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GAO

Report to Congressional Committees

September 2011

BUREAU OF PRISONS

Improved Evaluations and Increased Coordination Could Improve Cell Phone Detection

GAO-11-893

GAO
Accountability * Integrity * Reliability
Highlights

Highlights of GAO-11-893, a report to congressional committees

September 2011

BUREAU OF PRISONS

Improved Evaluations and Increased Coordination Could Improve Cell Phone Detection

Why GAO Did This Study

The rates Bureau of Prisons (BOP) inmates pay to make phone calls generate revenue that funds inmate wages and other amenities; however, inmates' contraband cell phone use is growing. The Cell Phone Contraband Act of 2010 criminalized cell phone possession in federal prisons and mandated that GAO study related issues. In response to the mandate, this report addresses (1) how telephone rates for BOP inmates compare with other correctional systems and the implications of lowering rates; (2) the number of cell phones confiscated in BOP and selected states, and any reported impact; and (3) the extent to which BOP and selected states have taken actions to minimize cell phone smuggling, these actions' effectiveness, and how BOP has coordinated internal and state information sharing. GAO reviewed BOP's policies, procedures, and cell phone confiscation data (2008–2010). GAO also interviewed BOP officials within BOP's 6 regions and 4 of its 116 institutions—as well as officials from 8 state correctional departments—selected for their cell phone detection efforts or challenges faced. The results are not generalizable, but provide insights.

What GAO Recommends

GAO recommends that BOP's Director formulate evaluation plans for cell phone detection technology to aid decision making, require use of these plans, and enhance regional collaboration with states. The Department of Justice concurred with GAO's recommendations.

View GAO-11-893. For more information, contact David Maurer at (202) 512-8777 or maurerd@gao.gov or Mark Goldstein at (202) 512-2834 or goldsteinm@gao.gov.

What GAO Found

BOP's rates for inmate telephone calls typically are lower than selected state and military branch systems that also use telephone revenues to support inmate activities; lowering rates would have several implications. Inmates would benefit from the ability to make cheaper phone calls, but lower rates could result in less revenue and lower profits, and therefore fewer funds available for inmate wages and recreational activities. According to BOP officials, when inmates have fewer opportunities for physical activity, idleness increases, and the risk of violence, escapes, and other disruptions also rises.

BOP and selected states confiscated thousands of cell phones in 2010, and these entities believe that rising inmate cell phone use threatens institutional safety and expands criminal activity. All of the BOP officials, as well as officials from all eight of the state departments of correction with whom GAO spoke, cited cell phones as a major security concern, given the potential the phones provide for inmates to have unmonitored conversations that could further criminal activity, such as selling drugs or harassing other individuals.

BOP and selected states have taken actions to address contraband cell phone use in their correctional institutions, but BOP could better evaluate existing technologies to maximize its investment decisions. BOP screens visitors and staff to detect contraband and has also tested multiple cell-phone detection technologies. However, BOP has not developed evaluation plans for institutional use to measure the effectiveness of these tests, which could help ensure that such tests generate information needed to make effective policy decisions. Moreover, while BOP has shared detection strategies with state agencies to some extent, BOP's regional offices have only had limited interaction with states, and could increase coordination and knowledge sharing to better identify and benefit from other strategies being used.

This is a public version of a sensitive but unclassified – law enforcement sensitive report that GAO issued in July 2011. Information that the Department of Justice deemed sensitive has been omitted.

Cell Phones That BOP Has Confiscated at a Federal Prison and Adjacent Camp

Source: GAO.

Contents

Figures

Abbreviations

ASCA	Association of State Correctional Administrators
BOP	Bureau of Prisons
BOSS	Body Orifice Security Scanner
DOC	department of correction
DOJ	Department of Justice
FCC	Federal Communications Commission
GORT	Ground Observation Reconnaissance Transmitter
ITS	Inmate Telephone System
NIJ	National Institute of Justice
NLECTC	National Law Enforcement and Corrections Technology Center
NTIA	National Telecommunications and Information Administration
OST	Office of Security Technology
RF	radio frequency
TRULINCS	Trust Fund Limited Inmate Computer System
TWG	technology working group

GAO
Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

September 6, 2011

The Honorable Patrick J. Leahy
Chairman
The Honorable Charles Grassley
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable Lamar Smith
Chairman
The Honorable John Conyers, Jr.
Ranking Member
Committee on the Judiciary
House of Representatives

The Department of Justice's (DOJ) Bureau of Prisons (BOP) provides telephone service to federal inmates to facilitate their contact with family and friends and to help maintain inmates' ties to the community. Research has shown that such contact reduces the likelihood of inmates' return to prison once they complete their sentences. BOP records inmates' calls and charges inmates rates for telephone use. In recent years, there have been rising incidents of federal and state inmates using contraband cell phones to circumvent correctional institutions' telephone systems.[1] Some prisoner advocates believe that inmates are increasingly using contraband cell phones because of the rates correctional institutions charge for telephone service. However, by circumventing the correctional institutions' telephone systems, inmates also avoid the monitoring of their calls, and a number of reports have demonstrated that inmates are smuggling in cell phones to coordinate criminal activity, such as drug sales, assault, and murder. Various federal entities and state departments of corrections (DOC) have voiced concerns over the increasing number of contraband cell phones in correctional institutions, stressing the potential for these devices to facilitate further criminal misconduct. To help address this issue, the Cell Phone Contraband Act of 2010 criminalized possession of cell phones in federal prisons by defining

[1]For the purposes of this report, we will use the term "cell phone" to represent not only cell phones but also any other wireless communications devices.

them as a “prohibited object” punishable by a fine or imprisonment for not more than 1 year or both.[2]

The Cell Phone Contraband Act of 2010 also mandated that we study both telephone rates and contraband cell phones in prisons.[3] Thus, this report addresses the following questions:

1. How do BOP’s inmate telephone rates compare to those charged by other correctional systems; how does BOP use the revenues generated by its telephone charges; and what are the implications of lowering its rates?

2. How many cell phones have been confiscated within BOP and selected state institutions, and what is the reported impact, if any, of cell phone use on overall prison security and criminal activity?

3. To what extent have BOP and selected state prisons taken actions to prevent or minimize cell phone smuggling and use; what is known about the actions’ effectiveness; and how has BOP coordinated information sharing internally and with states?

This report is a public version of the prior sensitive report that we provided to you. DOJ deemed some of the information in the prior report as sensitive but unclassified - law enforcement sensitive, which must be protected from public disclosure. Therefore, this report omits sensitive information about methods by which cell phones are smuggled into prisons. In addition, at DOJ’s request, we have omitted information regarding BOP conclusions on strategies tested and implemented by BOP to address cell phone smuggling and use. Although the information provided in this report is more limited in scope, it addresses the same questions as the sensitive report. Also, the overall methodology used for both reports is the same.

[2]Cell Phone Contraband Act, 2010, Pub. L. No. 111-225, 124 Stat. 2387. Under 18 U.S.C. § 1791, the term “prohibited object” includes, but is not limited to, a firearm, ammunition, a phone or other device used by a user of commercial mobile service, controlled substance, narcotic drug, any United States or foreign currency, or any other object that threatens the order, discipline, or security of a prison, or the life, health, or safety of an individual.

[3]Pub. L. No. 111-225, § 3, 124 Stat. 2387, 2387-88.

To determine how BOP's prison telephone rates compare to those charged by other correctional systems, BOP's use of telephone revenues, and the implications of lowering rates, we reviewed BOP's policies and procedures related to its inmate telephone system, the costs and revenues of this system, the rates BOP charges inmates, inmate amenities funded through the system, and data on phone services from 2008 through 2010. We also interviewed and gathered data from BOP management—including officials with the BOP Trust Fund, which manages the finances of the inmate telephone system—as well as officials with the Department of Defense, which also provides phone services to inmates, in order to determine how their rates compare with those charged by BOP. In addition, from March through June 2011, we gathered and analyzed data on inmate telephone rates from eight selected state DOCs.[4]

To learn more about the level of prison cell phone confiscations, and inmates' cell phone use and implications, we collected data on cell phone confiscations for all BOP institutions and the same eight selected state correctional systems for 2008 through 2010. We obtained information from relevant officials about the steps taken to ensure the accuracy of all of the above data and found the data to be sufficiently reliable for our purposes. We also interviewed BOP officials in the Correctional Programs Division, which is responsible for ensuring a safe institutional environment; BOP's Office of Security Technology (OST), which identifies and evaluates security technology equipment within BOP, among other things; and each of BOP's six regions and four of its institutions.[5] We selected these institutions based on specific technologies adopted to

[4]Specifically, we interviewed and gathered data from officials in California, Florida, Maryland, Mississippi, New Jersey, New York, South Carolina, and Texas. We selected these state correctional departments based on the level of their efforts to combat contraband cell phones, as identified by BOP officials and records of congressional testimony. In conducting our analysis we did not, ultimately, include rate information from four of these states—California, Florida, New York or South Carolina—because these states do not fund prisoner amenities from telephone revenues in a manner consistent with BOP. This was due to either (a) these states not receiving monies from the companies providing inmate telephone service or (b) laws requiring them to send any monies they do receive to the state's general fund. The views of officials from the states whose rates we did include are not generalizable to other states, but do provide valuable insights into issues surrounding cell phones in prisons.

[5]OST officials told us they do not consider their office a testing lab or research and development facility. Instead, OST's task is to evaluate the effectiveness of new technology in the federal prison environment.

defeat cell phones, as well as other challenges posed by inmate communications. In addition, we interviewed officials from eight state DOCs. The views of the officials from these BOP institutions and state departments are not generalizable to other BOP institutions or states, but do provide valuable insights into issues surrounding cell phones in prisons.[6] We also researched state laws to gain an understanding of the types of state statutory provisions that have been adopted to penalize possession or smuggling of contraband cell phones.

To determine actions being taken to prevent or minimize cell phone smuggling, the effectiveness of these actions, and BOP's coordination of information sharing, we interviewed and gathered documents from officials in BOP's OST, regional offices, and our selected institutions to learn about agency efforts in testing and evaluating cell phone detection equipment and how it shares such information internally.[7] We then compared these efforts with BOP's program statements governing technology evaluations, as well as GAO's internal control standards and GAO criteria on evaluation plans for new technology tests and collaboration with other agencies.[8] We also interviewed state correctional department officials and met with a nonprobability sample of officials from DOJ's National Institute of Justice (NIJ); NIJ's National Law Enforcement and Corrections Technology Center (NLECTC) system; the Federal Communications Commission (FCC); the Department of Commerce's National Telecommunications and Information Administration (NTIA); the Association of State Correctional Administrators (ASCA); CTIA-the Wireless Association; and two companies that make cell phone detection

[6]In addition, we observed specific cell phone detection efforts at a state prison in Virginia while conducting work on another review of correctional officer safety (see GAO, *Bureau of Prisons: Evaluating the Impact of Protective Equipment Could Help Enhance Officer Safety*, GAO-11-410 (Washington, D.C.: Apr. 8, 2011)), even though Virginia was not one of the states selected for our review.

[7]In the context of this report, we define testing as BOP's effort to determine if cell phone detection technology will be effective in the federal prison environment.

[8]GAO, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: November 1999); *Tax Administration: IRS Needs to Strengthen Its Approach for Evaluation the SFFMI Data-Sharing Pilot Program*, GAO-09-45 (Washington, D.C.: Nov. 7, 2008); GAO, *Aviation Security: A National Strategy and Other Actions Would Strengthen TSA's Efforts to Secure Commercial Airport Perimeters and Access Controls*, GAO-09-399 (Washington, D.C.: Sept. 30, 2009); and GAO, *Homeland Security: Further Actions Needed to Coordinate Federal Agencies' Facility Protection Efforts and Promote Key Practices*, GAO-05-49 (Washington, D.C.: Nov. 30, 2004).

and defeat equipment.[9] We identified these agencies and organizations based on their involvement in combating contraband cell phones, such as taking part in public forums to discuss the issue. The views of those representing these agencies are not generalizable, but they provide valuable insights.

We conducted this work from August 2010 to September 2011 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 the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

As a component of DOJ, BOP's mission, in part, is to protect society by confining federal offenders in the controlled environments of prisons and community-based institutions that are safe, humane, cost-effective, and appropriately secure. In fiscal year 2010, BOP oversaw more than 209,000 inmates, housing more than 170,000 of these inmates in its 116 institutions and relying on privately managed secure institutions; residential reentry centers, also known as halfway houses; bed space secured through agreements with state and local entities; and home confinement to secure the rest.[10] In fiscal year 2011, approximately $6.4 billion was appropriated for BOP to carry out its mission.[11]

[9]ASCA is an organization consisting of state and BOP officials focusing on improving correctional practices. CTIA-the Wireless Association is a nonprofit organization that represents the wireless-communications industry and advocates at all levels of government on behalf of its members.

[10]BOP's 116 institutions generally have one of four security level designations: minimum, low, medium, and high. The designations depend on the level of security and staff supervision the institution is able to provide, such as the presence of security towers; perimeter barriers; the type of inmate housing, including dormitory, cubicle, or cell-type housing; and the staff-to-inmate ratio.

[11]We previously reported on BOP's Budget Process. See GAO, *Bureau of Prisons: Methods for Cost Estimation Largely Reflect Best Practices, but Quantifying Risks Would Enhance Decision Making*, GAO-10-94 (Washington, D.C.: Nov. 10, 2009).

Features of BOP's Inmate Telephone System

While there is no specific statutory provision requiring BOP to provide inmates with telephone services or privileges,[12] BOP extends telephone privileges to inmates and asserts that telephone privileges help inmates maintain family and community ties and facilitate the reintegration of inmates into society upon release from prison.[13] However, limitations and conditions may be imposed upon an inmate's telephone privileges to ensure that these are consistent with other aspects of BOP's correctional management responsibilities. For example, the length of telephone calls is generally limited to 15 minutes, and the warden may restrict or suspend temporarily an inmate's regular telephone privilege when there is reasonable suspicion that the inmate has acted in a way that threatens the safety, security, or good order of the institution, or the protection of the public. For many years, BOP provided inmates with collect-call service only—whereby the receiving party, and not the inmate, bore the cost of the call. In 1988, BOP began to shift to its current Inmate Telephone System (ITS), which provides both a collect call and a direct-dial option, emphasizing inmates' financial responsibility and reducing the burden on others of inmates' calls.[14]

BOP personnel within the individual prisons maintain the ITS. Specifically, BOP staff are responsible for installing, maintaining, and repairing the telephone system. Vendors provide the hardware and software that enable ITS, also known as TRUFONE, to perform the following:

- use voice recognition to identify inmates placing calls;
- provide each inmate with a "personal access code," which allows inmates' TRUFONE accounts to be debited for the cost of their calls;[15]
- check the inmate's TRUFONE account to make sure the inmate has sufficient funds for a one-minute phone call;

[12]Certain federal courts have held that inmates have a First Amendment right to some level of telephone access, but this right is subject to reasonable restrictions related to prison administration and security. Johnson v. Galli, 596 F. Supp. 135, 138 (D. Nev. 1984); Washington v. Reno, 35 F.3d 1093, 1100 (6th Cir. 1994).

[13]U.S. Department of Justice, Federal Bureau of Prisons, Program Statement, No. P5264.08, Inmate Telephone Regulations, provides national policy and procedure regarding inmate telephone privileges within BOP institutions and contract facilities.

[14]Generally, BOP allows each inmate to designate up to 30 phone numbers on his or her "contact" list.

[15]BOP provides every inmate with a bank-type account into which money can be deposited and withdrawn for purchases such as snacks, telephone calls, or laundry.

- record all calls automatically;
- restrict inmates' calls to numbers on the inmates' contact lists;
- require placement of calls only from specific telephones;
- deny particular inmates access to telephones as warranted; and
- terminate all prison telephone service if security needs dictate.

In addition to direct-dial telephone service, BOP has recently made e-mail available to inmates in all of its institutions through an electronic-messaging system. Through this electronic-messaging system, inmates can communicate with a list of contacts, but they cannot access the Internet. Both inmates and persons in the community with whom they correspond must consent to having all incoming and outgoing electronic messages monitored and retained by staff.[16]

BOP's Trust Fund and the Inmate Amenities It Supports

BOP established commissaries to allow inmates to purchase items not issued by prisons. Inmates purchase commissary items with funds available in individual inmate accounts managed by BOP. Funds are placed into these accounts by friends and family members (through BOP), or may be earned as wages through work performed in Federal Prison Industries or other on-site work at an institution (e.g., food service, laundry).[17] In 1998, the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 provided BOP with the authority to accept revenues and make expenditures from the Commissary Fund of the Federal Prison System in order to pay for ITS as well as other prisoner amenities.[18] This authorized trust fund is a self-sustaining revolving fund account in which BOP deposits revenues generated by inmate telephone charges through ITS and pays the expenses of ITS operations—rather than through appropriations. BOP uses the profits (the amount of revenue that exceeds expenses) from operating the inmate telephone service, as well as those from the commissary and other services, to provide inmate amenities, such as employment opportunities

[16]The pilot of the electronic messaging program began April 14, 2005, and was completely implemented on January 30, 2011. BOP issued Program Statement P5265.13, Trust Fund Limited Inmate Computer System (TRULINCS).

[17]Federal Prison Industries is a federal government corporation established by Congress in 1934 to, among other things, employ and provide job skills training to a number of federal inmates, and produce goods and services for sale to the federal government.

[18]Pub. L. No. 105-277, § 108, 112 Stat. 2681, 2681-67 (Oct. 21, 1998) (codified at 18 U.S.C. § 4043 note).

and educational and recreational activities, that are not currently supported through appropriations. By providing amenities like these through telephone system profits, BOP is similar to other federal correctional institutions like those within the Department of Defense. In particular, the Army, the Navy, and the Marine Corps all charge inmates rates above cost for telephone service. The Navy uses the profits to provide items or activities, such as movies and sports contests, for the benefit of the inmates exclusively, while the Army and the Marine Corps use the funds to provide amenities to all persons on the base.

The Cell Phone Contraband Act of 2010 and BOP's Process for Addressing Cell Phone Possession

In August 2010, the Cell Phone Contraband Act of 2010 was passed and amended 18 U.S.C. § 1791 to prohibit an inmate of a prison from possessing, obtaining, or attempting to obtain a cell phone.[19] The Cell Phone Contraband Act also provided for punishing such possession with a fine or imprisonment for not more than 1 year, or both. BOP stated that cell phones are considered hazardous tools, as defined by BOP policy as tools most likely to be used in an escape attempt or to serve as weapons capable of doing serious bodily harm to others; or those hazardous to institutional security or personal safety. According to officials in BOP's Correctional Programs Division, when an inmate is caught with a cell phone, an incident report is filed and the inmate is subject to BOP's disciplinary process, which involves an administrative hearing.[20] The inmate ultimately could face a range of sanctions from transfer to a higher-security institution to loss of "good time" or other privileges.[21] BOP may refer the case to a law enforcement agency with criminal investigative authority for investigation, and/or to the local U.S. Attorney's Office, which maintains discretion for prosecution.

[19]Cell phones are low-powered radio transceivers (a combination radio transmitter and receiver) that use radio waves (spectrum) to communicate with base stations. Electromagnetic spectrum is the medium that enables wireless communications of all kinds, including cell phone and paging services, radio and television broadcasting, radar, and satellite-based services.

[20]The Correctional Programs Division oversees BOP's efforts to ensure safe, secure institutions for inmates and staff.

[21]Good conduct time is a credit (measured in days) that an inmate may earn based on adherence to prison rules and lack of punishment received that is deducted from the inmate's sentence.

Other Federal Agencies' Roles in Exploring and Addressing Contraband Cell Phone Issue

In addition to BOP, various federal agencies serve as key stakeholders in exploring and addressing the illicit use of cell phones in federal and state prisons. For example, DOJ's National Institute of Justice (NIJ) coordinates subject matter experts into three technical working groups to address, among other topics, illicit cell phone use.[22] Further, at its 2010 National Conference, NIJ convened a plenary panel to discuss the detection and defeat of cell phone use in prisons. NIJ also funds the National Law Enforcement and Corrections Technology Center (NLECTC) system, which assists state, local, tribal, and federal correctional agencies, as well as law enforcement and criminal justice agencies, in addressing technology needs and challenges, such as contraband cell phones.

NIJ also hopes to soon establish an interagency working group with representatives from BOP, the Federal Communications Commission (FCC), and the National Telecommunications and Information Administration (NTIA), to continue working on solutions to overcome illicit cell phone use in prisons, subject to the availability of funds.[23] In particular, the FCC maintains an important role in combating illicit cell phone use in prisons because the FCC, in general, executes and enforces the provisions of the Communications Act of 1934, which prohibits nonfederal entities—such as state correctional institutions—from intentionally interfering with or blocking radio communications signals, which include cell phone transmissions. In addition, NTIA is a critical partner for the research capacity it possesses. Specifically, in December 2009, Congress directed NTIA, in coordination with BOP, FCC, and NIJ, to develop a plan to investigate and evaluate how wireless jamming, detection, and other technologies might be used for corrections applications in federal and state prison institutions.[24] In response to this congressional direction, in May 2010, NTIA issued a Notice of Inquiry

[22]NIJ funds research, development, and evaluation related to crime and criminal justice issues and programs, including research, development, and evaluation related to criminal justice tools and technologies.

[23]FCC is an independent federal agency that regulates interstate and international communications by radio, television, wire, satellite, and cable—as such, FCC has oversight over the use of spectrum for states, localities, and the private sector. NTIA, an agency within the U.S. Department of Commerce, has principal responsibility for advising the President on telecommunications and information policies and has oversight of the use of spectrum by federal agencies, such as BOP.

[24]H.R. Conf. Rep. No. 111-366, at 619 (2009).

seeking public comment on "technologies that would significantly reduce or eliminate contraband cell phone use without negatively affecting commercial wireless and public safety services … in areas surrounding prisons."[25] These technologies include the following:

- **Jammers**: Devices that transmit on the same radio frequencies as cell phones, disrupting the communication link between the phone and the cell phone tower, essentially rendering the cell phone unusable until the jamming stops.
- **Managed access systems**: Those that intercept, or re-route, certain cell phone calls (i.e., unauthorized calls that inmates attempt) away from carrier networks, preventing them from reaching towers and completing the call.
- **Detection systems/devices**: Those that locate, track, or identify unauthorized cell phones by, for example, scanning frequencies within correctional institutions to detect the location of a caller.

After analyzing the comments it received, NTIA issued observations on advantages and disadvantages of each of these strategies, as detailed in appendix I.[26] NTIA also reported that prison officials should be able to use technology for combating prison cell phone use while not disrupting public safety and federal government entities' use of spectrum or citizens' use of airwaves for cell phone communications.

States and Nonfederal Entities' Roles

A number of states have expressed concerns over threats posed by contraband cell phones in their correctional institutions and sought out both independent solutions and federal assistance. In particular, during 2009, officials from 31 state and 2 regional (i.e., city-based) prison systems requested that the FCC initiate rulemaking to permit jamming of commercial mobile radio services (which would include cell phone signals) within correctional institutions.[27] Also, officials from Texas and Maryland correctional departments have testified before Congress about

[25]Preventing Contraband Cell Phone Use in Prisons, 75 Fed. Reg. 26733-01 (May 12, 2010).

[26]U.S. Department of Commerce, *Contraband Cell Phones in Prisons: Possible Wireless Technology Solutions* (December 2010).

[27]See *Petition for Rulemaking of South Carolina Department of Corrections before the Federal Communications Commission*, WT Docket No. 09-30 (Aug. 6, 2009).

the dangers posed by cell phones in prisons and to support passage of a bill known as the Safe Prisons Communications Act of 2009.[28]

States have implemented different means to define the legality of cell phone possession in prisons. Some states have specific statutory provisions making it illegal for inmates to possess cell phones while incarcerated in a state prison institution,[29] while other states have statutorily defined cell phones to be contraband that is prohibited within a state prison institution.[30] In addition, there are other states that have general statutory provisions banning contraband and allow the department of corrections to define what items are contraband administratively.[31]

[28]The Safe Prisons Communications Act of 2009, S. 251, 111th Cong. (2009), passed the U.S. Senate in October of that year but was not enacted. The bill would have amended the Communications Act of 1934 to allow the FCC to authorize non-federal entities, such as state correctional facilities, to operate systems that would prevent, jam, or otherwise interfere with wireless communications from inmates held in those facilities. This act was referred to the House of Representatives that same month, and no further action was taken.

[29]For example, Maryland has a specific statutory provision with regard to cell phones in prison. A person detained or confined in a place of confinement may not knowingly possess or receive a telecommunications device. A person who violates this provision is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding $1,000 or both. Md. Code Ann., Crim. Law § 9-417.

[30]For example, Arizona has a statutory provision that specifically includes a "wireless communication device" within the meaning of "contraband" in the correctional facility context. Generally, a person, not otherwise authorized by law, commits the felony of promoting prison contraband by knowingly taking contraband into a correctional facility or the grounds of a correctional facility; or conveying contraband to any person confined in a correctional facility; or making, obtaining or possessing contraband while being confined in a correctional facility or while being lawfully transported or moved incident to correctional facility confinement. Ariz. Rev. Stat. §§ 13-2501, 13-2505.

[31]For example, Alabama has a general contraband statute. The statute defines contraband as any article or thing which a person confined in a detention facility is legally prohibited from obtaining or possessing by statute, rule, regulation, or order. A person confined in a detention facility that intentionally and unlawfully makes, obtains or possesses any deadly weapon, instrument, tool or other thing which may be useful for escape is guilty of promoting prison contraband in the first degree which is a Class C felony. Further, a person confined in a detention facility that intentionally and unlawfully makes, obtains, or possesses any contraband is guilty of promoting contraband in the third degree which is a Class B misdemeanor. Cell phones could be covered by statute, rule, regulation, or order. Ala. Code §§ 13A-10-30, 13A-10-36, 13A-10-38.

In addition, the Association of State Correctional Administrators (ASCA)—an organization comprised of both BOP and state correctional officials that seeks to improve correctional services and practices—has been active in studying the issue of cell phones in prisons. For example, in July 2010, ASCA hosted a symposium to discuss the problem of cell phone smuggling and potential solutions to address the issue.

BOP Telephone Rates Typically Are Less Than Other Correctional Systems' Rates and Fund Inmate Wages and Recreation; Lowering Rates Would Decrease Costs for Inmate Calls but Could Reduce Revenue

BOP's rates for inmate telephone calls typically are lower than selected states' and military branch systems that also use inmate telephone revenue to support inmate amenities, and lowering rates would have several implications. BOP charges inmates $0.06 per minute for local calls and $0.23 per minute for long distance calls, with no connection charge. BOP sets its rates to cover the cost of operating the telephone system and to generate profits, which BOP uses to provide the majority of funding for inmate amenities—the most significant of which are wages for inmate employment and expenses associated with inmate recreational activities. If BOP reduced inmate telephone rates, inmates would benefit from the ability to make less expensive phone calls. However, lower rates also could result in less revenue, lower profits, and therefore fewer funds available for inmate wages and other amenities, unless BOP recovers these funds through other sources. According to BOP officials, when inmates have fewer opportunities for physical activity, idleness increases and the risk of violence, escapes, and other disruptions also rises.

BOP's Inmate Telephone Rates Typically Are Less Than Those Charged by Other Correctional Systems That Also Fund Inmate Amenities

Currently, for direct dial calls, BOP charges inmates per minute rates of $0.06 for local calls and $0.23 for long distance calls with no connection charge. For collect calls, both local and long distance, BOP charges a connection fee and per minute charge.[32] The rates that BOP charges inmates for a 15-minute direct-dial local call typically are lower than rates charged by most other correctional systems, such as state systems and Department of Defense military prisons that also use telephone system revenue to help finance prisoner amenities.[33] As illustrated by table 1, a direct dial long distance call lasting 15 minutes would cost a BOP inmate

[32]Direct dial calls allow the inmate to dial the call and pay for it using their TRUFONE account; collect calls are calls that require the recipient to pay.

[33]According to BOP officials, inmate telephone rates are set in order to generate sufficient revenue to pay the costs of the inmate telephone system and support specific inmate amenities.

significantly less than if he or she made that call in most other selected comparable correctional systems.

Table 1: Comparing the Cost of a 15-Minute Call, by Call Type, across BOP and Selected Correctional Systems That Use Revenues to Provide Inmate Amenities

Correctional system	Local – direct dial/debit card	Local - collect	Long distance – direct dial/debit card	Long distance/collect
Bureau of Prisons	$0.90	$0.95 - $5.70[a]	$3.45	$8.45
Department of Defense - Army	$3.75	$6.00	$3.75	$6.00
Department of Defense - Navy	$6.00	$16.08	$6.00	$16.08
Department of Defense - Marines	$6.00	$16.08	$6.00	$16.08
Maryland Division of Correction	$0.50	$0.85	$4.50	$7.20
Mississippi Department of Corrections	State does not offer direct dial	$2.85	State does not offer direct dial	$14.55
New Jersey Department of Corrections	$4.95	$4.95	$4.95	$4.95
Texas Department of Criminal Justice[b]	$3.90	$3.90	$6.45	$6.45

Source: GAO analysis of BOP, Department of Defense, and state data.

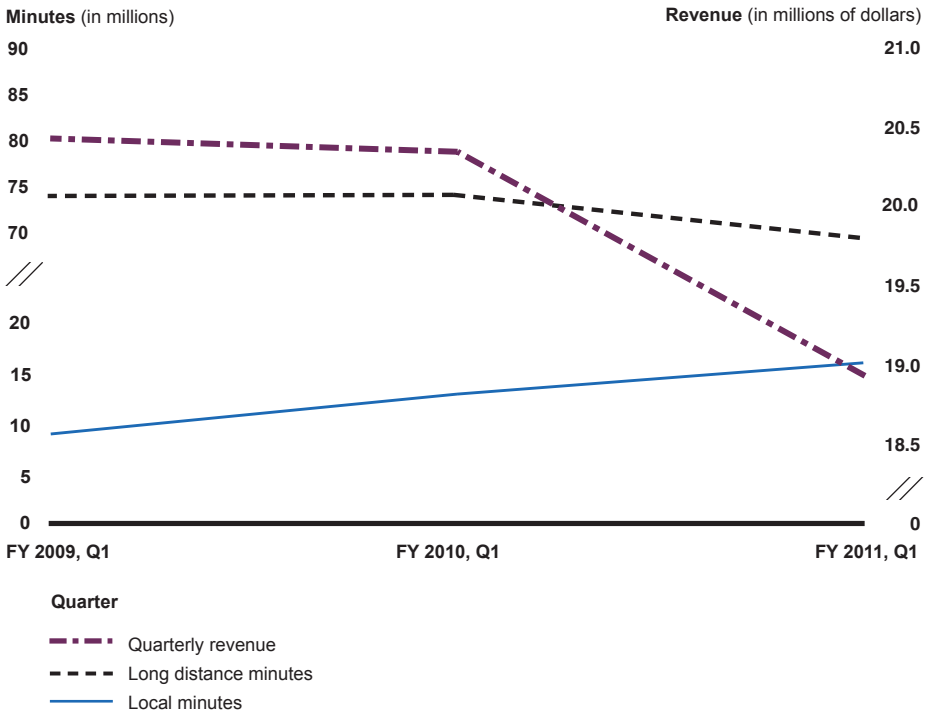
[a]State utility commissions have jurisdiction over local collect call rates so they vary depending on the state in which the prison is located.

[b]Although Texas does not use telephone revenues to provide prisoner amenities, it does require the telephone service provider to pay the state 40 percent of gross revenues; the first $10 million goes to the Victims Services Crime Fund.

Revenues, Costs, and Profits of BOP's Telephone System

In fiscal year 2010, BOP's inmate telephone system generated approximately $74 million in revenue, cost approximately $39 million to operate, and showed a profit of approximately $34 million. Records provided by BOP for the first quarters of 2009, 2010 and 2011 indicated that inmates' long distance calls generated more than 90 percent of BOP's telephone revenues.[34] According to BOP officials, over the past 12–18 months, the inmate telephone service has generated significantly less revenue as inmates purchased more local minutes and fewer long distance minutes. Figure 1—which shows the local and long distance phone minutes used and phone-system revenues for the first quarters of 2009, 2010, and 2011—illustrates this trend.

Figure 1: Comparison of Local and Long Distance Minutes Used and Telephone System Revenue, from First Quarter 2009 through First Quarter 2011



Source: BOP.

[34]BOP officials told us this is an estimate. According to BOP officials, they generate a consolidated audited financial statement for the entire Inmate Trust Fund Program rather than a separate audited profit and loss statement for the Inmate Telephone System.

BOP officials attribute this shift from long distance to local minute calls to the emergence of technology that allows inmates' friends and family who do not live within the inmates' local calling area to acquire telephone numbers local to the inmates' prison locations. As a result, long distance calls that previously cost inmates $0.23 per minute can now be made for the local rate of $0.06 per minute—a savings of more than 70 percent on a 15-minute call. BOP officials told us that this trend has prompted them to consider eliminating the distinction between local and long distance call rates and instead set a uniform price for calls of either type that would fall somewhere between the current local and long distance rates. According to officials, this would lower rates for approximately 84 percent of the calls made by inmates that are long distance. BOP officials told us that while they anticipate losing some of the revenue generated by long distance minutes, they believe the sale of access minutes for their electronic messaging system, which has recently become available in all federal prisons, will compensate for some lost revenue.[35] BOP officials told us that the number of electronic message minutes sold in 2010, at $0.05 per minute, was more than twice the number sold in 2009, and they expect even more minutes to be sold in 2011.

With respect to telephone system costs, in fiscal year 2010, BOP spent approximately $39 million to operate the telephone system. About $9.7 million of this amount covered the costs of the telephone system's physical resources, including hardware and software, which were purchased through competitively bid, governmentwide contracts. Just over $22 million covered labor costs, including technical, operational, and administrative costs of the inmate telephone system at each of the institutions. Another $7.5 million covered personnel salaries and benefits of headquarters staff, who provide administration and program management, including policy and procedures development, and training.

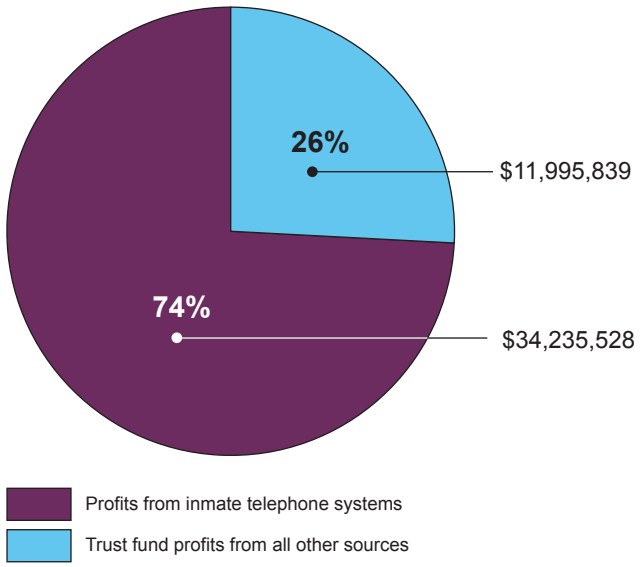
BOP's telephone system generated more than $34 million in profits in fiscal year 2010.[36] Since BOP both receives and disburses money to pay

[35]BOP began a pilot electronic messaging program in April 2005 and concluded Bureau-wide implementation in January 2011. Inmates are only permitted to exchange electronic messages with persons who have accepted the inmate's request to communicate. BOP issued Program Statement P5265.13 on February 19, 2009, describing the operation of the Trust Fund Limited Inmate Computer System (TRULINCS)—Electronic Messaging.

[36]BOP officials told us this is only an estimate. According to BOP officials, they generate a consolidated audited financial statement for the entire Inmate Trust Fund Program rather than a separate audited Profit and Loss statement for the Inmate Telephone System.

for telephone service operations through its Trust Fund, profits from telephone service are also retained therein. In fiscal year 2010, BOP's Trust Fund had total revenues, which included collections from BOP's commissary services, of $331 million. After paying all related costs for phones and commissary provisions, there were Trust Fund revenues in excess of expenses of over $46 million and BOP's phone service was responsible for $34 million, or 74 percent of this amount, while Trust Fund profits from all other sources amounted to almost $12 million, as shown in figure 2.

Figure 2: Sources of Trust Fund Profits in Fiscal Year 2010



Source: GAO analysis of BOP data.

BOP officials told us that BOP uses revenue from its Trust Fund to pay for various inmate amenities, such as wages to inmates and recreational materials—as illustrated by table 2. However, by law, there are some specific inmate amenities, among other items, that cannot be purchased

with Trust Fund revenues.[37] BOP officials told us that all aspects of BOP's work are audited annually by an independent auditing and accounting firm, including BOP's financial records; officials told us that BOP has been certified as in compliance since 1999.[38]

Table 2: Inmate Amenities Funded by Profits from BOP's Trust Fund for Fiscal Year 2010

Amenity type	Description	Amount
Inmate wages	Funds income inmates earn from work within the institution, working in areas such as food service, commissaries, facilities (electrical, plumbing, welding, painting, landscaping) laundry, and as barbers, tutors, law library clerks, and warehouse workers.	$34,978,786
Recreational activities	Board games, movies, educational books, and cable television. There is no funding of administrative costs such as salaries for staff.	$8,555,291
Distribution of profits to institutions	Items purchased with these funds include holiday packages for the inmates, microwave ovens, washers and dryers, seasonal programs, holiday decorations, children's items, and programs for children of inmates.	$1,249,896
Completion awards	Small monetary awards for inmates' completion of psychological treatment programs.	$1,099,332
Psychology program	Drug abuse programs, group and individual psychotherapy, social skill building, mental health counseling, etc., for inmates.	$223,381
"Artist in Residence" program	An interagency agreement with the National Endowment for the Arts provides and funds this program for the inmate population; currently, there is a creative writing program provided at five locations.	$80,000
"Reading Is Fundamental"	Provides for inmates to participate in a national reading program.	$44,681

Source: BOP.

[37]None of the funds appropriated or otherwise made available to BOP, including Trust Fund revenues, may be used to provide the following amenities or personal comforts in the federal prison system: (a) televisions in cells except for prisoners who are segregated from the general prison population for their own safety; (b) the viewing of R, X, and NC-17 rated movies, through whatever medium presented; (c) any instruction (live or through broadcasts) or training equipment for boxing, wrestling, judo, karate, or other martial art, or any bodybuilding or weightlifting equipment of any sort; (d) possession of in-cell coffee pots, hot plates, or heating elements; or (e) the use or possession of any electric or electronic musical instrument. *See* Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002, Pub. L. No. 107-77, § 611, 115 Stat. 748, 800 (Nov. 28, 2001) (codified at 18 U.S.C. § 4042 note).

[38]In 2001-2002, there was some criticism by the auditing agency regarding insufficient security for information system controls. That issue has since been remedied. In addition, GAO reviewed the audited financial statements of BOP for fiscal years 2006, 2007, 2008, 2009, and 2010 and agreed with the auditors that the audits for these fiscal years were presented fairly and were in conformity with generally accepted accounting principles.

Lowering Phone Rates Would Reduce the Cost of Inmate Calls but Could Leave Fewer Funds Available for Inmate Activities

Lowering the rates it charges inmates for phone calls would have several implications for BOP and inmates. The primary advantage would be that inmates would incur lower costs for making calls. This could possibly encourage greater communication between inmates and their families, which BOP has stated facilitates the reintegration of inmates into society upon release from prison.[39] In contrast, reducing inmate telephone rates could also have some disadvantages. BOP officials told us that lowered rates would likely result in lower revenues for the Trust Fund and therefore less profit, unless some provision was made to replace the lost revenue. With fewer profits, BOP would have less Trust Fund money to spend on inmate amenities. As a result, unless BOP recouped these revenues from other sources, BOP would have to reduce the wages it pays inmates for their labor and/or scale back the number and type of other educational and recreational activities it currently offers using revenue from the Trust Fund. According to BOP officials, such reductions could make prisons more dangerous to manage and more expensive to operate. For example, BOP officials said that inmates perform electrical work, which keeps prisons well lighted, as well as janitorial services, which preserve order and cleanliness—both of which contribute to institutional safety and reduce inmate idleness. According to BOP officials, inmate idleness increases the risk of violence, escapes, and other disruptions. BOP officials also reported that inmate work programs—which teach inmates, many of whom have never held a traditional job before, work skills and a work ethic (e.g., coming to work on time, taking directions from a supervisor, working effectively with co-workers)—can help inmates assimilate back into society upon completion of their prison sentence. This helps to reduce recidivism and thus contributes to public safety.

If BOP wanted to lower inmate telephone rates while maintaining the current level of inmate services, BOP could explore one of two approaches: (1) recoup lost revenue resulting from lowered telephone rates by increasing prices inmates pay for other services, such as commissary items or electronic messaging system access, or (2) seek authorization allowing BOP's general appropriation to be available for inmate amenities in addition to the funds from the Trust Fund. Regarding the first approach, BOP officials told us that they already receive inmate

[39]Approximately 25 percent of inmates use all of their allotment of 300 minutes per month, so these inmates would not be able to make additional calls, even if rates were lower.

complaints related to current commissary prices, and as a result, the officials indicated reluctance to choose this option. In addition, raising commissary prices could result in inmates purchasing fewer items, and coupled with decreased telephone rates, overall Trust Fund revenues could decline, resulting in less funding available for inmate amenities, including wages. With respect to the second approach, if BOP reduced rates for telephone service and was given authority to replace the lost revenue with its appropriations, BOP could maintain both the inmate wage rate and the type and variation of inmate activity, and keep the prices inmates pay for other services from increasing. However, to accomplish this, BOP would have to seek authorization allowing BOP's general appropriation to be available for inmate amenities, in addition to the funds from the Trust Fund.[40] BOP officials told us they did not think this option was a realistic possibility, as they do not believe Congress would appropriate money for prisoner amenities.

BOP and Selected States Confiscated Thousands of Cell Phones in 2010 and Believe That Rising Inmate Cell Phone Usage Threatens Institutional Safety and Expands Criminal Activity

BOP and officials from most of the selected states we contacted reported increases in the numbers of cell phones confiscated at prisons over the last 3 to 4 years and cite cell phone use as a security concern. All of the BOP officials, as well as officials from all eight of the states' DOCs with whom we spoke, cited cell phones as a major security concern, given the potential the phones provide for inmates to have unmonitored conversations that could further criminal activity, such as selling drugs or harassing other individuals.

[40]Because the Director of BOP may make expenditures out of the Commissary Fund of the Federal System for programs, goods, and services for the benefit of inmates (to the extent the provision of those programs, goods, or services to inmates is not otherwise prohibited by law), general appropriations may not be used for those purposes. The specific authority to operate the fund for the purposes described acts as a specific appropriation for that purpose. If an agency has a specific appropriation for a particular purpose, and also has a general appropriation broad enough to cover the same purpose, it does not have an option as to which to use. It must use the specific appropriation.

BOP's and Selected States' Cell Phone Confiscations Have Increased in the Last 2 Years

BOP has tracked the number of cell phones confiscated at its institutions, by prison camp and secure institutions, since 2008. Table 3 shows that the number of cell phones confiscated has increased each of the last 2 years. As the data also illustrate, over three-fourths (77 percent) of all cell phones confiscated at BOP institutions are found at prison camps, or "minimum security" institutions—this despite the fact that prison camps have accounted for only about 13 percent of BOP's inmate population from fiscal years 2008-2010. Prison camps typically are located adjacent to larger, higher-security institutions but are usually not surrounded by perimeter fencing. In some instances, camps are located very near local roads or wooded areas.

Table 3: Number of Cell Phones That BOP Has Confiscated in Institutions and Camps, 2008–2010

Type of BOP institution	2008	2009	2010	Total
High, medium, low security institutions	255 (14%)	591 (18%)	1,161 (32%)	**2,007 (23%)**
Minimum security institutions (prison camps)	1,519 (86%)	2,607 (82%)	2,523 (68%)	**6,649 (77%)**
Total	**1,774 (100%)**	**3,198 (100%)**	**3,684 (100%)**	**8,656 (100%)**

Source: GAO analysis of BOP data.

To illustrate the extent of the problem at one federal correctional complex, figure 3 shows cell phones confiscated by BOP from a federal prison and its adjacent work camp over a 1-year period.

Figure 3: Cell Phones That BOP Has Confiscated at a Federal Prison and Adjacent Camp

Source: GAO.

Officials from BOP's Correctional Programs Division and three of the six regions that we spoke with attribute the rise in confiscated cell phones to the ease of availability of small, low cost cell phones that allow inmates to carry on unmonitored conversations with the desired contacts. In addition, officials we interviewed from two of the six regions also cited increasingly stringent search procedures by staff at some prisons resulting in a greater number of cell phone confiscations. Correctional Programs Division officials added that a combination of easier access to cheaper cell phones, better awareness by staff conducting contraband searches, and better collection of intelligence have all contributed to these increases, but

it is difficult to determine how much each factor has resulted in increased cell phone confiscations.

We selected and obtained information from eight states during the course of our review, and these selected states in general are also dealing with increasing numbers of contraband cell phones, as shown in table 4. Some of these selected states maintain cell phone confiscations in the aggregate and have not broken it out by camps as compared to secure institutions.

Table 4: Number of Cell Phones That Selected State Correctional Departments Have Confiscated

State	2007	2008	2009	2010
California[a]	900	2,800	6,900	10,700
Florida[b]	n/a	242	1,026	1,509
Maryland[c]	741	1,236	1,658	1,128
Mississippi	n/a	2,200	3,600	4,300
New Jersey[d]	n/a	n/a	n/a	249
New York	55	75	93	85
South Carolina[e]	n/a	2,015	2,594	3,241
Texas[f]	n/a	1,226	1,480	1,193

Source: Correctional departments from the states listed.

[a]In 2009, California began to include cell phone confiscation data from its community correctional facilities (private or publicly run contracted facilities for low level offenders) and California out-of-state correctional facilities (private facilities in several states that California has contracted with to house inmates). California officials stated that these types of facilities house approximately five to six percent of all state inmates.

[b]Florida did not begin keeping counts of contraband cell phones until October 2008.

[c]Maryland data was provided by fiscal year, not calendar year.

[d]New Jersey began capturing data on contraband cell phones in mid-2010; the data shown covers the time period July 2010 through February 2011.

[e]South Carolina includes cell phone parts and accessories, such as batteries and chargers, in its count of cell phone confiscations. One official estimated that the cell phones themselves account for about 70 percent of these totals.

[f]Texas' 2008 data represents the number of "incidents" of cell phone confiscations; there could have been multiple cell phones found in one incident. In 2009 and 2010, Texas also separated the data gathered by cell phones confiscated before and after introduction to the inmate population. For 2009, 370 of the 1,480 cell phones were confiscated before entering the inmate population (e.g., inside of mailrooms, outside prison perimeter). For 2010, 402 of the 1,193 cell phones were confiscated before entering the inmate population.

The types of institutions in which most cell phones are found varied among the states we contacted. For example, officials we interviewed from two of the eight states indicated that based on their experience,

most phones were found in prison camps, while officials from five other states said that their states have confiscated greater numbers of cell phones in more secure institutions. Officials from the eighth state said the number of cell phones found in camps and secure institutions was about equal. Three states also attribute the increase in cell phone confiscations to the availability of smaller, cheaper cell phones and additional search and detection efforts they have employed to identify cell phones.

BOP and Officials from Selected States Reported That Contraband Cell Phones Can Threaten the Safety within Institutions and Expand Criminal Activity

Officials we contacted from BOP's Correctional Programs Division, six regional offices, and four institutions—as well as from each of the eight states we selected for our review—all cited contraband cell phones as an issue of serious concern. According to BOP officials in particular, inmates with cell phones are able to circumvent the approved prison telephone system and thus are able to hold unmonitored conversations. This, the BOP officials reported, could lead to several actions that threaten the security of prisons and expand criminal activity both inside and outside of a prison institution. For example, inmates could use cell phones to arrange the delivery of contraband drugs or other goods, transmit information on prison staff to or from noninmates, harass witnesses or other individuals, or potentially coordinate an escape.

BOP management does not currently compile any specific data or prepare comprehensive reports of situations where contraband cell phones were used to conduct criminal activity in federal prisons—nor do DOJ or the Cell Phone Contraband Act require that these things be done. However, BOP officials we interviewed from two of the regions provided examples of criminal activity linked to cell phones. In one case, in January 2011, an inmate at a federal institution was sentenced to an additional 14 years in prison for running an identity-theft ring using a contraband cell phone. This inmate and his accomplices obtained personal information on credit card holders at various retailers and impersonated these account holders to fraudulently purchase over $254,000 worth of merchandise.

In addition, officials from seven of our selected eight states provided examples of specific criminal actions that occurred as a result of inmate cell phone use. For example, in October 2008, a death row inmate in a Texas state prison used a smuggled cell phone to threaten a state Senator and his family. This same phone was also used by a number of other inmates within the prison. In addition, in 2007, an inmate in a Maryland detention center ordered the murder of a state witness via a cell phone. In 2005, an inmate in a New Jersey state prison—serving time for previously shooting at two police officers—used a contraband cell phone

to order the murder of his girlfriend, who had previously testified against him during a trial.

BOP and officials in selected states acknowledged that definitively linking the possession of a contraband cell phone to an individual can be challenging. For example, officials we interviewed from BOP's Correctional Programs Division, and two of the four BOP institutions that we interviewed say that cell phones are often found on the grounds of an institution or in "common areas" such as bathrooms or television rooms rather than in the possession of an inmate directly. Cell phones are also frequently passed around and used by several different inmates, making it difficult to link the ownership of a cell phone to a particular inmate.

In order to gain useful information—such as phone numbers or text messages—that could link a cell phone to an individual inmate or related criminal activity, BOP conducts forensic investigations of the cell phones it confiscates.

BOP and Selected States Have Implemented Cell Phone Search and Detection Technologies, but BOP Could Evaluate Technologies Better and Increase Coordination

BOP and the eight selected states we contacted have taken steps to address growing contraband cell phone smuggling and use in their correctional institutions, but BOP could evaluate existing technologies better to maximize its investment decisions. BOP has tested multiple cell phone detection technologies; however, it has not developed evaluation plans to measure the effectiveness of these tests. Moreover, BOP has shared information with state agencies to some extent on strategies for combating contraband cell phones, but BOP's regional offices could pursue more direct connections with states in accordance with relevant BOP policy that encourages them to do so. By enhancing information sharing, BOP could gain knowledge from states' practices and lessons learned and likewise, states' practices could be better informed by learning more about BOP's efforts related to cell phone detection.

BOP and Selected States Have Implemented a Variety of Strategies to Prevent and Minimize Cell Phone Smuggling and Use

BOP and officials from all eight selected state correctional departments we contacted have developed multiple methods for preventing cell phones from entering prison institutions and being used by inmates. These include search procedures for visitors and correctional staff as well as cell phone detection technologies, which identify the use of cell phones once they have reached the inmate population.

Through policy memorandums and program statements that govern its protocols, BOP has implemented agencywide screening procedures for all visitors, contractors, and staff for detecting contraband items. These procedures include the use of x-ray screening machines, walk-through metal detectors, and hand-held metal detectors. Though these procedures are not cell phone specific, BOP officials told us they represent a concerted effort in keeping contraband out of prisons in general. See appendix II for more information on the direction that BOP provides for screening of visitors, staff, and inmates.

In addition to its search procedures, BOP has employed technology to stem the rise in cell phone smuggling. In particular, BOP has implemented two large-scale sensor-based cell phone detection systems at two of its prison institutions, a technology BOP officials described as being the only effective solution at this time. The Radio Frequency (RF) sensor based system detects the presence of cell phones and displays their approximate location using a monitored computer screen.

In April 2007, BOP installed the original prototype sensor system in three housing units within one building, which included the purchase of a server, computer work station, and switches. According to BOP officials, the manufacturer provided the actual sensors and software at minimal costs in order to assist in research and development for the project, while other fiber and wiring were obtained from surplus supplies at no cost to BOP. Additionally, BOP officials told us that BOP staff installed the sensor system, helping cut costs that an outside party might have otherwise charged for installation.[41] Because of these factors, BOP officials said a similar system installed by a contractor at other prison institutions would be more expensive. For example, BOP officials told us that it cost them approximately seven times more than the original system to install equipment for a newer-generation version of BOP's prototype RF sensor system at a second prison institution in December 2010, even though BOP officials were able to install it themselves as they had in the first location. According to BOP officials, the second system covers 11 housing units in both an institution and prison camp, and is also configured so that officials throughout the prison can view areas of cell

[41]BOP officials told us this installation was done without using conduit for wiring, secure boxes for sensors, and without connecting the system to BOP's network.

phone detection, which BOP officials said accounted for a higher installation cost.[42]

We found that all eight of the selected state officials we interviewed cited using entrance screening practices such as use of walk-through metal detectors or x-ray machines at their secure institutions; and, six of these states are using different cell phone detection techniques that BOP has not yet employed, such as canines[43] and managed access.[44]

Additional information on cell phone detection strategies tested or deployed by BOP and selected state DOCs—as well as these officials' perspectives on their utility—is deemed law enforcement sensitive and not included in this report.

BOP Has Steps in Place to Identify Promising Cell Phone Detection Technologies, but Lacks Sound Evaluation Plans

BOP takes several steps to determine which cell phone detection technologies to test. BOP's OST is tasked with identifying promising technology in the area of cell phone detection, and all five OST staff share responsibility for testing and evaluating technology security initiatives throughout BOP. To make determinations about which technology BOP should test, OST officials told us that they familiarize themselves through working groups with other federal and state organizations and discussions with all interested product vendors with equipment that other federal or state correctional entities use. OST officials also explained that they have developed criteria over several years that they believe should be met before they will test any given approach.[45] These four criteria are:

[42]Due to BOP concerns over revealing the locations where this detection system is in use, we have omitted the specific BOP locations examining the RF sensor-based system.

[43]Six of the state DOCs we interviewed reported using cell phone detection canines.

[44]Two of the state DOCs we interviewed reported using a managed access system.

[45]According to OST officials, these criteria have been modified over time and were most recently collapsed into four dimensions in preparation of NTIA's report. Analysis for NTIA's report began soon after December 2009, when Congress directed the NTIA, in coordination with BOP, the FCC, and NIJ, to develop a plan to investigate and evaluate how wireless jamming, detection, and other technologies might be utilized for law enforcement and corrections applications in federal and state prison facilities. See U.S. Department of Commerce, *Contraband Cell Phones in Prisons: Possible Wireless Technology Solutions* (December 2010).

1. The equipment must work without affecting or collecting information from the general public located outside the correctional facilities' secure perimeter.
2. The solution should have no legal restrictions.[46]
3. The equipment must work with all cellular phone protocols.[47]
4. The overall cost of equipment and installation must be fair and reasonable.[48]

Once OST is satisfied that the technology meets most of these criteria, OST tests the equipment at BOP headquarters and then sends it out to one or more prison institutions for testing by staff in a prison environment. Once tested, institutional staff then provide OST with a brief written response or phone call regarding their views of the equipment's effectiveness. Once OST receives feedback from the prison institution, OST may then send the equipment to another institution for further testing by prison staff.

Source: BOP.

Example of hand-held RF cell phone detector tested by BOP.

While BOP has put the above criteria in place, it does not have a sound evaluation plan that includes, among other dimensions, criteria or standards for determining how well the technology works. OST officials told us that they rely on the process discussed above to make decisions regarding the effectiveness of cell phone detection equipment, but they acknowledged that the tests each institution conducts may vary in scope and rigor and that they have no evaluation plan to govern this process. OST officials told us they previously attempted to distribute consistent evaluation questions to institutional staff testing each technology, using an "Initial Technology Assessment" form, but that OST abandoned this practice because it rarely received the form back from prison institutions. Further, officials told us that when institutions do respond with technology test results, OST receives very little feedback. OST officials told us that institutional staff have limited time and resources for assisting them with

[46]For example, some cell phone detection equipment captures dialing, routing, addressing, or signaling information, and BOP would have to obtain a court order to use this equipment.

[47]In other words, equipment must work with the phones of all cell phone operators, including AT&T, Verizon, Sprint, and other smaller operators.

[48]BOP considers "reasonable" cost to be a subjective determination based on common sense value of the equipment, weighing such factors as effectiveness of the equipment, relative cost compared to similar equipment, coverage area, perceived threat, risks and consequences, and alternative solutions.

cell phone detection technology evaluations because such testing is in addition to their normal duties. Also, OST has stated that some institutions are more eager than others for the opportunity to test new technology; thus, some institutions may not have the interest or expertise to contribute information to a technology assessment. In addition, according to OST, the role of the individual conducting the test can vary by institution. Specifically, equipment could be tested by a correctional officer, a lieutenant, or a computer specialist, a situation that OST officials said results in inconsistent testing methods because these individuals have different skills and knowledge levels. In addition, the OST official tasked with addressing contraband cell phone detection issues told us that BOP regions and local prison institutions regularly test cell phone detection devices and approaches, as well as other types of equipment, without OST's knowledge and most often do not inform OST of their findings. For example, the official explained that in some instances, vendors notify OST of technology tests conducted at local prison institutions that OST was unaware of at the time. GAO's internal control standards require that an agency's organizational structure clearly define key areas of authority and responsibility, and establish appropriate lines of reporting.[49] Thus, while OST applies its criteria to screen new technologies before sending them to prison institutions for testing, it lacks clearly defined responsibilities for the individuals conducting tests and sound evaluation methods to fully evaluate such technologies once institutional testing has been completed. As a result, BOP has implemented—and discarded—some technologies without fully evaluating them and documenting results as discussed below.

We have previously reported that for tests of new technology, a sound, well-developed and documented evaluation plan should include:

1. well-defined, clear, and measurable objectives;
2. criteria or standards for determining program performance;
3. clearly articulated methodology, including sound sampling methods, determination of appropriate sample size for the evaluation design, and a strategy for comparing the pilot results with other efforts;
4. a clear plan that details the type and source of data necessary to evaluate the pilot, methods for data collection, and the timing and frequency of data collection; and

[49]GAO/AIMD-00-21.3.1.

5. a detailed data analysis plan to track the program's performance and evaluate the final results of the project.[50]

Certain details on the tests OST has conducted and the conclusions it has drawn have not been included here due to law enforcement sensitivities.

OST officials explained that BOP has a policy, called Pilot Initiatives, Approval and Evaluation, that identifies numerous criteria that should be followed when implementing and evaluating pilot programs.[51] The policy includes practices such as defining goals and objectives, developing an evaluation plan, describing costs for the program, and identifying advantages and disadvantages related to a broader implementation of the technology, all of which align with established best practices. According to OST officials, however, they have not designated the testing phase of any cell phone technologies as "a pilot" by the definition included in their policy, and OST does not apply the policy to any of their testing.[52] In our view, BOP could benefit by using its pilot initiative-evaluation criteria as a best practice when evaluating cell phone detection tests to better inform decisions about whether investments on a larger scale are warranted.

Source: GAO.

Ground Observation Reconnaissance Transmitter (GORT) in use at one BOP facility to detect movement of contraband over security fence.

When we requested reports and documentation—including evaluation plans and reports—resulting from tests of the technologies that OST explained to us, officials sometimes provided us with brief overviews of testing methods that did not meet best practices. For example, OST told us it has not subjected its RF sensor system—currently deployed in two institutions—to any final assessment or evaluation outlining when and how BOP would determine whether adopting this system on a wider scale would be feasible and effective. On the other hand, in one instance, OST officials told us BOP did adhere to more rigorous evaluation procedures. Specifically, with assistance from OST, one prison institution has deployed the Ground Observation Reconnaissance Transmitter (GORT)

[50]GAO-09-45 and GAO-09-399.

[51]BOP Program Statement P1066.04: Pilot Initiatives, Approval and Evaluation (Nov. 14, 2007).

[52]OST officials told us that pilot projects require extensive oversight and that such a designation is only given to new technology with a broad, high-level scope. Although BOP's RF sensor-based system may have qualified as a pilot project if tested by OST, implementation of the system at the regional and institutional level required no such assessment.

in one of its institutions. When testing the GORT system, officials identified system goals and objectives; identified criteria for determining program performance; completed a final product evaluation that documented advantages and disadvantages of the system; and concluded that GORT successfully reduced smuggling of contraband including cell phones at the test location. OST officials told us the assessment of the GORT differed from assessments of its other technologies because the level of evaluation performed was at the discretion of the local prison institution implementing the system. OST officials agree that developing a sound evaluation approach that could be used by prison institution staff for testing cell phone detection technologies would strengthen BOP's approach for combating the issue of contraband cell phones in prisons. Having an evaluation plan for selected cell phone detection technology that follows BOP pilot evaluation criteria or other best practices could help BOP more effectively measure how well each piece of equipment functions. Moreover, these steps could better allow OST to better inform BOP leadership's decisions regarding the adoption of such technology and the associated resource allocations.

BOP Could Take Steps to Enhance Information Sharing with States

BOP reports that OST collaborates with various state-level agencies, but has opportunities to improve coordination between its regional offices and states in identifying effective strategies and technologies for combating contraband cell phones in prisons.[53] BOP recognizes the importance of outreach with state and local entities and has developed a policy statement governing such interaction.[54] This policy notes that "communication and understanding among [BOP] institutions and regional offices and their local communities will be enhanced by formal and informal contacts between [BOP] staff and local agencies and organizations." It further states that "Regional Directors and Wardens shall include in their lists of annual accomplishments a summary of all organizations with which their institutions or regional offices are formally associated, including a general statement about any significant contribution to [BOP] operations or criminal justice relationships that have

[53]BOP's six regional offices oversee the operations of the institutions in their respective regions. Among other things, regional office staff provide management and technical assistance to institutional personnel.

[54]BOP Program Statement 1400.04: Contacts with Other Agencies and Organizations (Sept. 9, 1996).

resulted from those associations." Further, we have previously reported on the importance of interagency coordination and information sharing across federal, regional, state, and local government entities.[55] We also previously reported that making efficient use of security technology to supplement and reinforce other security measures is a key practice for protecting federal institutions, but that the type of technology to use should be carefully analyzed.[56]

OST, located at BOP headquarters in Washington, D.C., reported coordination with state-level agencies through direct information sharing, professional organizations, and established working groups. In particular, ASCA officials told us BOP coordinates with their group through panels, demonstrations, and briefings. For example, OST also participates in multiple NIJ/NLECTC technology working groups (TWG) involving cell phone detection.[57] OST also coordinates with representatives from multiple state DOCs on an individual basis after establishing relationships as members of professional organizations, committees, and working groups. For example, OST provided the New York correctional department with 30-day access to a cell phone detection device after the state demonstrated interest in the technology. According to OST, BOP has also shared information on its practices for detecting contraband cell phones with states such as Pennsylvania, Texas, and Florida.

We corroborated BOP headquarters' level of coordination with these groups and multiple state DOCs. At the regional level, we found that

[55]GAO, *Homeland Security: Effective Regional Coordination Can Enhance Emergency Preparedness*, GAO-04-1009 (Washington, D.C.: Sept. 15, 2004).

[56]GAO-05-49.

[57]A TWG is a practitioner-based committee of 10 to 30 experienced practitioners from local, state, tribal, and federal agencies and laboratories associated with a particular NIJ technology investment portfolio. Three of NIJ's TWGs are concerned with, among other things, the issue of cell phones in correctional institutions. OST participates in the Institutional Corrections TWG and the Sensors and Surveillance TWG, but not the Communications TWG. The Institutional Corrections TWG is particularly interested in contraband detection and interdiction of wireless devices. NIJ officials report that, with respect to cell phones, this TWG is currently focused on exploring smaller-scale cell phone detection technology, such as hand-held devices, due in part to limited funds available to many state and local correctional departments. The Sensors and Surveillance TWG is exploring various cell phone detection technologies. The Communications TWG is interested in controlled (or managed) access, which would still allow the lawful use of cell phones in prison.

BOP's regional offices had limited coordination with states regarding contraband cell phone issues. For example, one BOP regional director stated that his region coordinated with officials from ASCA, but said he has not coordinated with state entities because such coordination occurs through BOP officials in headquarters. Another regional director concurred, reporting that nobody in his region participates in any task forces, working groups, or other collaborative efforts with federal or state entities concerning cell phone detection issues because this should be occurring through headquarters' outreach. As discussed earlier, some states have taken efforts that BOP does not currently use to combat contraband cell phones, such as canine detection units. Thus, enhanced coordination could allow BOP to better leverage information on potentially employing these state efforts to combat contraband cell phones. Likewise, while BOP has shared practices with states in the past, OST officials agreed that BOP could improve coordination efforts by its regional offices as well.

In addition, while BOP policy states that "over the years, formal and informal employee relationships with organizations, such as advisory committees, law enforcement coordinating councils, criminal justice councils, and state and local planning organizations, have enhanced [BOP] operations," we found limited BOP regional-office interaction with state and local government agencies concerning contraband cell-phone smuggling and use.[58] For example, according to BOP officials, Regional Directors and Wardens annually prepare a Performance Work Plan that lists, among other things, efforts made in establishing relations and collaborating with other state and local correctional and law enforcement entities in their communities. However, BOP officials have informed us that these plans do not provide a level of detail—such as including lessons learned on cell-phone-smuggling approaches and the technologies to address them—to inform BOP's central office of the nature of issues discussed. Our review of the three work plans with which BOP provided us confirmed the limitations in the information they contained. As we have previously reported, by having a process in place to obtain and share information on potential threats, agencies can better understand the risk they face and more effectively determine what preventive measures should be implemented.[59] Regularly reaching out to

[58]BOP Program Statement 1400.04.

[59]GAO-05-49.

coordinate with key stakeholders, particularly at the state level, to learn about their cell phone–combating efforts could help improve BOP's ability to address cell phone smuggling and use in prisons. Conversely, BOP's outreach and coordination with states at the regional level—to highlight practices BOP believes are useful—could help inform state practices as well. Further, keeping records of these exchanges, through Performance Work Plans for example, could help the regional offices provide BOP with greater problem-solving information by leveraging states' experience in addressing contraband cell phones.

Conclusions

BOP provides a variety of options to its inmates for making phone calls to friends and families—at rates that compare favorably to correctional institutions operated by states and other federal agencies. Nevertheless, the number of contraband cell phones in prisons is rising. As documented in our discussions with federal and state officials, the illicit use of cell phones can pose a danger to staff and inmates, as well as to the public at large. BOP has reviewed a number of technologies and adopted large-scale sensor detection systems at two of its institutions in an attempt to combat this problem. BOP does have opportunities, however, to enhance assessments of how well these technologies can work. For example, if BOP formulated well-developed and well-documented plans for testing and evaluating cell phone detection and defeat technologies—including the establishment of goals, objectives, and criteria—and defined evaluation-related responsibilities for individuals performing the tests, it would be better positioned to make decisions before adopting these technologies. BOP also has opportunities to better leverage what states are learning in their attempts to better detect and prevent cell phone smuggling. In particular, if BOP encouraged its regional offices to improve coordination with its local counterparts, BOP could be better positioned to track and monitor what states were experimenting with and what their evaluation results have been. By taking these steps, BOP could make more well-informed decisions as it moves forward in addressing the growing safety and security threats posed by contraband cell phones in its prisons.

Recommendations for Executive Action

To help BOP respond more effectively to contraband cell phone challenges, we recommend that the Attorney General direct the BOP Director to take the following three actions:

- Direct OST to formulate evaluation plans that both support a consistent approach to testing cell phone detection technologies and

strengthen decisions about deploying cell phone detection projects. Such plans should include key characteristics of successful evaluation methods, such as defining measurable objectives and including a detailed data analysis plan. The plans should also clearly define evaluation-related responsibilities for the individuals conducting the test at each institution.

- Develop a policy to require that regions and institutions apply OST's evaluation plans when testing the technology that OST believes may be viable for detecting or combating contraband cell phones. This policy should also require OST to provide the results of these evaluations to BOP leadership to better inform BOP-wide decisions regarding the adoption of such technology.

- Enhance regional office collaboration with other federal, state, and local organizations; document what is learned; and share it throughout BOP to enhance agencywide knowledge of key efforts to prevent or minimize cell phone smuggling in prisons.

Agency Comments

We provided a draft of the sensitive version of this report to DOJ, and also requested comments from the Department of Commerce, FCC, and Department of Defense on nonsensitive draft excerpts related to these agencies. The agencies did not provide written comments. However, in an e-mail received July 12, 2011, the DOJ liaison stated that DOJ concurred with our recommendations. DOJ, FCC, and Department of Defense provided written technical comments, which we incorporated into the report, as appropriate.

We are sending copies of this report to the Attorney General, Secretaries of Commerce and Defense and the Chairman of the Federal Communications Commission. In addition, this report will also be available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staff have any questions about this report, please contact David Maurer at (202) 512-8777 or maurerd@gao.gov or Mark Goldstein at (202) 512-2834 or goldsteinm@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 major contributions to this report are listed in appendix III.

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Appendix I: National Telecommunications and Information Administration (NTIA) Observations on Technologies to Combat Contraband Cell Phones

In 2010, NTIA sought out and received public comments on "technologies that would significantly reduce or eliminate contraband cell phone use without negatively affecting commercial wireless and public safety services … in areas surrounding prisons."[1] NTIA analyzed the comments received and reported its observations on advantages and disadvantages of each of these technologies, as illustrated in table 5.

Table 5: NTIA Observations on Technologies Designed to Reduce or Eliminate Contraband Cell Phone Use

Technology	NTIA observations
Jamming	• Jamming could potentially cause interference to cell phone signals outside of a prison institution, unless properly designed. • Jamming interferes with 911 and authorized calls and violates the Communications Act of 1934 when performed by nonfederal entities.[a] • Implementation costs vary with the complexity of the prison site.
Managed access	• Managed access systems have the potential to cause interference outside of the prison or to adjacent bands unless properly designed. • These systems permit 911 and known authorized calls, but require FCC approval and carrier consent. • Costs can vary based on the complexity of the prison site.
Detection	• Detection systems are "passive" in that they do not transmit signals, and thus do not cause interference to phone calls. • Such systems protect 911 and authorized calls and, unless used for data gathering for law enforcement intelligence, raise no regulatory or legal issues. • Costs can vary based on the complexity of the prison site and sophistication of the technology used (e.g., simple hand-held devices would involve a lower cost than a prison-wide sensor-based detection system).

Source: GAO analysis of U.S. Department of Commerce information.

Note: Information was taken from U.S. Department of Commerce report, *Contraband Cell Phones in Prisons: Possible Wireless Technology Solutions* (December 2010).

[a]Specifically, the Communications Act of 1934, as amended, provides that "[n]o person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this Act or operated by the United States Government." 47 U.S.C. § 333. This particular prohibition related to interference does not apply directly to U.S. Government agencies. Nonfederal spectrum use is managed by the Federal Communications Commission while spectrum use by U.S. Government agencies is managed by the National Telecommunications and Information Administration (NTIA). As a general matter, NTIA's policy reflects the limitation with respect to the prevention of intentional harmful interference to licensed or authorized users of radio communications. See Manual of Regulations and Procedures for Federal Radio Frequency Management, § 2.3.6. In light of this, NTIA has authorized spectrum use by U.S. Government agencies that results in intentional harmful interference only in limited national security instances, such as by DOJ for an electronic countermeasure in response to threats of radio-controlled improvised explosive devices.

[1]Preventing Contraband Cell Phone Use in Prisons, 75 Fed. Reg. 26733-01 (May 12, 2010).

Appendix II: BOP's Policy Memorandums and Program Statements Governing Entrance-Screening Protocols at Prison Institutions

Table 6 describes BOP memorandums or program statements related to entrance-screening procedures for staff and visitors at BOP institutions.

Table 6: BOP Guidance on Entrance-Screening Procedures and Their Relation to Cell Phone Detection

BOP memorandum or program statement	Purpose	Relation to cell phone detection
Program Statement P5510.12: Searching, Detaining, or Arresting Visitors to Bureau Ground and Facilities (January 2008).	Provides BOP staff procedures and guidance for searching visitors at federal prison institutions.	This policy identifies telephones as a prohibited item and outlines how to conduct screening for identifying metallic contraband items such as cell phones. BOP officials said federal prisons generally experience fewer cell phone confiscations than state prisons in part because of BOP's standardized screening procedures.
Memorandum: Electronic Searches of Bureau of Prisons Staff (November 2007).	Describes the entrance-screening requirements for all BOP staff entering a prison. BOP told us prior to this, BOP staff members were not screened for contraband.	BOP's policy change for screening staff was first agreed to and signed on November 8, 2007. Additional screening guidance was then provided on January 28, 2008, as part of this memorandum.
Memorandum: Staff Entrance Procedures Additional Guidance (January 2008).		BOP staff must be screened using electronic equipment such as walk-through metal detectors, which are used for detecting metallic contraband items like cell phones. The policy also details the secure storage procedures for employees who commute via public transportation and carry a cell phone.
Memorandum: Screening with Walk-Through Metal Detectors - Staff, Visitors, and Inmates (January 9, 2008).	Provides BOP standardization on the use of walk-through metal detectors for screening.	BOP's Office of Security Technology provided standardized screening equipment guidance to all BOP institutions with this memorandum.

Source: GAO analysis of BOP data.

Figure 4 provides examples of the types of equipment BOP uses to screen staff and visitors entering BOP institutions, as well as inmates on institution grounds.

Figure 4: BOP Screening Equipment

X-ray screening machine	Walk-thru metal detector	Hand-held metal detector	BOSS Chair[a]
			

Sources: BOP (X-ray machine, walk-thru metal detector, and hand-held metal detector); and GAO (BOSS chair).

[a]A BOSS Chair is a Body Orifice Security Scanner that detects metal objects inside inmates' body cavities.

Appendix III: GAO Contacts and Staff Acknowledgments

GAO Contacts

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Staff Acknowledgments

In addition to the contacts named above, Mike Clements and Joy Booth, Assistant Directors, and Adam Couvillion, Analyst-in-Charge, managed this assignment. Raymond Griffith and Nancy Zearfoss made significant contributions to the work. David Alexander, Madhav Panwar, and Ramon Rodriguez assisted with design and methodology. Willie Commons III provided legal support and Katherine Davis provided assistance in report preparation.

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