



Office of the Inspector General U.S. Department of Justice

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Management Advisory Memorandum of Concerns Identified During Mock Exercises by Federal Bureau of Prisons Special Operation Response Teams



June 17, 2020

MANAGEMENT ADVISORY MEMORANDUM FOR:

MICHAEL CARVAJAL
DIRECTOR
FEDERAL BUREAU OF PRISONS

A handwritten signature in blue ink, reading "Michael E. Horowitz", is positioned below the printed name of the Inspector General.

FROM: MICHAEL E. HOROWITZ
INSPECTOR GENERAL

SUBJECT: Notification of Concerns Identified During Mock Exercises by
Federal Bureau of Prisons Special Operation Response
Teams (SORT)

The purpose of this memorandum is to advise you of significant concerns the Department of Justice Office of the Inspector General (OIG) has identified in the handling of mock exercises by the Federal Bureau of Prisons (BOP) Special Operations Response Teams (SORT). The OIG identified these concerns in connection with two incidents in which BOP staff members sustained injuries during SORT mock exercises. Both incidents occurred about a year ago. The BOP has informed the OIG that the SORT is not conducting mock exercises during the COVID-19 pandemic. In this memorandum, the OIG makes four recommendations to address the concerns we identified.

Relevant Authorities

SORT Qualification and Training Policies

BOP institutions maintain their own SORTs and typically a SORT consists of 15 team members, led by a "SORT Commander," also known as a "Captain." Annually, individual SORT members are required to meet qualification guidelines issued by the BOP's Office of Emergency Preparedness (OEP). The OEP distributes to each region guidelines for completing team and individual annual qualifications. The Regional Correctional Services Administrators are responsible for developing a plan to facilitate the certification of their respective SORTs.

The BOP Correctional Services Manual, Program Statement 5500.15 (“the Manual”), includes a list of eleven qualifications that all SORT members and team leaders must meet, including: successfully completing one year of continuous service with the BOP; passing a written test: maintaining specified physical abilities and weapons proficiency; and completing certain Federal Emergency Management Agency (FEMA) courses.

The Manual states that all SORT members must receive 8 hours of training monthly, and may be required to receive up to 16 hours of monthly training depending on facility needs. The Manual also lists required annual training in certain specialty areas. As examples, all SORT members must receive annually at least 24 hours of training in Building Entry, 12 hours in Multi-Weapons, and 8 hours in Munitions. SORT specialists are required to satisfy additional monthly or annual training in their specialties. The Manual does not contain any training requirement associated with conducting mock exercises.

Policies Concerning Mock Exercises

SORTs and other types of BOP crisis management teams conduct mock exercises to test and evaluate each institution’s contingency plans to respond effectively to emergency situations, such as internal hostage situations and other disturbances. Based on OIG investigations, we have learned that these mock exercises are used as part of the SORT certification process. According to the BOP, a “major” mock exercise has an Incident Commander (IC), who is ultimately responsible for SORT decisions and actions during the exercise. The Manual provides minimal guidance on mock exercises. The Manual states that, “[f]or safety reasons, participating staff should be made aware” that a mock exercise is about to begin. However, the Manual further states that, “it is understood that some exercises may be carried out without such knowledge if necessary to evaluate preparedness and response time accurately.” In addition, the Manual states that staff assigned to conduct a mock exercise should “consider” the following:

- Determine what plan to evaluate and identify time limits for the test.
- Identify participants and staff monitors.
- Provide a method for terminating the test if a real crisis should occur (actual escape, disturbance, staff injury, etc.)
- Arrange for a review of the exercise and submit documentation upon conclusion.
- Prepare a report of findings for follow-up review that addresses all concerns during the exercise.

Concerning the use of weapons or munitions during mock exercises, the Manual states only that “appropriate safety precautions will be observed” and that “where armed posts are involved, such posts will be notified and the Captain will have monitors in place to ensure that appropriate safety precautions are taken.”

Policies Concerning the Use of Force

The Manual does not contain a policy statement or any guidance on the appropriateness of the use of force during training exercises. The Manual contains general guidance on the use of force as follows:

When authorized, a Lieutenant or higher ranking Correctional Services Official must supervise a calculated use of force and use of Oleoresin Capsicum (OC),¹ Chemical agents, Distraction Devices,² Specialty Impact Munitions, and Less Than Lethal delivery systems. Circumstances that determine authorization are outlined in the Program Statement Use of Force and Application of Restraints [Program Statement S 5566.06 (“Use of Force Program Statement”)].

Like the Manual, the Use of Force Program Statement does not address the appropriateness of the use of force during training exercises.

The Manual has additional specific provisions concerning the use of chemical agents, OC, stun guns, and distraction devices. For example, the Manual includes a requirement that before using a chemical agent or OC, “staff are equipped with working and well-maintained gas masks.” The Manual cautions that OC and chemical agents may be harmful to an individual who has “respiratory or cardiovascular disease, chronic dermatitis, or psychosis,” and states, “Consult medical staff before use; avoid use on an inmate with any of these conditions unless other means of control have been attempted or deemed likely to be ineffective.” In addition, the Manual advises staff to use “extreme caution” before deploying distraction devices in “small or confined areas.”

In addition, the Manual provides that “all aspects of a calculated use of force incident must be recorded.” When BOP staff must use immediate force, “staff are obligated to obtain a video camera and begin recording the event as soon as feasible.”

The BOP also has a program statement that specifically addresses the use of OC spray. BOP Program Statement 5576.06, “Oleoresin Capsicum (OC)

¹ OC is commonly known as pepper spray.

² An example of a distraction device is a “flash bang” munition.

Aerosol Spray” (“OC Program Statement”), states that OC spray “will be used to protect staff, inmate(s), and others from an inmate(s) or visitor(s) posing a threat and when other methods of control are not effective.” The OC Program Statement does not contain guidelines for the use of OC spray during mock exercises. However, the OC Program Statement states that “inert OC dispensers are authorized for use” when training staff to use OC aerosol spray.

The Issue

The OIG identified concerns in connection with two SORT mock exercises last year in which BOP staff members sustained injuries.

During the first SORT mock exercise, the SORT deployed two “flash bang” type munitions to enter the location of the exercise. The second munition hit a staff member role player and detonated, causing significant injury requiring surgery and ongoing treatment for that staff member. The BOP subsequently determined that the particular flash bang deployed during the exercise was not an authorized distraction device munition listed in the Manual. Accordingly, the BOP has now issued guidance prohibiting the use of this device. In addition, during its review of this incident, the BOP was unable to locate the Tactical Operation Order (TOO) governing this mock exercise.

In connection with the second SORT mock exercise, BOP administrative staff members who were allegedly not involved in the exercise secured themselves in a business office shortly after the exercise began. These uninvolved staff members included employees on restricted duty due to medical conditions. During the exercise, SORT members allegedly demanded the door to the room where the uninvolved staff were located be opened, attempted to breach the room using a crow bar, sprayed OC into the room without obtaining authorization, entered the room, and fired a simunition round that struck a staff member in the chest.³ In addition, there allegedly was a physical altercation, including pushing and shoving, between SORT members and the uninvolved staff members. Some of these events allegedly occurred after the uninvolved staff members allegedly yelled that they were “out of role” and allegedly informed the SORT that staff members in the room had medical conditions.

The OIG has identified that there were individuals, from other BOP institutions or the BOP Regional Office, who were responsible for observing and certifying the SORT’s actions during the second exercise. One monitor was physically present with the SORT team members, a second monitor was in the Command Center, and a third monitor was outside the facility. However, it

³ According to the Manual, simunition is a “paint marking system” that is authorized for SORT training. Simunition rounds are nonlethal, but painful if an individual is struck without protective gear.

was not clear whether the role of the monitors included ensuring that the exercise was conducted safely. The monitors were not provided with radios, and therefore the two monitors not physically present with the SORT team members did not have the ability to communicate with the SORT. The two monitors who were not in the Command Center also did not have access to the TOO outlining the plan for the mock exercise, which was located in the Command Center. In addition, the OIG determined that the Emergency Preparedness Officer who created the scenario for this incident left the building where the exercise was taking place before the SORT sprayed OC.

As stated above, the IC for a major mock exercise is ultimately responsible for SORT decisions and actions. BOP personnel have told the OIG that, according to policy, the IC should monitor mock exercises by security camera from the Command Center. However, during the second incident described above, the IC was only able to monitor the exercise by viewing stationary security camera feeds in the lobby of the institution. As a result, the IC was dependent on information relayed to the IC or observable by the limited camera views available to the IC. Because there were no security cameras in the business offices, the IC did not observe any of the actions described above. The IC was not equipped with a radio that would have enabled the IC to communicate with the SORT.

Conclusions

The OIG has determined that inappropriate and dangerous events transpired during the two mock exercises described above. Most seriously, and among other things, SORT members deployed a distraction device munition in a confined space, which was not authorized for use under BOP policy; SORT members deployed real OC spray rather than inert OC spray during a training exercise, allegedly without proper authorization; and SORT members used force, including firing a simunition round, against staff members who were allegedly yelling to the SORT that they were “out of role” and physically vulnerable.

In addition, while current BOP policy provides guidance on SORT training generally, the OIG found that the BOP has inadequate policies governing mock exercises. More specific and comprehensive language should be incorporated into current guidance to address the concerns referenced in this MAM. Among other things, the BOP policies we reviewed did not clearly specify the types of weapons, less than lethal weapons, and munitions, if any, that are authorized for use during BOP training exercises; and did not provide safeguards to ensure that exercises are conducted safely.

Recommendations

The OIG recommends that the BOP take the following four measures to address the concerns identified in this memorandum.

1. The BOP should suspend all SORT mock exercises until comprehensive guidelines for mock exercises are developed.
2. The BOP should develop comprehensive guidelines governing mock exercises. The OIG recommends that these comprehensive guidelines include, among other things, the following:
 - a. All mock exercises should be required to have at least one monitor whose sole role is to be the designated Safety Officer. The Safety Officer should be present onsite during the exercise, responsible for preventing team members from going outside of training boundaries, and responsible for stopping scenarios when they go off script or otherwise compromise the safety of employees involved in the exercise and other employees in the institution.
 - b. All mock exercises should be filmed for live video and recorded for training purposes and evaluation.
3. The BOP should develop written policies concerning the types, if any, of weapons, less than lethal weapons, and munitions that may be used during training exercises and when and how such weapons, less than lethal weapons, and munitions may be used during training.
4. All SORT members and designated training monitors should receive remedial training on SORT policy and use of force applications during mock training and certification exercises.

Please advise the OIG within 60 days of the date of this memorandum on what actions the BOP has taken or intends to take with regard to these issues. 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.

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