup>5</sup> We asked these officials to rate whether each factor had a significant, moderate, slight, or no impact on the safety of BOP employees. We then asked them to describe the efforts planned or under way, if any, to improve safety in BOP prisons. We also reviewed BOP documents and the BOP Director's November 2019 testimony before the Senate Judiciary Committee on plans that addressed these concerns.

We conducted this performance audit from May 2019 to June 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that

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<sup>4</sup>GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014). The information and communication component of internal control is significant to this objective. One of the principles for this internal control states that management uses quality information to make informed decisions and to evaluate the entity's performance in achieving key objectives and addressing risks.

<sup>5</sup>In 2011, GAO issued *Evaluating the Impact of Protective Equipment Could Help Enhance Officer Safety*, [GAO-11-410](#) (Washington, D.C.: Apr. 8, 2011). In this 2011 report, we cited 14 factors that impact employee safety at BOP prisons. We identified these factors through a survey of 21 correctional accrediting experts at the American Correctional Association. To enhance the relevancy of our current review, we added "insufficient protective equipment, worn or carried" to the list of factors impacting employee safety.



the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Background

### BOP Prisons and Population

BOP is a component of DOJ and is responsible for housing male and female federal inmates in a controlled, safe, and humane prison environment while also providing a safe workplace for employees. BOP operates 122 prisons across the United States. These prisons are characterized by five security levels: high, medium, low, minimum, and administrative.<sup>6</sup> Table 1 below provides a description of each of these security levels and the number of prisons at each.

**Table 1: BOP Security Levels and Number of Prisons by Level, as of August 2019**

Prison security level	Description	Number of prisons
High	High perimeters featuring walls or reinforced fences, multiple- and single-occupant cell housing.	19
Medium	Strengthened perimeters (often double fences with electronic detection systems), mostly cell-type housing, and a wide variety of work and treatment programs.	47
Low	Double-fenced perimeters, mostly dormitory or cubicle housing, and strong work and program components.	30
Minimum	Also known as Federal Prison Camps. Dormitory housing, with a relatively low staff-to-inmate ratio and limited or no perimeter fencing. A number of BOP complexes have Satellite Prison Camps adjacent to the main prison, and the inmates provide labor to the main prison and to offsite work programs.	7
Administrative	These prisons have special missions, such as the detention of pretrial offenders; the treatment of inmates with serious or chronic medical problems; or the containment of extremely dangerous, violent, or escape-prone inmates.	19
<b>Total</b>		<b>122</b>

Source: GAO analysis of Bureau of Prisons (BOP) data. | GAO-20-342

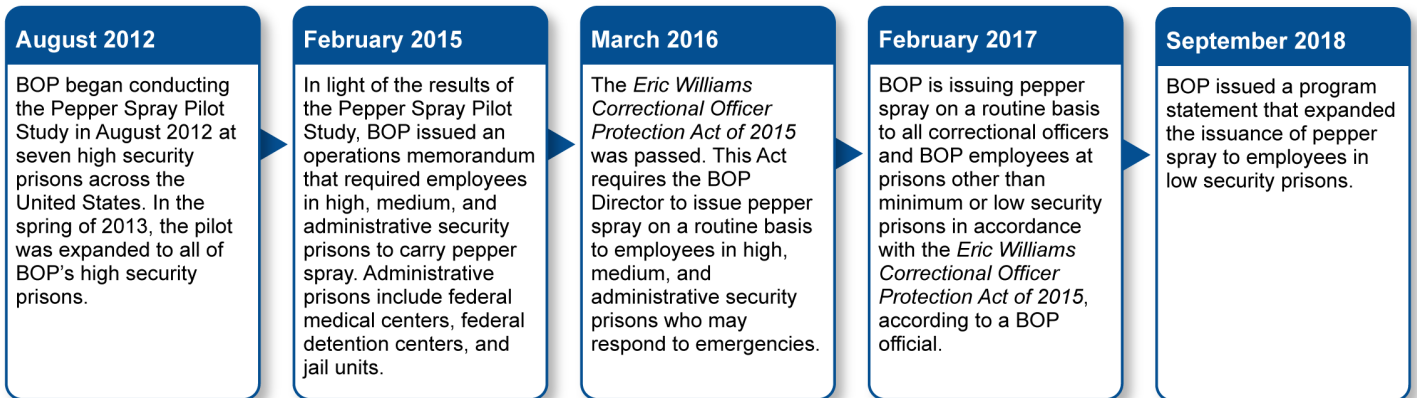
According to BOP data, in fiscal year 2019, BOP housed 149,701 inmates in its prisons. During this same time, the BOP employed 32,525 employees, of which 15,664 were correctional officers with responsibility for the day-to-day supervision of the inmates.

<sup>6</sup>The designations depend on the level of security and staff supervision the prison is able to provide, such as the presence of security towers, perimeter barriers, and type of inmate housing, among others.

## BOP Issuance of Pepper Spray at Prisons

According to a July 2012 BOP memorandum, BOP was approved to conduct a pilot study on pepper spray. The goals of the pilot were to increase the safety of staff and inmates when responding to incidents involving violence and to prevent injury to staff and inmates due to an assault or serious resistance to staff control. BOP began issuing pepper spray at high security prisons in August 2012 as part of its pilot study. In February 2015, BOP issued a program memorandum requiring employees in high, medium, and administrative security prisons to carry pepper spray. Further, in September 2018, BOP issued a program statement that expanded pepper spray to employees in low security prisons. Figure 1 provides a more detailed time line of events on the use of pepper spray in BOP prisons, including requirements under the *Eric Williams Correctional Officer Protection Act of 2015*.

**Figure 1: Time Line for Use of Pepper Spray in BOP Prisons**



Source: GAO analysis of Bureau of Prisons (BOP) data. | GAO-20-342

## BOP Policies for Issuing and Using Pepper Spray, Providing Training, and Reporting Incidents

Pepper spray is a natural inflammatory agent that can cause coughing, tearing, and discharge of excessive mucous when deployed in the facial region. According to BOP training guidance and policy, pepper spray is to be used in incidents that require an immediate use of force (for example, an unplanned use of force because of an attack on staff or an inmate) or a calculated use of force in which employees have time to coordinate their response (for example, when an inmate refuses to vacate his or her cell). For calculated uses of force, employees are to consult medical personnel to determine if an inmate has a medical condition that will exempt the inmate from being pepper sprayed.

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BOP policy states that employees should receive initial training on pepper spray and annual refresher training.<sup>7</sup> In training, employees are taught effective tactical communication for using pepper spray; use of force policy; how to use pepper spray; and the decontamination process, among other topics. According to BOP's *Use of Force and Application of Restraints* policy, a prison's warden may authorize the use of chemical agents, such as pepper spray, only under the following situations: (1) the inmate is armed or barricaded; or, (2) the inmate cannot be approached without danger to self or others; and (3) it is determined that a delay in bringing the situation under control would constitute a serious hazard to the inmate or others or would result in a major disturbance or serious property damage.<sup>8</sup> Pepper spray, moreover, should only be used when all other reasonable efforts to resolve a situation have failed.

This policy further states that staff shall appropriately document incidents involving the use of pepper spray using BOP's Form 583—*Use of Force Report*. Form 583 contains fields to enter the date and time of the incident; inmates and staff involved; injuries; medical reports; a description of the incident; and other information, such as the existence of video of the incident. The form is to be completed by the lieutenant on duty at the time of the incident and sequentially forwarded to the captain, assistant warden, warden, and regional office for review.

After a Form 583 is completed, the warden, associate warden, health services administrator, and captain at the prison, collectively, conduct an after-action review of the incident to determine if the pepper spray was used in accordance with policy. Results of the after-action review are documented on BOP's Form 586—*After Action Report*. According to BOP headquarters officials, in addition to documenting the results of the after-action review, a completed Form 586 often includes recommendations on how to improve the response to such incidents in the future. Incident data

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<sup>7</sup>Pursuant to the *Eric Williams Correctional Officer Protection Act of 2015*, in order for an officer or employee of BOP, including a correctional officer, to be eligible to receive and carry pepper spray under the Act, the officer or employee must complete a training course before being issued the spray, and annually thereafter, on the use of pepper spray. Pub. L. No. 114-133, § 2, 130 Stat. 296, 296-97 (2016). See 18 U.S.C. § 4049.

<sup>8</sup>Department of Justice, *Use of Force and Application of Restraints*, P5566.06 (Washington, D.C.: Nov. 30, 2005). Throughout this report, we refer to this policy as the use of force policy.

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captured on Forms 583 and 586 are maintained in BOP's TRUIINTEL database.

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## Protective Equipment Worn and Tools Used by BOP Employees

To enhance BOP employee safety, BOP provides its employees with a variety of protective equipment. BOP generally requires employees working within the secure prison perimeter to carry a radio, body alarm, pepper spray (as appropriate), and keys while on duty.<sup>9</sup> These items are usually checked out from the control center using a chit—a small, brass, circular token inscribed with the BOP employee's first initial and last name. As of March 2020, some employees also wear stab-resistant vests to help enhance their safety.<sup>10</sup> Although BOP employees are furnished with protective equipment, their first line of defense to protect themselves against an inmate is expected to be their verbal communication with the inmate. BOP policy, training documents, and officials state that effective communication with inmates is essential to officer safety. Figure 2 depicts some of the protective equipment worn by BOP employees operating within the secure prison perimeter of prisons.<sup>11</sup>

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<sup>9</sup>The secure perimeter describes the area within a prison complex—exclusive of security towers—that authorized individuals or inmates can access after passing through specific security procedures.

<sup>10</sup>According to BOP policy, staff working within low, medium, high, and administrative security prisons will be required to wear vests within the secure confines of the prison by June 28, 2020.

<sup>11</sup>This figure is not intended to portray the full array of protective equipment, such as cut- and puncture-resistant gloves, available to BOP employees.

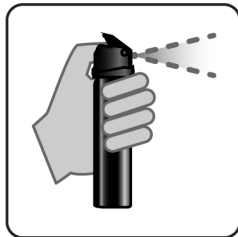
**Figure 2: Some BOP Employee Protective Equipment Worn and Communication Skills Used in the Secure Perimeter of Prison**

**Stab-resistant vest**

Some BOP employees wear a stab-resistant vest in order to protect themselves from potential attacks.

**Pepper spray**

Each BOP employee in high, medium, low, and administrative security prisons carries a 3- to 4-ounce can of pepper spray for each shift. The pepper spray is contained in a holster on the employee's belt. The pepper spray is in aerosol form and disperses in a cone shape.



**Keys**

Each BOP employee carries a ring of keys at the beginning of his or her shift.

**Communication skills**

Every BOP employee is trained to communicate with inmates to prevent or deescalate incidents. Pepper spray and other nonlethal and lethal ammunitions are to be the last resort to resolve incidents.

**Radio/body alarm**

Each BOP employee is equipped with a radio/body alarm. Some of the radios have a "man down" feature that will set off an alert if the radio is laid down for too long. This will alert other employees that an officer is in danger or has been incapacitated.

**Chits**

A chit is a small, brass, circular token with a BOP employee's first initial and last name. At the control center, BOP employees exchange the chits for each piece of equipment at the beginning and end of their shifts. For instance, they would exchange one chit for a can of pepper spray, one chit for their keys, and one for their radio/body alarm.



Source: GAO analysis of Bureau of Prisons (BOP) data. | GAO-20-342

Note: The secure perimeter describes the area within a prison complex—exclusive of security towers—that authorized individuals or inmates can access after passing through specific security procedures.

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## Issuance of Pepper Spray for Prison Employees Is Broadly Reported as Effective, and Agency-wide Costs of Pepper Spray Are Not Clear

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### BOP Pilot Study and Staff Indicate That Pepper Spray Has Been Effective in Enhancing Safety of BOP Employees

BOP conducted a pilot study on the issuance of pepper spray from August 2012 through December 2013 at selected high-security prisons. To conduct its study, BOP compared injury sustained by staff and inmates data from immediate use of force incidents in which pepper spray was used to similar incidents in which pepper spray was not used. BOP found that pepper spray was effective in helping to reduce containment time—the amount of time it takes to bring an incident under control—and injury rates. Specifically,

- containment time of incidents decreased from an average of 4.3 minutes when pepper spray was not used to 2.7 minutes when it was used. This is a reduction of 1.6 minutes in containment time;
- pepper spray was used mostly in incidents involving two or more inmates, such as fights and assaults. When pepper spray was used, the rate at which staff received no injury increased by 9 percent compared to when pepper spray was not used. Further, the rate at which staff received minor and moderate injury declined by 60 and 76 percent, respectively, compared to when pepper spray was not used; and
- the inmate injury rate rose slightly, by 2.6 percent, primarily in minor injuries when pepper spray was used; however, BOP concluded this change was not statistically significant.

All 90 of the BOP employees we spoke with from United States Penitentiary Atlanta, Federal Correctional Complex Coleman, and Federal Medical Center Devens indicated that pepper spray has been effective in enhancing safety as well as deterring incidents. Generally, these employees noted that pepper spray (1) reduces staff injuries because staff do not have to physically engage with inmates as often to break up incidents, (2) strongly deters incidents from occurring, and (3) allows

employees to break up incidents more quickly than if they did not have pepper spray. Pepper spray is not as effective for a small percentage of inmates, such as those with mental illness or those who are under the influence of drugs or alcohol, according to some BOP employees.

According to BOP data, in 2018, pepper spray was used in 1,680 incidents as follows: 993 incidents in high security prisons; 557 incidents in medium security prisons; 22 incidents in low security prisons; and 108 incidents in administrative security prisons.

**Some Allegations of Inappropriate Use of Pepper Spray Have Been Resolved, while Others Remain Under Investigation**

Officials from BOP’s Office for Internal Affairs stated that 179 allegations of inappropriate use of force incidents that involved pepper spray were reported from August 2012 through September 2018.<sup>12</sup> Among these cases, BOP’s Office for Internal Affairs has investigated and closed 86. Among these 86 closed cases, investigators found that 21 involved an inappropriate use of pepper spray and were adjudicated in various ways (see table 2). The remaining 93 allegations were still being investigated as of January 2020.

**Table 2: BOP Adjudication of Inappropriate Use of Pepper Spray Cases**

<b>Adjudication</b>	<b>Number of cases</b>
Suspension	8
Letter of reprimand	7
Resignation prior to disciplinary action	3
Transfer prior to disciplinary action	1
Died before disciplinary action	1
No disciplinary action taken by warden	1
<b>Total</b>	<b>21</b>

Source: GAO analysis of Bureau of Prisons (BOP) data. | GAO-20-342

<sup>12</sup>Inappropriate use of force involving pepper spray includes procedural violations of BOP policy with respect to the use of pepper spray, such as a correctional officer failing to decontaminate an inmate or report an incident in accordance with the use of force policy for pepper spray.

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## BOP-wide Costs for Pepper Spray Are Relatively Low, and Some Costs Are Commingled with Other Expenses

According to BOP data, the total cost for pepper spray—specifically the cost to purchase pepper spray canisters and train employees in its use—was approximately \$300,000 in fiscal year 2018, which was relatively small compared to BOP’s overall budget.<sup>13</sup> BOP headquarters officials told us that because pepper spray cost information is maintained at the prison level, it would be overly burdensome for them to independently validate the data. Nonetheless, the cost information we received provides a general sense on the extent of costs.

**Canisters.** Officials estimated that a canister of pepper spray costs \$7 to \$14. Canisters of pepper spray have a shelf-life of approximately 5 years and, according to a BOP headquarters official, are purchased in bulk. As a result, pepper spray does not necessarily need to be purchased on an annual basis. According to BOP officials, each BOP prison contracts with its own supplier rather than using a national contract across all of BOP. BOP headquarters officials told us that pepper spray costs vary across vendors and locations, among other factors. Each BOP prison is responsible for recording and tracking its own budget data on the cost of procuring, training, and issuing BOP employees pepper spray. According to BOP officials, this approach is intended to lower the costs of pepper spray, based on the premise that each prison is able to secure the best market price for pepper spray for its location and for the volume of canisters needed from the vendor.

**Training.** Prison officials told us that pepper spray refresher training is combined with other employee training, making it difficult for them to provide us with specific cost for pepper spray training. All BOP staff are required to take initial and annual refresher training on the use of pepper spray. The initial training lasts about 4 hours, while the annual refresher training lasts about 2 hours.

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<sup>13</sup>BOP’s overall budget was approximately \$7.1 billion for fiscal year 2018.



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## BOP Decided Not to Issue Pepper Spray at Minimum Security Prisons, but Has Not Conducted an Analysis to Support Its Decision

BOP issued a program statement in September 2018, which states that pepper spray is not to be issued to employees working at minimum security prisons. However, the senior BOP officials we interviewed—none of whom said they were involved directly in the policy decision—told us they do not believe the explanatory documentation of the decision to not issue pepper spray to minimum security prisons exists. Officials stated that the decision was likely made for several reasons: inmates at minimum security prisons are usually nonviolent offenders, incidents at minimum security prisons are usually very minor and do not require the use of pepper spray, the concern that public perception of using pepper spray on inmates at minimum security prisons would not be positive, and canisters of pepper spray would expire before they would be used at minimum security prisons.<sup>14</sup>

BOP officials we spoke with also stated that inmates at minimum security prisons are less likely than inmates at other security level prisons to become involved in incidents because they do not want to be reassigned to a higher security prison. We found, nonetheless, that BOP's TRUIINTEL database shows that incidents do occur at these prisons—some of which have led to assaults, minor injuries and death. Based on our analysis of BOP incident data from TRUIINTEL, we found that in 2018 there were 47 reported incidents in the seven BOP minimum security prisons. These incidents included assaults on staff and other inmates; sexual harassment; and fighting, among others. Five of the incidents resulted in minor injuries to 10 BOP employees, and 18 incidents resulted in minor injuries to inmates. Further, one incident led to an inmate fatality. Additionally, during our site visits, 56 out of 73 officials across various security levels stated that deployment of pepper spray should be expanded to minimum security prisons because it would give employees an additional tool to protect their safety.<sup>15</sup>

BOP headquarters officials told us they believe the agency's decision to not issue pepper spray to minimum security prisons remains appropriate. Regarding the 47 incidents that occurred at minimum security prisons in 2018, officials stated that many of the confrontational incidents occurring at these prisons can be handled using verbal commands.

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<sup>14</sup>According to BOP officials, the shelf life for pepper spray is approximately 5 years.

<sup>15</sup>Seventeen officials were not asked about expanding pepper spray to minimum security prisons due to interruptions during the interviews to respond to prison activities.

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While a decision to not issue pepper spray at minimum security prisons may be justified based on an analysis of relevant information, BOP officials could not provide documentation of such analysis to support its decision. This analysis could include assessing available incident data at minimum security prisons and determining whether any of the incidents could have been prevented or handled more effectively if the officer on duty was carrying pepper spray. Additionally, BOP employee perspectives on issuing pepper spray at minimum security prisons is another possible source of relevant information that could be included in an analysis to inform BOP's decision.

BOP issued policies in 2015 and 2018 that stated that while the preferred method of resolving issues with inmates is through a verbal intervention, there are instances where other means will be required to restore order. In addition, the policies state that the safety of staff, inmate(s), or others in any dangerous encounter is paramount and that the use of force—including use of pepper spray—may be needed to ensure safety.

According to *Standards for Internal Control in the Federal Government*, management should use quality information to make informed decisions and to evaluate the entity's performance in achieving key objectives and addressing risks—in this case, the possible safety risks to BOP employees and inmates.<sup>16</sup> By conducting an analysis on available BOP data on incidents that have occurred at minimum security prisons, employee perspectives on the value of having pepper spray at such prisons, and other relevant data, such as cost data, as appropriate, BOP would have useful data with which to inform its decision on whether or not to authorize pepper spray for employees at minimum security prisons.

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<sup>16</sup> [GAO-14-704G](#).

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## BOP Reported a Number of Challenges to Ensuring Officer Safety and Is Taking Steps to Help Mitigate Them

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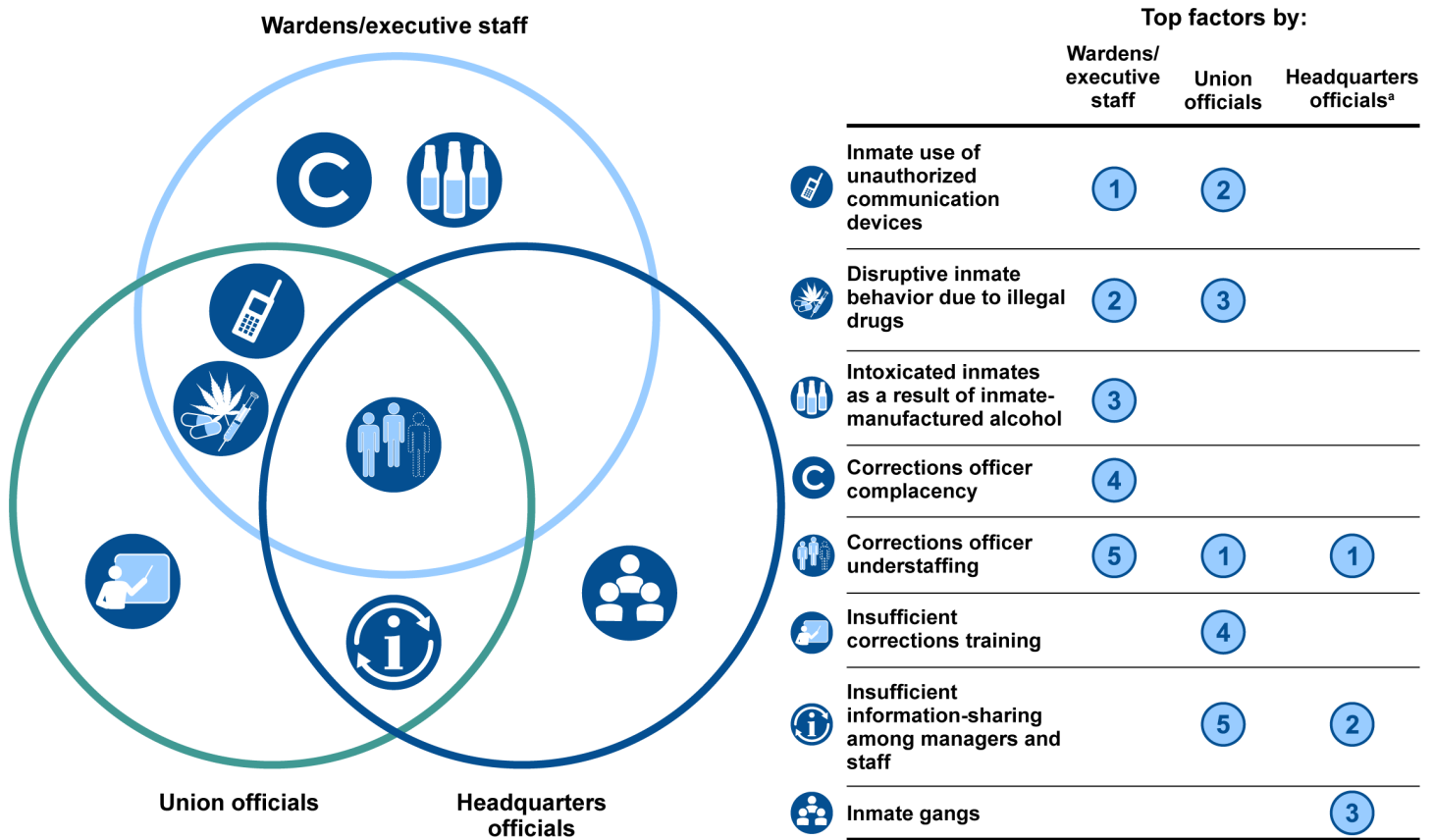
### BOP Officials at Selected Prisons Reported Challenges, including Understaffing and Inmate Drug Use, That Affect BOP Employee Safety

Four BOP headquarters officials, 18 wardens and their executive staff, and 10 union officials rated the potential impact of 15 selected factors (see app. I) on the safety of BOP employees in prisons. BOP officials rated the following five factors as having the most significant impact on BOP employee safety in prisons: (1) corrections officer understaffing, (2) disruptive inmate behavior due to illegal drugs, (3) inmate use of unauthorized communication devices, (4) inmate gangs, and (5) insufficient corrections training.<sup>17</sup> See figure 3 for a diagram of the top five factors identified across the different groups of BOP officials who responded to the structured questions. Across all three groups, corrections officer understaffing was rated among the top five factors. No other factor was equally represented. For at least two groups, inmate use of unauthorized communication devices, disruptive inmate behavior due to illegal drugs, and insufficient information-sharing among managers and staff were rated among the top five factors.

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<sup>17</sup>During our structured interviews, we asked BOP officials to rate the impact of 15 selected factors on the safety of BOP employees. Fourteen of the 15 selected factors are factors identified in our 2011 report, in which we described the equipment available to protect officers and institutional factors that affect officer safety. See [GAO-11-410](#). For this review, we added “insufficient protective equipment” to the list of factors impacting employee safety.

**Figure 3: Most Significant Factors That Impact BOP Employee Safety, as Indicated by BOP Officials**



Source: GAO analysis of 17 interviews with 32 Bureau of Prisons (BOP) employees. | GAO-20-342

<sup>a</sup>BOP headquarters officials do not have five top factors because they only ranked three factors as being significant.

When asked to identify any additional challenges beyond the selected factors we included, BOP officials we interviewed stated they were not aware of other challenges.

**BOP Headquarters and Prison-Level Officials Are Taking Steps to Address Reported Challenges**

BOP officials told us that they are taking steps to mitigate some of the challenges officials we interviewed indicated are impacting employee safety in prisons. Officials identified the following:

**Corrections officer understaffing.** Corrections officer understaffing refers to the staffing level—usually measured by the inmate-to-staff ratio—being too low to adequately prevent violence and maintain a safe

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prison. Among the BOP headquarters officials, wardens and their executive staff, and union officials we interviewed, two underlying reasons generally cited for understaffing conditions were hiring freezes and difficulty recruiting new correctional officers due to low starting salaries. According to the BOP Director's testimony before the Senate Judiciary Committee in November 2019, building adequate staffing at BOP prisons is one of her highest priorities.<sup>18</sup> The Director stated that BOP

- established 10-percent recruitment, relocation, and retention incentives for hard-to-fill positions;
- established a higher entry pay scale for experienced new correctional officers;
- established a 5-percent nationwide retention incentive for retirement-eligible employees; and
- used 3,000 temporary positions to help ensure seamless succession planning by avoiding the lag to hire someone to fill a position.

We issued a report in December 2017 on BOP's use of retention incentives. At that time, we found that BOP had taken steps to determine workforce needs and how to fill those needs but had not strategically planned for and evaluated its use of retention incentives.<sup>19</sup> We recommended that BOP include in its strategic human capital operating plan (1) human capital goals; and (2) strategies on how human capital flexibilities, including retention incentives, will be used to achieve these goals. We also recommended that BOP evaluate the effectiveness of its use of retention incentives to determine whether the incentives have helped achieve BOP's human capital goals or if adjustments in retention incentives are needed. DOJ concurred, and BOP implemented our first recommendation by drafting a human capital plan with goals and strategies for how retention incentives could be used to meet those goals. To implement our second recommendation, BOP conducted an analysis of its use of retention incentives and their effect on retaining BOP employees.

**Disruptive inmate behavior due to illegal drugs.** According to BOP officials, some inmates obtain illegal synthetic drugs by mail. These drugs

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<sup>18</sup> Kathleen Hawk Sawyer, Director, Federal Bureau of Prisons, testimony before the Senate Judiciary Committee, 116 Cong., 1<sup>st</sup> sess., November 19, 2019.

<sup>19</sup>GAO, *Better Planning and Evaluation Could Help Ensure Use of Retention Incentives*, [GAO-18-147](#) (Washington, D.C.: Dec. 7, 2017).

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are sprayed onto inmate mail and other documents before being sent to the inmate in prison. Inmates burn the mail to get high off of the synthetic drug. In addition to the threat to the inmate population posed by inmates who are behaving under the influence of the drugs, entry of these drugs can expose staff—including those handling the mail—to hazardous chemicals. In an effort to stop illegal drugs from entering prisons by this method, according to BOP officials we spoke with and the BOP Director in her November 2019 testimony, some prisons are photocopying mail before it is delivered to inmates. For example, officials at one prison we visited told us they photocopy inmates' mail. Further, a BOP headquarters official stated that BOP is piloting various mail-scanning technologies aimed at reducing the number of drugs entering prisons.

**Inmates' use of unauthorized communication devices.** According to BOP officials and the BOP Director's testimony, inmates' possession of cell phones is a major problem. BOP officials stated that, in an effort to stop the unauthorized use of cell phones, some prison officials are using specialized equipment to detect cell phone usage and are exploring options to use cell phone jammers. We reported in September 2011 that BOP and selected state officials told us that cell phones were a major security concern because they allow inmates to hold unmonitored conversations, for example, to sell drugs or harass individuals.<sup>20</sup> We recommended that BOP's Director formulate evaluation plans for cell phone detection technology to aid decision-making, require BOP staff to use these plans, and enhance regional collaboration with states. DOJ concurred with our recommendations, and BOP addressed them by developing policy and testing procedures to improve their ability to evaluate new technology. BOP also established plans to enhance collaborative information-sharing with state and local agencies on combating cell phone smuggling and use.

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## Conclusions

Working in a federal prison presents inherent risks. Since 2018, BOP has authorized the use of pepper spray at all prison security levels with the exception of minimum security prisons. BOP's issuance of pepper spray was supported by evidentiary information—that is, its pilot study indicated that pepper spray was an effective tool for enhancing staff safety. Notably, BOP's current policy on pepper spray allowance does not extend to minimum security prisons. While BOP was not able to provide us with a documented analysis behind the nonissuance to minimum security

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<sup>20</sup>GAO, *Improved Evaluations and Increased Coordination Could Improve Cell Phone Detection*, [GAO-11-893](#) (Washington, D.C.: Sept. 6, 2011).

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prisons, the officials we interviewed made several arguments in support of the decision. While their arguments may hold merit, we found evidence based on our limited analysis that appears to question their underlying decision.

To the extent that officials are operating under assumptions not fully examined, BOP is missing a potential opportunity to enhance the safety of its correctional officers. We believe that our concerns are amplified by our finding that a majority of BOP frontline employees want pepper spray expanded to minimum security prisons. Similar to the decision to issue pepper spray to other levels was based on pilot information, BOP has an opportunity to bring—either for or against issuance—a better case forward. Analyzing available data on incidents that have occurred at minimum security prisons, such as determining whether any of them could have been prevented or handled more effectively with pepper spray, and considering BOP employees’ perspectives, BOP could inform its decision whether to authorize pepper spray for employees at these prisons.

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## Recommendation for Executive Action

We are making the following recommendation to BOP:

The Director of BOP should conduct an analysis, using available incident and cost data, and other information as appropriate, to determine if the current decision to not issue pepper spray to minimum security prisons should remain in effect. (Recommendation 1)

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## Agency Comments

We provided a draft of this product to DOJ, including BOP, for review and comment. DOJ concurred with our recommendation and told us they had no comments on the draft report. DOJ did provide technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Attorney General, the BOP Director, and other interested parties. In addition, the report will be available at no charge on the GAO website at <http://www.gao.gov>.

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If you or your staff have any questions about this report, please contact me at (202) 512-8777 or [goodwing@gao.gov](mailto:goodwing@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix III.



Gretta L. Goodwin  
Director, Homeland Security and Justice



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The Honorable Lindsey Graham  
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Ranking Member  
Committee on the Judiciary  
United States Senate

The Honorable Jerrold Nadler  
Chairman

The Honorable Jim Jordan  
Ranking Member  
Committee on the Judiciary  
House of Representatives

# Appendix I: BOP Employee and Officer Safety Structured Questions

Throughout our audit work, we asked Bureau of Prisons (BOP) officials with whom we interviewed at the headquarters and selected prisons about factors that impact the safety of BOP employees, as well as efforts, if any, they had made to mitigate those factors.<sup>1</sup> We specifically targeted three groups of BOP personnel—BOP headquarters, wardens and their executive staff, and union officials—to rate the impact of 15 selected factors on employee safety at the groups and by prison security level. We then analyzed their responses and identified the top five factors that these BOP officials identified as having an impact on employee safety. We received responses from four BOP headquarters officials, 18 wardens and their executive staff, and 10 union officials. Officials were provided the structured questions (see below) in advance of the site visit, and the team recorded their responses during the interview.

**A. In your opinion, to what extent does each one of the following factors have an impact, if any, on officer and employee safety at this BOP prison? Place an “X” in the box that best represents your response.**

Factor	Not at all	Slightly	Moderately	Significantly	Don't know
Insufficient protective equipment, worn or carried (e.g., radios, body alarms, stab-resistant vests, and pepper spray)					
Ineffective inmate management (e.g., lack of controlled inmate movement, insufficient supervision of inmates)					
Insufficient information-sharing among managers and staff within institutions					
Inmate overcrowding					
Corrections officer understaffing					
Insufficient inmate programming (e.g., prison industries, drug rehabilitation, education, recreation)					
Corrections officer complacency					
Insufficient corrections training					
Insufficient discipline of inmates following a violation					
Intoxicated inmates as a result of inmate-manufactured alcohol					
Disruptive inmate behavior due to the sale and use of illegal drugs					

<sup>1</sup>Our methodology ensured that we selected prisons across the five security levels—high, medium, low, minimum, and administrative. Our discussions with officials during our site visits are not generalizable, but they provided valuable insight into factors impacting the safety of BOP employees in prisons.

**Appendix I: BOP Employee and Officer Safety  
Structured Questions**

**A. In your opinion, to what extent does each one of the following factors have an impact, if any, on officer and employee safety at this BOP prison? Place an "X" in the box that best represents your response.**

<b>Factor</b>	<b>Not at all</b>	<b>Slightly</b>	<b>Moderately</b>	<b>Significantly</b>	<b>Don't know</b>
<b>Inmate possession and use of unauthorized communication devices, including cell phones</b>					
<b>Inmate gangs</b>					
<b>Inmates dissatisfied with food service</b>					
<b>Population of inmates with characteristics that may lead to increased violent behavior (e.g., younger age, longer sentences, lack of parole opportunities)</b>					
<b>Other factor(s):</b>					

B. Short explanation of responses:

C. Opportunities for improvement:

# Appendix II: BOP-rated Challenges That Could Impact the Safety of Employees

We held one interview with four Bureau of Prisons (BOP) headquarters officials, nine interviews with 18 wardens and their executive staff, and seven interviews with 10 union officials about 15 selected factors that impact the safety of BOP employees, using a structured questions set (see app. I). These officials' responses, which are broken down by group and security level, are presented in the figures below.

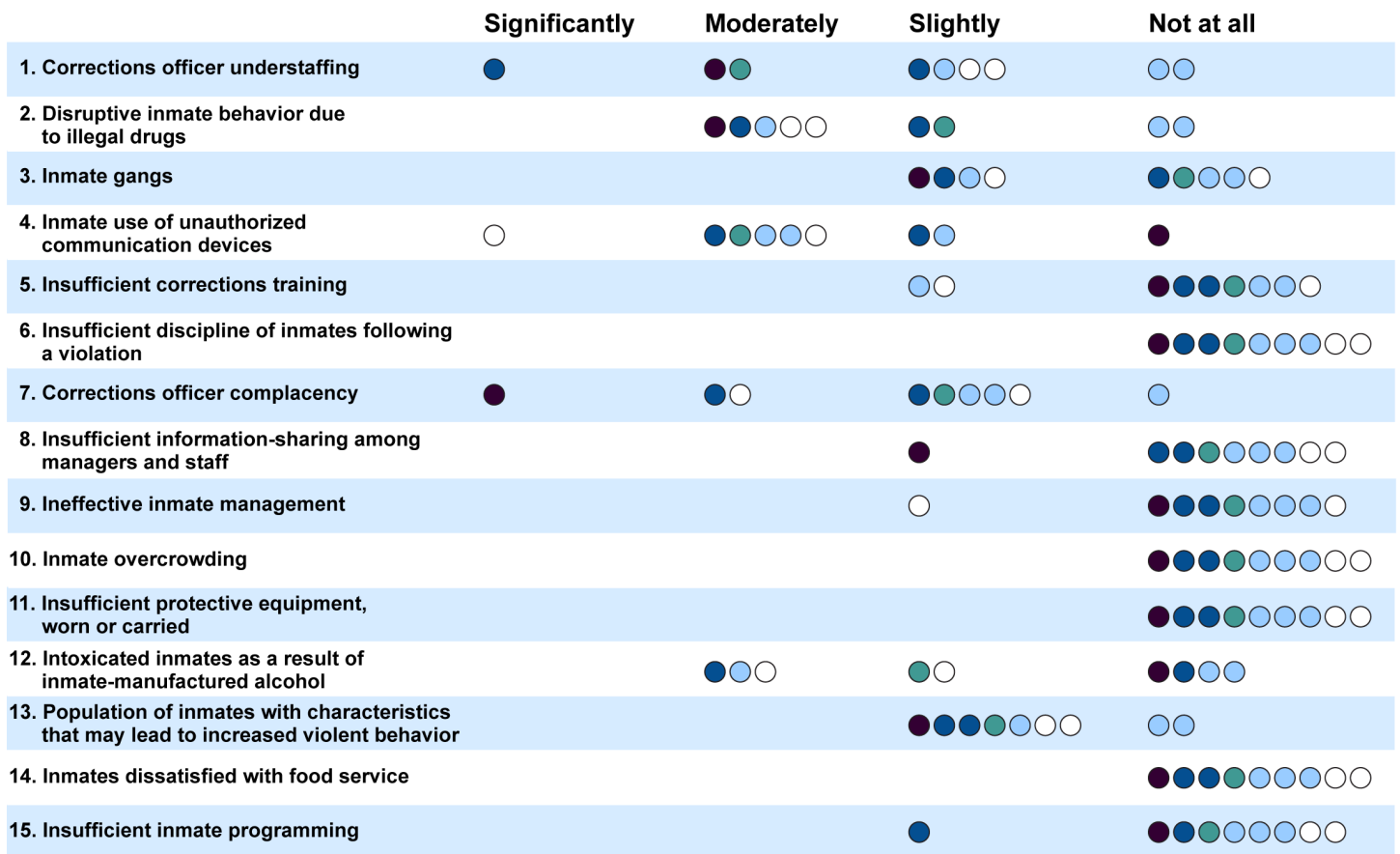
**Figure 4: Responses by Headquarters Officials on Factors That Impact Employee Safety**

	Significantly	Moderately	Slightly	Not at all
1. Corrections officer understaffing		●		
2. Disruptive inmate behavior due to illegal drugs			●	
3. Inmate gangs		●		
4. Inmate use of unauthorized communication devices			●	
5. Insufficient corrections training			●	
6. Insufficient discipline of inmates following a violation			●	
7. Corrections officer complacency			●	
8. Insufficient information-sharing among managers and staff		●		
9. Ineffective inmate management			●	
10. Inmate overcrowding				●
11. Insufficient protective equipment, worn or carried				●
12. Intoxicated inmates as a result of inmate-manufactured alcohol			●	
13. Population of inmates with characteristics that may lead to increased violent behavior			●	
14. Inmates dissatisfied with food service				●
15. Insufficient inmate programming			●	

Source: GAO analysis of one interview with four Bureau of Prisons (BOP) employees. | GAO-20-342

**Appendix II: BOP-rated Challenges That Could Impact the Safety of Employees**

**Figure 5: Responses by Wardens and Their Executive Staff on Factors That Impact Employee Safety**

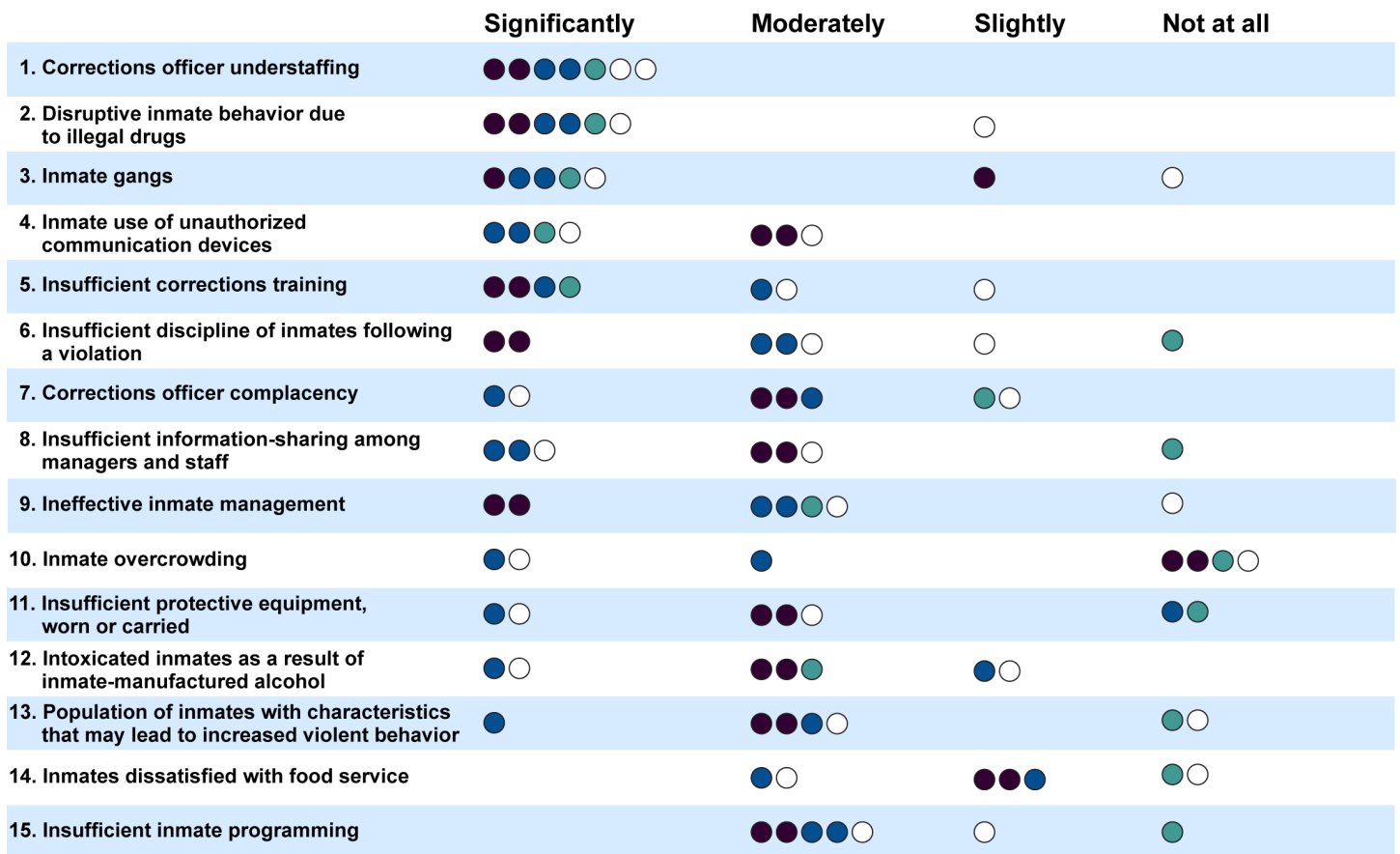


**Legend** ● High security prison ● Medium security prison ● Low security prison ● Minimum security prison ○ Administrative security prison

Source: GAO analysis of nine interviews with 18 Bureau of Prisons (BOP) employees. | GAO-20-342

Appendix II: BOP-rated Challenges That Could Impact the Safety of Employees

Figure 6: Responses by Union Officials on Factors That Impact Employee Safety



Legend ● High security prison ● Medium security prison ● Low security prison ● Minimum security prison ○ Administrative security prison

Source: GAO analysis of seven interviews with 10 Bureau of Prisons (BOP) employees. | GAO-20-342

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# Appendix III: GAO Contact and Staff Acknowledgments

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## GAO Contact

Gretta L. Goodwin, (202) 512-8777 or [goodwing@gao.gov](mailto:goodwing@gao.gov)

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## Staff Acknowledgments

In addition to the contact named above, Brett Fallavollita (Assistant Director), Sonja S. Ware (Analyst-in-Charge), Anthony DeFrank, and Emily Martin made key contributions to this report. Willie Commons III, Elizabeth Dretsch, Eric Hauswirth, and Susan Hsu also contributed to this work.

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