

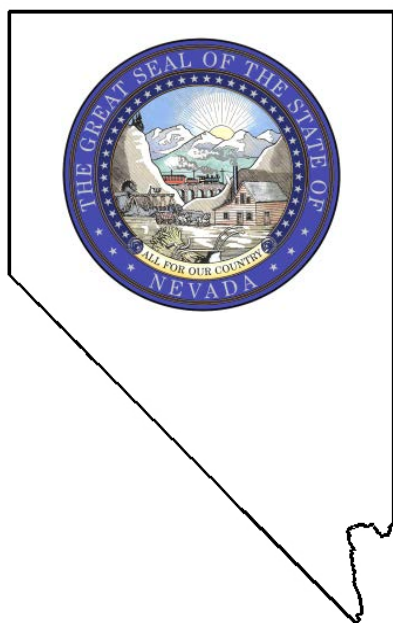
STATE OF NEVADA

Performance Audit

Department of Corrections

Use of Force

2021



Legislative Auditor
Carson City, Nevada

Audit Highlights



Highlights of performance audit report on the Department of Corrections issued on March 22, 2022.

Legislative Auditor report # LA22-11.

Background

The Department of Corrections (Department) is responsible for the housing and treatment of inmates sentenced to state correctional institutions. The head of the Department is the Board of State Prison Commissioners (Board). Authority over the operations of the prison system is granted to the Board by the Nevada Constitution.

The Department is administered by a Director under the oversight of the Board. The Director establishes regulations, supervises the Department's institutions and facilities, and must take proper measures to protect the health and safety of the public, staff, and inmates.

The Department's headquarters are located in Carson City with an office in Las Vegas and correctional institutions throughout the State. During fiscal year 2021, inmates were housed at 17 facilities. As of March 31, 2021, the total inmate population was 11,196.

Data on use of force incidents is collected in the Nevada Offender Tracking Information System (NOTIS). Use of force incidents are entered in NOTIS via an incident report. Use of force incidents are categorized by the Department as either spontaneous or planned. Spontaneous use of force involves force used in an immediate situation or in response to a threat or emergency situation to dissuade or quell a course of action by an inmate(s). The majority of use of force incidents are categorized as spontaneous. Planned use of force involves an incident when time and circumstances allow for consultation, planning, and approval from the warden or administrator.

Purpose of Audit

The purpose of the audit was to evaluate the Department's processes over use of force reporting and certain related activities.

Audit Recommendations

This audit report contains 16 recommendations to improve the Department's processes over use of force reporting and certain related activities.

The Department accepted the 16 recommendations.

Recommendation Status

The Department's 60-day plan for corrective action is due on June 15, 2022. In addition, the 6-month report on the status of audit recommendations is due on December 15, 2022.

Use of Force

Department of Corrections

Summary

The Department of Corrections needs to enhance processes over the review and investigation of use of force allegations and incidents. Inmate grievances alleging excessive use of force were not always adequately addressed. In addition, review panels were not always convened to determine if the use of force was appropriate and justified. When convened, review panels were often untimely. Proper review of inmate grievance allegations and investigation of use of force incidents help ensure the Department is complying with requirements to provide a safe and humane environment free of cruel and unusual punishment under the Eighth Amendment.

Prospective officers worked in the Department's facilities without adequate training or supervision prior to completing the Peace Officers' Standards and Training Academy. Additionally, better tracking is needed to ensure refresher and weapons training for certified peace officers is up to date. Further, obsolete weapons should be removed from institutions' armories. Finally, the Department needs to routinely review administrative regulations to ensure changes in legislation are incorporated. Proper training and accurate regulations are necessary to ensure officers only use force in appropriate circumstances, to protect peace officers and inmates, to limit the liability of the Department, and to ensure compliance with state and federal laws.

Use of force data collected by the Department is not accurate, complete, or reliable. Errors in the data cause the Department's statistical reports to understate use of force incidents. Additionally, the Department is not collecting some required data regarding use of force incidents. Relying on inaccurate data may result in management making improper conclusions and taking inappropriate actions.

The Department spent about \$192,000 on a body camera program that has not been implemented. As a result, the Department did not collect and report incident data or develop performance measures, requested by the Legislature, regarding the effectiveness of monitoring equipment. Purchasing equipment that is not used is a waste of state funds.

Key Findings

The Inspector General's (IG) Office did not review most grievances alleging excessive use of force. We found for 13 of 20 (65%) grievances, there was no evidence the IG's Office reviewed the grievance. For all seven grievances reviewed, the IG's Office did not provide a timely response to the inmate of the outcome as required by administrative regulation. (page 5)

Use of Force Review Panels (Panel), convened to review use of force incidents, sometimes did not occur. A Panel was not convened for 9 (36%) of the 25 incidents we tested. Of the 16 completed Panel reviews, 10 (63%) were untimely. Panels are necessary to determine if the use of force was justified and consistent within the policies, procedures, and training of the Department. (page 7)

The Department used prospective officers to work in its facilities without proper supervision or training. Our testing revealed 4 of 20 (20%) prospective officers were assigned to work posts alone. Additionally, six (30%) prospective officers were assigned to work dedicated posts, normally requiring a second certified peace officer. Finally, we identified four incidents where prospective officers participated in use of force incidents. (page 12)

The Department does not have an effective tracking process to ensure its officers are current with their routine training. We reviewed the training files of 104 officers and found no documentation of pregnant inmate restraint training for 9 officers and staff. Additionally, six officers were issued TASERS, one officer fired a blank shotgun round, and two officers used a restraint chair with no evidence their training was up to date. NAC 289.230 prohibits officers from using weapons unless their training is current. (page 14)

We found 212 out of 744 (28%) weapons located in the armories at the institutions were unauthorized or obsolete. Additionally, 171 of these weapons were currently in use. An authorized weapons list is needed to ensure weapon reliability and quality, proper training, and for weapons tracking. (page 15)

The Department uses restraint chairs but has not adopted an administrative regulation governing their use. Additionally, administrative regulations have not been updated for recent Legislative changes related to certain law enforcement practices and peace officer drug testing. (page 17)

The Department spent \$192,000 on 71 body cameras, supporting hardware, and licensing fees but never implemented the program. An additional \$26,500 will be incurred annually for licensing fees unless the program is terminated. (page 21)

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This report contains the findings, conclusions, and recommendations from our performance audit of the Department of Corrections, Use of Force. This audit was conducted pursuant to the ongoing program of the Legislative Auditor as authorized by the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This report includes 16 recommendations to improve the Department's processes over use of force reporting and certain related activities. We are available to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other state officials.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel L. Crossman".

Daniel L. Crossman, CPA
Legislative Auditor

March 4, 2022
Carson City, Nevada

Department of Corrections Use of Force

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Introduction

Background

The Department of Corrections (Department) is responsible for the housing and treatment of inmates sentenced to state correctional institutions. The head of the Department is the Board of State Prison Commissioners (Board). Authority over the operations of the prison system is granted to the Board by the Constitution of the State of Nevada. The Board is made up of the Governor, the Secretary of State, and the Attorney General.

The Department is administered by a Director under the oversight of the Board. The Director establishes regulations, supervises the administration of the Department's institutions and facilities, and must take proper measures to protect the health and safety of the public, staff, and inmates. The Department is divided into five basic organizational components as follows:

- Operations Division: Supervises inmates including managing their access to the public. As of December 2021, there were seven correctional institutions, eight conservation camps, and two transitional housing units operated by this division.
- Support Services Division: Manages all financial aspects of the Department, the inmate banking function, the inmate store and welfare accounts, and provides IT support.
- Programs Division: Provides inmates with psycho-educational programming, substance abuse treatment, re-entry, and transitional services. In addition, this division provides religious services, vocational training, counseling and therapy, and educational liaison services with the local school districts.

- Medical Division: Administers medical, dental, and clinical mental health services. Each major institution has a medical and dental clinic and limited infirmary capacity. Two institutions, Northern Nevada Correctional Center and High Desert State Prison, provide acute care services.
- Prison Industries: Provides work and job training for inmates. Goods and services include furniture and metal fabrication, printing and bindery, mattress production, sewing and garment production, and automobile refurbishing and repair.

The Department's headquarters are located in Carson City with an additional administrative office in Las Vegas. Correctional institutions are located in Lovelock, Ely, Carson City, Indian Springs, and Las Vegas. Eight conservation camps and two transitional housing units are located throughout the State.

Staffing and Expenditures

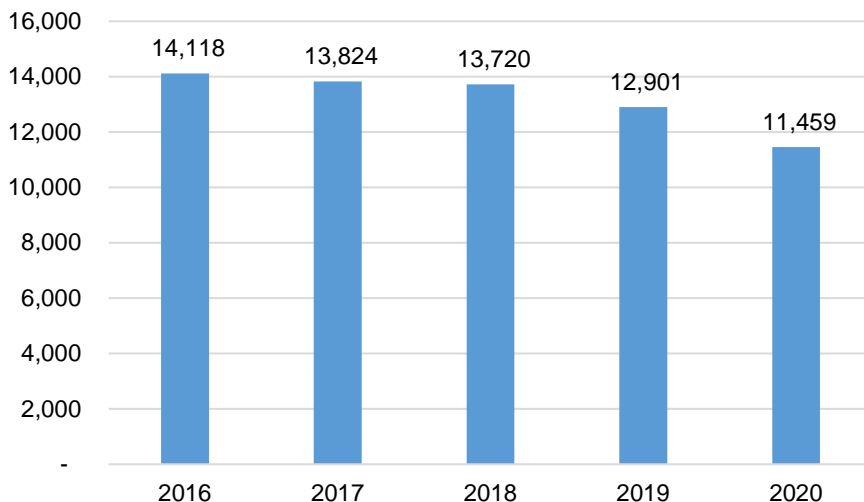
As of January 2022, the Department had 2,236 filled positions with a vacancy rate of nearly 25%. The vacancy rate has nearly doubled since December 2020. Total expenditures for fiscal year 2021 were \$370.7 million. The Department is primarily funded by General Fund appropriations. This total does not include the expenditures associated with the Offender's Store Fund or the Prison Industries Fund as these budgets are self-funded.

Inmate Population Information

During fiscal year 2021, inmates were housed at 17 facilities throughout the State. As of March 31, 2021, the Department had a total inmate population of 11,196. The inmate population has been declining over the past 5 years; however, the percentage of inmates with violent convictions has been increasing. Exhibit 1 shows a 5-year history of Nevada's inmate population and Exhibit 2 provides the percentage of the population with a history of violent crimes during the same time period.

**Inmate Population
2016 to 2020**

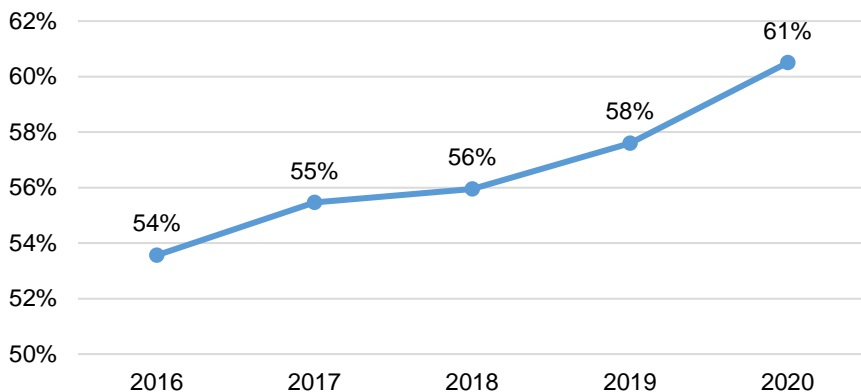
Exhibit 1



Source: Auditor analysis of Department records.
 Note: Annual information as of December 31.

**Percentage of Inmate Population With Violent
Offenses In Their Criminal Histories
2016 to 2020**

Exhibit 2

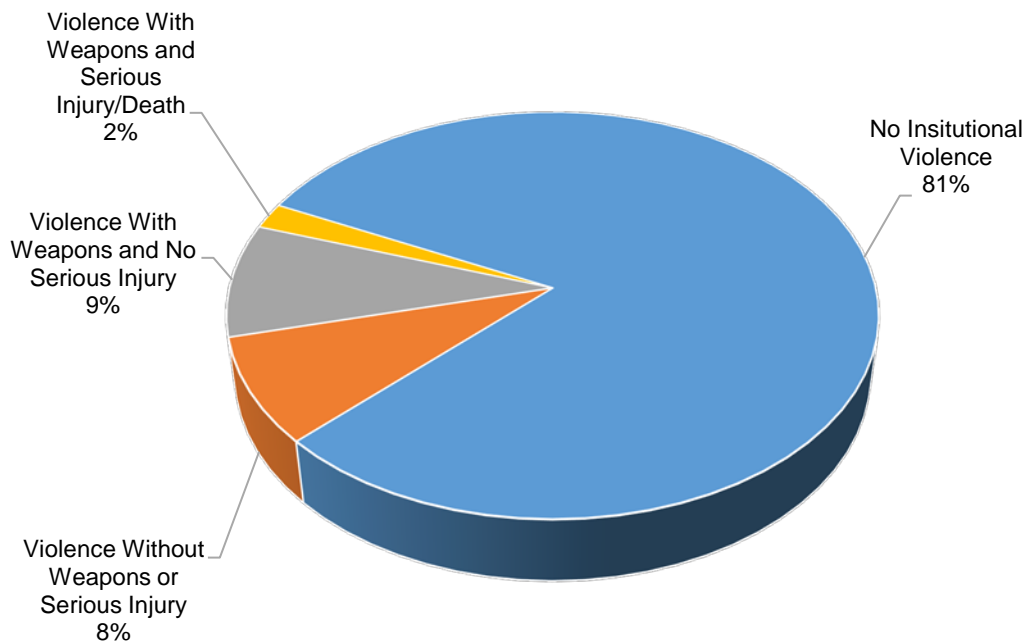


Source: Auditor analysis of Department records.
 Note: Annual information as of December 31.

While a majority of inmates have violent histories, most have not been involved in a violent incident during their incarceration. About 19% of the inmate population in 2020 had a history of institutional violence during their period of incarceration. Exhibit 3 provides a breakdown of the inmates with a history of institutional violence in the 2020 inmate population.

Inmates With a History of Institutional Violence Calendar Year 2020

Exhibit 3



Source: Auditor analysis of Department records.

Scope and Objective

The scope of our audit included a review of the Department's activities from January 1, 2019, through March 31, 2021. Our audit objective was to:

- Evaluate the Department's processes over use of force reporting and certain related activities.

This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission and was made pursuant to the provisions of Nevada Revised Statutes (NRS) 218G.010 to 218G.350. The Legislative Auditor conducts audits as part of the Legislature's oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

Excessive Use of Force Allegations and Use of Force Incidents Not Consistently Reviewed

The Department of Corrections (Department) needs to enhance processes over the review and investigation of use of force allegations and incidents. For instance, inmate grievances alleging excessive use of force were not always adequately addressed. In addition, review panels were not always convened to determine if the use of force was appropriate and justified. When convened, review panels were often untimely. Proper review of inmate grievance allegations and investigation of use of force incidents help ensure the Department is complying with requirements to provide a safe and humane environment free of cruel and unusual punishment under the Eighth Amendment of the United States Constitution.

Inmate Grievances Frequently Went Unaddressed

Grievances alleging excessive use of force were not always reviewed or addressed timely in accordance with Department regulations. Additionally, institutions did not effectively screen use of force grievances before referring them to the Inspector General's (IG) Office for review. The Department has an established grievance process that provides a means to resolve inmate concerns. Inmates must use the grievance process to address any tort or civil rights claim related to confinement conditions. Grievances are the first step in the legal process for inmates before they file a lawsuit.

Most Grievances Not Reviewed, Others Not Reviewed Timely

The IG's Office did not review most grievances alleging excessive use of force referred from the Department's institutions. For those grievances the IG's Office did review, the review was not completed timely. We tested 20 grievances from a population of

83 alleging excessive use of force between January 1, 2019, and March 31, 2021. Our testing revealed the following:

- For 13 of 20 (65%) grievances referred, there was no evidence the IG's Office reviewed the grievance. The grievances were unprocessed an average of 274 days. One grievance was unprocessed for about 1 ¾ years, and three inmates were paroled without having their grievance reviewed.
- For all seven grievances reviewed, the IG's Office did not provide a timely response to the inmate of the outcome as required by administrative regulation. The IG's Office took an average of 164 days to issue a response.

The Department's administrative regulations require the IG's Office to respond to an inmate's grievance alleging excessive use of force within 90 days of the referral. Proper review of grievances is important because grievances provide inmates a means to inform the Department of potential problems. Grievances also give the Department the opportunity to correct an issue before involvement by the courts. Grievances were not reviewed or were reviewed untimely because the IG's Office did not have an effective tracking process. Furthermore, IG's Office staff was not properly trained to identify grievances referred through the Department's computer system.

Use of Force Grievances Were Not Screened by the Institutions

Inmate grievances alleging excessive use of force were not effectively screened by the institutions before being referred to the IG's Office. We found four of the Department's seven institutions automatically refer these types of grievances to the IG's Office. Our testing further revealed 15 of 20 (75%) grievances had no evidence of warden review prior to the referral. Department regulations require wardens review grievances alleging excessive use of force/employee misconduct before forwarding them to the IG's Office.

Screening of grievances is necessary to ensure resources are utilized efficiently and only on grievances warranting further investigation. Some inmates may abuse the grievance system by filing excessive grievances and creating a backlog. While our testing did not attempt to conclude on whether individual grievances are considered abuse, from our population of 83 grievances alleging excessive use of force, 26 (31%) were filed by 10 inmates. These grievances were based on 26 separate incidents. Furthermore, one inmate filed five grievances during a 7-month period based on five separate incidents.

Use of Force Review Panels Not Always Convened or Timely

Use of Force Review Panels (Panels), required by Department regulation after use of force incidents to review the actions of staff and inmates, did not always happen. Additionally, when Panels were convened, reviews were not completed timely, and the Panel's reports were not forwarded to the IG's Office. Panels are comprised of Department staff who were not involved in the incident to ensure a fair and impartial review of actions taken. The Panels are necessary to determine if the use of force was justified and consistent with the policies, procedures, and training of the Department.

We reviewed 25 use of force incidents and found the following:

- The Department did not convene a Use of Force Review Panel for nine (36%) of the incidents.
- Of the 16 completed Panel reviews, 10 (63%) were untimely. On average it took the Panels about 3 months to complete their review. One review took 13 months to complete.

Department regulations require Use of Force Review Panels be completed within 20 or 45 days depending on the severity of the incident. Regulations require the Panel to forward reports to the Department's IG's Office who is supposed to track the Panel reports for timely completion. However, the IG's Office is not currently tracking Panel reports. Additionally, institutions are not always forwarding Panel reports to the IG's Office. We found

Panel reports were not forwarded in eight (50%) of the instances we reviewed.

Use of Force Review Panels assist management in determining if changes are needed to Department policies, procedures, training, and infrastructure. The Panels also determine if the incidents were preventable. Panel reports must be forwarded to the IG's Office to monitor the timely completion of the Panels and to gather statistical information regarding the outcomes of use of force incidents.

Use of Force Analysis

Data on use of force incidents is collected in the Nevada Offender Tracking Information System (NOTIS). Use of force incidents are entered in NOTIS via an incident report. All officers who used force in the incident must complete a report in NOTIS describing the specific actions and tools used. All personnel involved in the incident who did not use force must complete a report describing their actions and what they witnessed. Additionally, institutional management must review all incident reports submitted.

Use of force incidents are categorized by the Department as either spontaneous or planned. Spontaneous use of force involves force used in an immediate situation or in response to a threat or emergency situation to dissuade or quell a course of action by an inmate(s). The majority of use of force incidents are categorized as spontaneous. Planned use of force involves an incident when time and circumstances allow for consultation, planning, and approval from the warden or administrator. For example, a planned use of force is utilized to move an inmate from one cell to another when the inmate refuses to move.

Exhibit 4 compares the inmate population at the Department's correctional institutions with use of force incidents.

Use of Force Incidents by Institution Calendar Year 2020

Exhibit 4

Institution	Population	Percent of Population	Use of Force Incidents	Percent of Incidents
High Desert State Prison	3,409	29.9%	154	30.0%
Conservation Camps and Transitional Housing	1,592	14.0%	12	2.3%
Southern Desert Correctional Center	1,567	13.7%	44	8.6%
Lovelock Correctional Center	1,566	13.7%	27	5.3%
Northern Nevada Correctional Center	1,272	11.1%	68	13.2%
Florence McClure Women's Correctional Center	783	6.9%	46	8.9%
Ely State Prison	711	6.2%	149	29.0%
Warm Springs Correctional Center	509	4.5%	14	2.7%
Totals	11,409	100.0%	514	100.0%

Source: Auditor analysis of Department reports.

Note: The total population does not include 50 inmates in local hospitals or jails on December 31, 2020.

Inmates Involved in Use of Force Incidents

We analyzed 100 of the 1,081 use of force incidents occurring between January 1, 2019, and March 31, 2021. In total there were 165 inmates involved in these 100 incidents. Inmate demographics in use of force incidents were reviewed to determine mental health status, gang affiliation, and history of institutional violence. The inmates involved were included in one or more of the categories below:

- **Mental Health Impairment:** About 28% of the inmates involved were diagnosed with a mild impairment. There were no inmates with a moderate or severe mental health impairment. About 19% of the inmate population was diagnosed with a mental health impairment in 2020 with only 0.01% diagnosed with a severe impairment.
- **Gang Affiliation:** About 47% of the inmates involved in the use of force incidents were affiliated with a gang. Inmates with a gang affiliation made up about 25% of the total inmate population.
- **History of Institutional Violence:** The majority of the inmates in our sample had a history of institutional violence. Approximately 66% of the inmates had a history of institutional violence. About 19% of the inmate population in 2020 had a history of institutional violence.

Factors Causing Use of Force Incidents

Generally, use of force incidents occurred from the following types of activities:

- *Inmate Violence*: Involves fights between inmates or inmates assaulting other inmates. Of the 100 use of force incidents reviewed, 28 involved inmate-on-inmate violence.
- *Disruptive Inmate*: Includes lighting fires, destruction of property, breaking out of the cell, or taking possession of restraint equipment. For 27 of 100 use of force incidents, the cause involved a disruptive inmate.
- *Staff Assaults*: These incidents may include inmates attempting to or actually making physical contact, spitting on, or propelling substances on Department staff. Staff assaults accounted for 11 of the 100 incidents.
- *Inmate Welfare*: Involves forced medications or physical intervention by officers to prevent an inmate from harming themselves. Inmate welfare interventions accounted for 20 of the 100 incidents.
- *Refusal to Comply*: Includes inmates passively resisting staff such as refusing to obey a lawful order or resisting a cell/bed movement without violence. These actions accounted for 14 of the 100 incidents.

Exhibit 5 provides examples of some of the factors resulting in the use of force.

Examples of Factors Resulting in Use of Force**Exhibit 5**

Planned or Spontaneous	Type of Force Used	Force Category	Incident Description
Spontaneous	Projectile Launcher	Inmate Violence	Multiple inmates on single inmate assault.
Planned	Pepper Spray	Disruptive Inmate	An inmate broke the fire suppression system in his cell and refused to come out so the system could be repaired.
Spontaneous	Hands On	Staff Assault	An inmate headbutted one officer and kicked another while being escorted to the showers.
Spontaneous	Restraint Chair	Inmate Welfare	Hands on force was used to stop an inmate from hitting his head against his cell wall. The inmate was placed in a restraint chair to be evaluated by medical.
Planned	Hands On	Refusal to Comply	An inmate refused to submit to restraints so he could be escorted from the shower to his cell. A team was used to remove the inmate from the shower.

Source: Auditor analysis of incident reports in the Department's computer system (NOTIS).

Additional information on the use of force incidents selected can be found in Appendix A beginning on page 23.

Recommendations

1. Develop a process and training program for the Inspector General's Office to ensure all referred use of force grievances are reviewed and completed timely.
2. Ensure use of force grievances are reviewed by the Inspector General's Office prior to inmates being paroled.
3. Ensure individual institutions follow Department policies for screening use of force grievances before referring to the Inspector General's Office.
4. Require the Inspector General's Office to track Use of Force Review Panels in accordance with Department regulation to ensure they are conducted and completed timely.
5. Forward Use of Force Review Panel Reports to the Inspector General's Office.

Certain Training and Administrative Functions Deficient

Prospective officers worked in the Department's facilities without adequate training or supervision prior to completing the Peace Officers' Standards and Training Academy (Academy). Additionally, better tracking is needed to ensure refresher and weapons training for certified peace officers is up to date. Further, obsolete weapons should be removed from institutions' armories. Finally, the Department needs to routinely review administrative regulations to ensure changes in legislation are incorporated. Proper training and accurate regulations are necessary to ensure officers only use force in appropriate circumstances, to protect peace officers and inmates, to limit the liability of the Department, and to ensure compliance with state and federal laws.

Oversight of Prospective Correctional Officers Necessary

The Department used prospective officers to work in its facilities without proper supervision or training. In certain instances, these personnel performed duties of certified peace officers, such as manning a post alone or working as a second officer in areas normally requiring two certified peace officers. Some personnel operating in this capacity also participated in use of force incidents. Prospective officers worked in Nevada's correctional institutions throughout our audit; however, the Department discontinued this practice in April 2021. Using untrained or minimally supervised personnel in this capacity creates a liability to the Department.

State law allows law enforcement agencies to use personnel to perform certified peace officer duties for up to 1 year without certification by the Peace Officers' Standards and Training Commission (POST). Although statute allows the use of prospective officers, other state law enforcement agencies have

developed formalized training programs and provide supervision prior to attending the academy.

Prospective Officers Performed Duties of Certified Peace Officers

Our testing revealed 4 of 20 (20%) prospective officers tested during our audit period were assigned to work posts alone prior to becoming POST certified. Additionally, six (30%) prospective officers were assigned to work dedicated posts, normally requiring a second certified peace officer in a housing unit. In these circumstances, prospective officers were performing duties assigned to certified peace officers.

Using prospective officers to perform duties of fully trained certified peace officers can be dangerous. This practice puts all personnel at risk. For example, we identified two instances where inmates attempted to intimidate the prospective officers. In another instance, a prospective officer took leave without pay rather than work alone without a supervising certified peace officer.

Finally, a few prospective officers participated in use of force incidents. According to executive management, these personnel were only to shadow certified peace officers and not directly engage with or supervise inmates. Department regulations authorize only certified peace officers, who are current in their training, to use force under normal circumstances. However, our testing identified four incidents where prospective officers participated in these types of incidents.

According to Department management, posts at the institutions must be staffed by certified officers. Certified peace officers undergo rigorous training at the Academy that prepares them to care for and supervise inmates within the laws governing correctional institutions, to recognize inmate manipulation tactics, and to properly deploy use of force weapons and tactics. Proper training is essential to prepare personnel for the physical and mental demands a certified peace officer may encounter. For purposes of this report, prospective officers were employed with the Department prior to completing the Academy.

The Department did not develop an adequate department-wide field training program for prospective officers. A field training program provides standardized training for newly hired officers and is intended to help transition new personnel from an academic setting to the rigors of actual law enforcement duties. Two of the five local law enforcement agencies we surveyed have developed formalized training programs for their prospective officers prior to attending the Academy. The remaining three agencies did not use prospective officers and hired directly to the Academy.

NRS 289.550 allows law enforcement agencies in the State to use personnel in a certified peace officer role for up to 1 year without being certified by POST. The Department discontinued use of prospective officers for direct inmate supervision in April 2021. However, standardized policies regarding acceptable duties, supervision, and training are necessary to limit interactions with inmates and ensure safety since state law allows for these activities. Adequate training and monitoring of untrained personnel is essential for protecting the health and safety of both officers and inmates.

Training Not Adequately Tracked or Developed

The Department does not have an effective tracking process to ensure its officers are current with their routine training. Additionally, all seven major institutions use the restraint chair but there is no department-wide training provided. Nevada Administrative Code (NAC) 289.230 requires officers demonstrate a minimum level of proficiency semiannually for firearms and annually for all other use of force tools. It also prohibits officers from using weapons until proficiency is demonstrated. An effective training program is important to ensure officers maintain necessary skills and receive adequate instruction on new tools and techniques. Proper training also helps ensure officers use the weapons in appropriate circumstances to minimize risk.

We reviewed the training files of 104 officers involved in 25 use of force incidents and for selected officers issued specialized weapons. The following illustrates training deficiencies noted:

- Specialized Restraint Requirements: For nine peace officers and medical personnel, the Department could not

provide documentation regarding specialized training for restraining pregnant and postpartum inmates. These employees participated in a use of force incident requiring the restraint of a suicidal, postpartum inmate.

- Specialized Weapons: Six officers were issued a TASER however, there was no evidence their annual training was up to date.
- Use of Force – Firearms: During a use of force incident, an officer fired a blank round from a shot gun. There was no evidence the officer's required semiannual shotgun training was up to date.
- Use of Force – Restraints: Two officers participated in placing an inmate in a restraint chair; however, there was no evidence the institution provided current training, and the Department has not developed standardized training for the restraint chair.

NAC 289.230 requires each law enforcement agency to track and report routine training to the Peace Officers' Standards and Training Commission annually. Officers were not current with some training because the Department's training unit lacks an effective process to track or monitor specialized training related to certain weapons and tactics.

Weapons Administration Needs Improvement

The Department's list of authorized weapons was not current. Additionally, correctional officers had not received training for some of the weapons utilized by the Department, while some weapons were obsolete. Authorized weapons lists help ensure the Department has consistent policies, properly functioning weapons, and standardization of training. Standardized weapons training helps ensure peace officers use weapons in a safe manner.

Authorized Weapons List Not Updated

The Department's weapons list included some obsolete weapons, while some current models in use at facilities were not included. The list was not current because the Department did not have an

effective process to timely identify and remove obsolete weapons from the armories. Further, the Department did not routinely review the list as required by regulations. We found 212 out of 744 (28%) weapons located in the armories at the institutions were unauthorized or obsolete as follows:

- Unauthorized Weapons in Use: 171 weapons being used were not on the authorized weapons list. The weapons included 74 pistols of a different model or caliber than what was authorized, 95 projectile launchers from unauthorized manufactures, and 2 electronic restraint devices.
- Unauthorized Weapons Not in Use: 14 weapons were not on the authorized weapons list, but were not in use because they were considered obsolete. The weapons included seven pepper ball guns and seven projectile launchers.
- Authorized Weapons Not in Use: 27 weapons were on the authorized weapons list but were not in use because they were considered obsolete. The weapons included 6 pepper ball guns, 11 projectile launchers, and 10 TASERs.

We surveyed five other law enforcement agencies in the State and all five indicated they maintain an authorized weapons list. These agencies cited weapons reliability and quality, public safety, training, and weapons tracking as the primary reasons an accurate authorized weapons list is needed. Obsolete weapons should be removed from the armories to ensure only properly maintained and functioning weapons are available for use.

Training Not Aligned With Weapons Maintained in Armories

The Department's Academy training did not align with 74 pistols currently in use at its institutions. Training did not align because the model and/or caliber of the pistols used at some institutions was different than the Academy pistols. The facilities also had a total of 41 obsolete weapons in their armories for which no training was available or provided. Training was not provided because the weapons were no longer used and considered obsolete.

Weapons training provides specific instruction on the operating controls and handling characteristics of each weapon. It is important to align training with the specific make and model of weapon used in the field to demonstrate the officer understands how to use the weapon properly and safely. Additionally, training ensures the weapon is only used in appropriate circumstances with minimal risk.

Administrative Regulations Insufficient

The Department has not updated its administrative regulations to align with its current operating processes and recent Legislative changes. Specifically, there is no department-wide regulation governing use of the restraint chair. In addition, the Department has not updated its administrative regulations for recent Legislative changes related to law enforcement practices and peace officer drug testing. Regulations are necessary for detailing standards and expectations and for maintaining operating consistency among institutions.

No Department-Wide Regulation Governing Restraint Chair

Department operational practices included use of the restraint chair at all seven of the major institutions; however, no department-wide regulation was adopted to govern its use. Furthermore, three of the seven institutions did not have an institution specific policy for using the restraint chair. The remaining four institutions adopted inconsistent policies regarding restraint chair use. Specifically, institutional policies differed regarding the circumstances when the restraint chair could be used, frequency of medical monitoring, maximum time of restraint, and staff authorized to extend the maximum time of restraint.

Department regulations require a biennial audit of operations to determine the effectiveness of policies and procedures and annual reviews and updates of the regulations. We found these audits were not conducted for over 5 years. As a result, regulations governing use of force and use of restraints have not been updated since 2016 and 2014 respectively.

Recent Legislative Changes Not Incorporated in Department's Administrative Regulations

The Department has not updated administrative regulations to include recent Legislative changes to law enforcement practices. Regulations governing the Department's use of force policy do not address an officer's or supervisor's duty to intervene to stop excessive use of force or the prohibition on placing a person in custody in a position which inhibits the ability to breathe. Furthermore, drug testing regulations were not updated to require testing when a death or serious bodily injury occurs.

Changes to statutes governing law enforcement practices were adopted during the 32nd Special Session of the Nevada Legislature and became effective on August 7, 2020. The Department's latest revisions to regulations occurred about 5 years ago.

Recommendations

6. Ensure adequate oversight of prospective officers when working inside institutions prior to attaining correctional officer credentials.
7. Develop policies and procedures which provide clear guidance on what functions and duties prospective officers may perform prior to attaining certification as a correctional officer.
8. Monitor all use of force related training at the Department level. Ensure officer training aligns with weapons assigned and used.
9. Develop a process for the identification and timely removal of obsolete weapons from armories.
10. Establish a process to periodically review the authorized weapons list to ensure weapons are consistent with those currently used by the Department.
11. Develop a department-wide policy and training program for use of the restraint chair.
12. Follow Department policy to routinely review and update administrative regulations and operating procedures.

Use of Force Data Not Reliable or Effectively Analyzed

Use of force data collected by the Department is not accurate, complete, or reliable. Errors in the data cause the Department's statistical reports to understate use of force incidents. Additionally, the Department is not collecting some required data regarding use of force incidents. Relying on inaccurate data may result in management making improper conclusions and taking inappropriate actions.

Errors Cause Use of Force to Be Understated

The Department cannot generate reliable statistical reports due to inaccurate and incomplete use of force data. We estimate the Department's primary statistical report understated the number of use of force incidents by nearly 26% (277 out of 1,081) during calendar years 2019 through 2021. Accurate use of force data is important to assist management in adjusting staffing levels, training, and policies to reduce or prevent future use of force incidents. The following types of errors contributed to the unreliability of the Department's use of force data:

- **Classification Errors**: Management contributed to incomplete data by not properly classifying incidents as use of force incidents. For example, in one incident, staff submitted reports indicating hands on force and pepper spray were used during a planned use of force incident; however, institutional management classified the incident as a "disruptive inmate" in the Department's computer system.

- Clerical Errors: Use of force data contained clerical errors. For example, some use of force incidents were recorded twice.
- Consistency Errors: Similar incidents were not categorized consistently. For example, the Department defines a display of force as movement of additional staff or equipment to an incident site to show adequate resources are available to resolve the situation. Some institutions considered this to be a use of force type incident while others did not.

Use of force data is not reliable because Department management does not routinely analyze and review the data for accuracy. Additionally, the Department has no formal training or universal guidance for classifying use of force incidents.

Required Data Not Collected or Analyzed

Department regulations require the IG's Office to track and report the number of Use of Force Review Panels and the outcomes to executive management. However, the IG's Office did not collect the required information during our audit period. Use of Force Review Panels provide institutional management with recommendations on changes or enhancements to policies, procedures, and training. The Panels also provide the opportunity for institutional management to recommend changes or enhancements to the physical structure of their institutions, including camera coverage.

Recommendations

13. Develop department-wide guidance for coding use of force data and train staff to properly classify the data in the Department's computer system.
14. Develop a process for continual review, monitoring, and correcting use of force data to ensure accuracy and completeness.
15. Collect, analyze, and report required incident data to assist in allocating resources and training development.

State Funds Spent on Unused Camera Equipment

The Department spent about \$192,000 on a body camera program that has not been implemented. As a result, the Department did not collect and report incident data or develop performance measures, requested by the Legislature, regarding the effectiveness of monitoring equipment. Purchasing equipment that is not used is a waste of state funds.

Purchased Body Cameras Not Used

During the 2017 Legislative Session, the Department requested and was approved to purchase 71 body cameras, all supporting hardware, and licensing fees. The cameras were purchased in the summer of 2018 and have still not been used. The Department spent over \$192,000 on the body cameras and annual licensing fees through the end of fiscal year 2021. An additional \$26,500 will be incurred annually for licensing fees unless the program is terminated.

The Department testified the cameras were necessary for reducing litigation and improving staff and inmate safety. As a result, resources were provided to implement the body cameras; however, the Department did not prioritize the camera project. Requesting and receiving funds for items the Department does not implement is wasteful. Waste is defined as the act of using or expending resources carelessly, extravagantly, or to no purpose.

Legislatively Requested Data Not Collected

The Department did not collect and report data or develop performance measures regarding the effectiveness of using body and stationary cameras. During the 2017 Session, the Department testified they would develop performance measures to demonstrate the impacts from using cameras. The 2017 Legislature requested this information be reported to the Interim Finance Committee; however, the only information provided by the Department was the type and number of incidents between September 2017 to June 2019. A copy of the Legislature's request for information is included as Appendix B beginning on page 30.

Since the Department failed to implement body cameras, it was unable to collect and provide important information that the Legislature requested.

Recommendation

16. Develop and implement a plan to utilize body cameras as represented to the Legislature. If not feasible, cease payment of annual maintenance costs on unused equipment and allow the cameras to be repurposed or sold.

Appendix A

Use of Force Incidents Selected

No.	Planned or Spontaneous	Type of Force Used	Force Category	Incident Description
1	Spontaneous	Hands On	Disruptive Inmate	Inmate became aggressive after complaining medical was taking too long to administer a routine pain shot.
2	Planned	Pepper Spray	Refusal to Comply	An inmate refused to leave his cell so a cover could be installed on his food slot door. A team was assembled to remove the inmate from his cell.
3	Spontaneous	Hands On	Disruptive Inmate	An inmate broke the fire system in his cell, attempted to run while being escorted to medical, and was taken to the ground by escorting officers.
4	Spontaneous	Pepper Spray	Inmate Violence	Inmate-on-inmate assault.
5	Spontaneous	Pepper Spray	Refusal to Comply	Multiple inmates refusing orders to lock down.
6	Spontaneous	Hands On	Inmate Violence	Inmate-on-inmate fight.
7	Spontaneous	Hands On	Refusal to Comply	An inmate refused a cell move and attempted to move away from officers during the escort to his new cell.
8	Planned	Hands On	Disruptive Inmate	An inmate broke the fire system in his cell and smeared feces on himself and his cell door. A team was assembled, and the inmate complied with the team's orders to be restrained.
9	Spontaneous	Hands On	Staff Assault	An inmate involved in a verbal argument with another inmate pushed an officer who was attempting to break up the incident.
10	Spontaneous	Pepper Spray	Inmate Violence	Inmate-on-inmate fight.
11	Spontaneous	Pepper Spray	Inmate Violence	Inmate-on-inmate assault.
12	Spontaneous	Hands On	Staff Assault	An inmate kicked an officer.
13	Spontaneous	Hands On	Refusal to Comply	An inmate refused to submit to a random drug test and refused to comply with orders to submit to restraints.
14	Spontaneous	Pepper Spray	Inmate Violence	Inmate-on-inmate fight.
15	Planned	Pepper Spray	Disruptive Inmate	An inmate captured his food slot and had a cup of urine which he threatened to propel on officers.
16	Spontaneous	Hands On	Disruptive Inmate	An inmate resisted a restrained escort to administrative segregation after a weapon was found in his cell.
17	Spontaneous	Hands On	Inmate Welfare	An inmate attempted suicide by ripping open her c-section surgical wound.
18	Spontaneous	Hands On	Disruptive Inmate	An inmate resisted a restrained escort to administrative segregation.

Appendix A

Use of Force Incidents Selected (continued)

No.	Planned or Spontaneous	Type of Force Used	Force Category	Incident Description
19	Spontaneous	Pepper Spray	Disruptive Inmate	An inmate manipulated his locked cell door, gained access to the tier, and threw objects at the windows of the control room.
20	Spontaneous	Hands On	Refusal to Comply	An inmate refused to kneel for leg restraint removal. The inmate was placed in a kneeling position so the leg restraints could be removed.
21	Planned	Hands On	Inmate Welfare	Per doctor's orders an inmate was administered medication.
22	Planned	Hands On	Inmate Welfare	An inmate was found to be unresponsive during a routine count. A cell extraction team was assembled to enter the cell and place the inmate in restraints for evaluation.
23	Spontaneous	Blank Round Fired	Inmate Violence	Inmate-on-inmate fight.
24	Spontaneous	Pepper Spray	Inmate Violence	Multiple inmates assaulted a single inmate.
25	Spontaneous	Pepper Spray	Inmate Violence	Inmate-on-inmate fight. Staff was also assaulted while trying to break up the fight.
26	Spontaneous	Hands On	Inmate Welfare	An inmate was found by officers to be unresponsive. A cell extraction team was assembled to enter the cell and place the inmate in restraints for medical evaluation.
27	Spontaneous	Projectile Launcher	Inmate Violence	Inmate-on-inmate assault with weapons.
28	Spontaneous	Hands On	Disruptive Inmate	Inmate refused to obey a lawful order to remove an unauthorized article of clothing and showed signs of aggression towards officers.
29	Spontaneous	Hands On	Disruptive Inmate	An inmate entered the staff office and pointed his finger in the face of an officer. The inmate stated he wanted to be kidnapped by staff. The inmate was taken to the ground and placed in restraints.
30	Spontaneous	Hands On	Refusal to Comply	An inmate refused to go in his cell and sat on the floor. Officers restrained the inmate and carried him to his cell.
31	Spontaneous	Pepper Spray	Disruptive Inmate	An inmate captured his restraints and attempted to strike officers with them.
32	Spontaneous	Hands On	Disruptive Inmate	An inmate attempted to escape by running from officers while being transported to a different facility.
33	Planned	Pepper Spray	Inmate Violence	Two inmates refused to leave their cell after reports they had been fighting.

Appendix A

Use of Force Incidents Selected (continued)

No.	Planned or Spontaneous	Type of Force Used	Force Category	Incident Description
34	Planned	Pepper Spray	Disruptive Inmate	A high-risk inmate covered his cell window and refused to come out of his cell so it could be searched. A cell extraction team was assembled to assist in removing the inmate from the cell.
35	Planned	Hands On	Disruptive Inmate	An inmate captured his food slot. A cell extraction team entered the cell and restrained the inmate.
36	Spontaneous	Hands On	Disruptive Inmate	An inmate attempted to push past an officer without permission to leave the culinary area.
37	Spontaneous	Hands On	Refusal to Comply	An inmate became passively resistant during an officer's escort.
38	Spontaneous	Hands On	Staff Assault	An inmate spit in officer's face during an escort and was taken to the ground.
39	Spontaneous	Hands On	Refusal to Comply	Inmate passively resisted when being escorted in the infirmary. The inmate was secured with soft restraints.
40	Spontaneous	Pepper Spray	Inmate Violence	Inmate-on-inmate fight.
41	Spontaneous	Pepper Spray	Disruptive Inmate	Several inmates captured their food slots and began lighting fires. Force was used on one inmate who refused to back away from his food slot so it could be closed.
42	Spontaneous	Hands On	Staff Assault	An inmate headbutted one officer and kicked another while being escorted to the showers.
43	Spontaneous	Hands On	Disruptive Inmate	An inmate appearing to be under the influence of an unknown substance fought with officers several times while being escorted to medical and during medical examination.
44	Spontaneous	Hands On	Disruptive Inmate	An inmate became physically resistant during an escort and was taken to the ground.
45	Spontaneous	Hands On	Disruptive Inmate	An inmate concealed medication during pill call and refused to show an officer his hands. The officer placed the inmate against the wall to retrieve the medication.
46	Spontaneous	Hands On	Disruptive Inmate	An inmate kicked a trash can during a routine search of his cell and hands on force was used to take the inmate to the ground and restrain him.
47	Spontaneous	Hands On	Staff Assault	An inmate was taken to the ground after attempting to tackle officers who were securing him in his cell.
48	Spontaneous	Hands On	Refusal to Comply	An inmate passively resisted locking down in her cell by sitting on the floor. After 45 minutes, the officers attempted to restrain her, and she actively resisted.

Appendix A

Use of Force Incidents Selected (continued)

No.	Planned or Spontaneous	Type of Force Used	Force Category	Incident Description
49	Planned	Restraint Chair	Refusal to Comply	A team was assembled to move an inmate from one cell to another. The inmate complied with the move and no physical force was used other than the restraint chair.
50	Planned	Restraint Chair	Inmate Welfare	A team was assembled for a cell move of a mental health inmate. Due to the inmate's resistance, mental health staff ordered the inmate to be placed in a restraint chair.
51	Planned	Pepper Spray	Inmate Welfare	A suicidal inmate captured his restraints, and a team was assembled to regain possession.
52	Planned	Display of Force	Inmate Welfare	A team was assembled to retrieve a suicidal inmate's clothing from her cell.
53	Planned	Pepper Spray	Inmate Welfare	A team was assembled to move an inmate who was refusing a medically mandatory cell move.
54	Spontaneous	Hands On	Inmate Welfare	Officers were required to use hands on force to stop a mental health inmate from spitting on and otherwise harassing general population inmates during a transport between facilities.
55	Planned	Hands On	Inmate Welfare	A team was assembled to enter the cell of an unresponsive inmate complaining of chest pains. Upon entering the cell, the inmate jumped up and attacked officers.
56	Spontaneous	Hands On	Disruptive Inmate	Force was used to prevent an inmate from urinating on other inmates during transport, and the inmate resisted removal of his restraints after arriving at the institution.
57	Spontaneous	Hands On	Staff Assault	An inmate spit on officers while being escorted outside of his cell. The inmate also spun trying to break the grip of officers holding his restraints.
58	Spontaneous	Projectile Launcher	Inmate Violence	Multiple inmates on single inmate assault.
59	Spontaneous	Pepper Spray	Inmate Welfare	A suicidal inmate had a ligature around his neck and told officers he also had a prison made weapon.
60	Spontaneous	Restraint Chair	Inmate Welfare	Hands on force was used to stop an inmate from hitting his head against his cell walls. The inmate was placed in a restraint chair to be evaluated by medical.
61	Spontaneous	Hands On	Staff Assault	Inmate pushed officer while being verbally aggressive to other inmates.
62	Spontaneous	Hands On	Disruptive inmate	An inmate was argumentative after a cell search and resisted being restrained by arriving officers.

Appendix A

Use of Force Incidents Selected (continued)

No.	Planned or Spontaneous	Type of Force Used	Force Category	Incident Description
63	Spontaneous	Hands On	Inmate Welfare	An inmate was rolling around on the floor and acting irrationally. A medical evaluation indicated the inmate was under the influence of an unknown substance.
64	Spontaneous	Hands On	Inmate Violence	Inmate-on-inmate fight.
65	Spontaneous	Hands On	Disruptive Inmate	An inmate became verbally and physically aggressive during a disciplinary hearing.
66	Spontaneous	Hands On	Refusal to Comply	An inmate resisted being restrained after a rules violation and an officer grabbed his arm to place him in restraints.
67	Planned	Pepper Spray	Inmate Welfare	A team was used to remove two inmates from a cell when one of the inmates reported being suicidal and then became unresponsive.
68	Planned	Pepper Spray	Disruptive Inmate	An inmate captured his food slot and started a fire in his cell.
69	Planned	Hands On	Refusal to Comply	An inmate refused to submit to restraints so he could be escorted from the shower to his cell. A team was used to remove the inmate from the shower.
70	Planned	Hands On	Inmate Welfare	Per doctor's orders an inmate was administered medication.
71	Spontaneous	Hands On	Inmate Welfare	An inmate in a mental health unit knocked himself unconscious by hitting his head against the wall. Officers entered the cell and held the inmate down, at the instruction of medical staff, until an ambulance arrived.
72	Spontaneous	Hands On	Inmate Welfare	An inmate appearing under the influence of an unknown substance was yelling, acting erratically, and refusing to be restrained.
73	Spontaneous	Pepper Spray	Inmate Violence	Inmate-on-inmate fight involving a weapon.
74	Spontaneous	Hands On	Inmate Violence	Inmate-on-inmate assault.
75	Planned	Hands On	Refusal to Comply	An inmate resisted escort by sitting on the floor. Officers picked up the inmate and placed him in a restraint chair to complete the transport.
76	Planned	Pepper Spray	Disruptive Inmate	An inmate broke the fire suppression system in his cell and refused to come out so the system could be repaired.
77	Spontaneous	Hands On	Disruptive Inmate	An inmate broke out of a shower cell and damaged property.
78	Spontaneous	Restraint Chair	Inmate Violence	An inmate suspected of being involved in a multiple inmate on single inmate assault became aggressive during a search of his property.

Appendix A

Use of Force Incidents Selected (continued)

No.	Planned or Spontaneous	Type of Force Used	Force Category	Incident Description
79	Spontaneous	Restraint Chair	Disruptive Inmate	An inmate broke out of a shower cell and damaged property.
80	Planned	Pepper Spray	Inmate Welfare	An inmate refused a COVID-19 test and refused to leave his cell for a bed move to the infirmary as ordered by medical staff.
81	Spontaneous	Pepper Spray	Inmate Violence	Inmate-on-inmate fight.
82	Spontaneous	Pepper Spray	Inmate Violence	Inmate-on-inmate fight.
83	Spontaneous	Multiple Less Lethal Weapons	Inmate Violence	Officers used a projectile launcher and pepper spray to stop an inmate-on-inmate fight.
84	Spontaneous	Hands On	Staff Assault	An inmate attempted to propel food on an officer through the food slot in his cell door. The officer pushed the tray back and attempted to close the food slot.
85	Spontaneous	Pepper Spray	Inmate Violence	Inmate-on-inmate fight.
86	Spontaneous	Hands On	Staff Assault	An inmate attempted to kick an officer during a clothed body search.
87	Spontaneous	Pepper Spray	Inmate Violence	Inmate-on-inmate assault with a weapon.
88	Spontaneous	Pepper Spray	Inmate Violence	Inmate-on-inmate fight
89	Planned	Hands On	Inmate Welfare	Per doctor's orders an inmate was administered medication.
90	Spontaneous	Hands On	Refusal to Comply	An inmate refused to return to his cell during a restrained escort.
91	Spontaneous	Hands On	Disruptive Inmate	An inmate captured his wrist restraints and refused to return them.
92	Spontaneous	Pepper Spray	Inmate Violence	Inmate-on-inmate fight.
93	Spontaneous	Projectile Launcher	Inmate Violence	Inmate-on-inmate fight.
94	Spontaneous	Multiple Less Lethal Weapons	Inmate Violence	Officers used a projectile launcher and pepper spray to stop a multiple inmate on single inmate assault with weapons involved.
95	Spontaneous	Pepper Spray	Inmate Violence	Inmate-on-inmate assault with a weapon.
96	Spontaneous	Hands On	Staff Assault	An inmate became aggressive during transport for medical evaluation and spit on officers.

Appendix A

Use of Force Incidents Selected (continued)

No.	Planned or Spontaneous	Type of Force Used	Force Category	Incident Description
97	Spontaneous	Pepper Spray	Inmate Violence	Inmate-on-inmate fight.
98	Spontaneous	Hands on	Inmate Welfare	A delirious and hallucinating inmate was restrained and transported to medical.
99	Spontaneous	Pepper Spray	Inmate Violence	Inmate-on-inmate fight.
100	Spontaneous	Hands on	Staff Assault	An inmate attempted to punch officers.

Source: Auditor analysis of incident reports in the Department's computer system (NOTIS).

Appendix B

2017 Information Request From Legislature – Surveillance Cameras



Nevada Legislature

September 29, 2017

James Dzurenda, Director
Nevada Department of Corrections
3955 W. Russell Road
Las Vegas, NV 89118

Dear Mr. Dzurenda:

The 2017 Legislature approved the Nevada Department of Corrections (NDOC) budget, which included funding for body cameras, stationary cameras, associated hardware, and increased bandwidth costs for seven of the NDOC institutions.

The NDOC indicated in its testimony during the 2017 Legislative Session that the implementation of the body cameras and stationary cameras would help reduce litigation, liability, and improve staff and inmate safety throughout the department. The agency also testified that it would establish performance measures to track statistics on all incidents so that data could be presented to demonstrate the impacts from the use of the cameras. The money committees requested to be kept informed on the agency's statistical data related to the implementation of the body and stationary cameras.

It is the intent of the money committees that the NDOC submit semiannual reports to the Interim Finance Committee that include the following:

- Statistical data related to incidents captured on body and/or stationary cameras compared to data collected on incidents before the cameras were used, which should include:
 - The type and number of incidents department-wide by institution;
 - The number of incidents that have resulted in litigation; and
 - Any data collected that demonstrates an improvement in the safety of department staff and inmates throughout the institutions.
- Report on the usage of body and stationary camera recordings as evidence during litigation, including how the recorded evidence impacted such litigation.

Appendix B

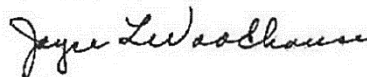
2017 Information Request From Legislature – Surveillance Cameras (continued)

James Dzurenda, Director
Nevada Department of Corrections
September 29, 2017
Page 2

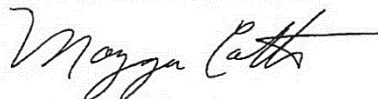
- Report on any findings or information regarding the implementation of the body and stationary cameras, including the advantages and disadvantages the department is currently experiencing, and whether the department intends to expand or discontinue the use of the cameras.

The initial report should cover the period from July 1, 2017, through December 31, 2017, and should be submitted to the Fiscal Analysis Division by February 1, 2018. All subsequent reports should be submitted to the Fiscal Analysis Division within 30 days of the close of each semiannual period.

Sincerely,



Joyce Woodhouse, Chair
Senate Committee on Finance



Maggie Carlton, Chair
Assembly Committee on Ways and Means

cc: Mike Willden, Chief of Staff, Office of the Governor
Jim Wells, Director, Governor's Finance Office
John Borrowman, Deputy Director of Support Services, Nevada Department of Corrections

Appendix C

Audit Methodology

To gain an understanding of the Department of Corrections (Department), we interviewed staff, reviewed state laws, regulations, and policies and procedures significant to the Department's operations. We also reviewed financial information, prior audit reports, budgets, legislative committee minutes, and other information describing the agency's activities. Furthermore, we documented and assessed the Department's controls related to use of force data and reviews, monitoring equipment, grievances, training, and administrative regulations.

Our audit included a review of the Department's internal controls significant to our audit objective. Internal control is a process effected by an entity's oversight body, management, and other personnel that provides reasonable assurance that the objectives of an entity will be achieved. Internal control comprises the plans, methods, policies, and procedures used to fulfill the mission, strategic plan, goals, and objectives of the entity. The scope of our work on controls related to the use of force data and reviews, monitoring equipment, grievances, training, and administrative regulations including the following:

- Performance of monitoring activities (Monitoring);
- Design of control activities (Control Activities); and
- Establishing structure, responsibility and authority, and demonstrating competence (Control Environment).

Deficiencies and related recommendations to strengthen the Division's internal control systems are discussed in the body of the report. The design, implementation, and ongoing compliance with internal controls is the responsibility of agency management.

We confirmed the reliability of inmate demographic information by obtaining demographic reports from the Department's data warehouse. We then compared the total population listed on the

reports to selected routine inmate counts performed by correctional officers. Next, we verified select demographic data of five randomly selected inmates to the inmates' intake documentation, "C-File", incident reports, and medical file. To confirm the reliability of the use of force data, we obtained copies of system reports from the Department's Nevada Offender Tracking Information System (NOTIS) database. We compared reports for accuracy and completeness by identifying any differences.

We analyzed individual use of force incidents, occurring between January 1, 2019, and March 31, 2021, by randomly selecting 100 incidents from a population of 1,081. We identified each inmate involved and determined whether the inmate had a gang affiliation, history of institutional violence, or mental health impairment. We compared the information obtained for the inmates in our sample to demographics for the total inmate population. We also reviewed incident information and identified the type of force used, weapon, and reason.

To ensure the Department provides adequate follow up on inmate allegations of excessive force, we obtained a list of all grievances filed during our audit period. We verified the completeness and accuracy of the list by comparing relevant information to grievance files. We then identified all grievances on the list alleging excessive use of force and randomly and judgmentally selected 20 reviewing for evidence of timely follow-up by the Department. We discussed the grievance process with staff and management at each institution and the Inspector General's (IG) Office.

Next, we determined if the Department was adequately reviewing use of force incidents, by randomly selecting 25 use of force incidents from our population of 1,081. We then reviewed incident files for documentation that certain review and monitoring procedures were performed, completed timely, and results were forwarded to the IG's Office. Finally, we discussed the use of force review and monitoring process with the IG's Office and management.

We evaluated certain training and administrative functions of the Department by first reviewing the Department's process for

supervising prospective officers. All newly hired officers during our audit period were identified using academy rosters and the state payroll system. We then calculated the number of days between hire date and academy start date. Next, we reviewed the NOTIS database for incidents involving prospective officers with over 100 days between the hire and academy start date. A judgmental sample of 20 prospective officers was selected from a population of 654, based on incidents noted or the length of time elapsed from the date of hire to the academy start date. In addition, we reviewed training files and Department timekeeping records to determine the type of work officers were performing during this period. We also surveyed other states and local law enforcement agencies. Finally, we discussed our results with management.

To determine if the Department was tracking and documenting continuing training for its officers, we randomly selected 25 use of force incidents. We identified the officers involved and reviewed training records. We discussed our results with institutional training coordinators and staff from the Department training unit.

For our work related to internal controls around weapons and training, we obtained training curriculums and lesson plans for all weapons related to academy and ongoing training for our audit period. We compared training to the weapons noted in inventory. We also compared weapons inventories to the Department's list of authorized weapons.

Next, we obtained the Department's administrative regulations and operating procedures. We compared the regulations with recent legislative changes and current operational practices. We then discussed any differences noted with management.

We evaluated whether the Department's use of force data is accurate, complete, and properly analyzed by obtaining copies of statistical reports covering use of force incidents during our audit period. We compared the incidents listed on each report and identified any differences. Then, we reviewed the incident documentation in NOTIS for each difference, and confirmed the nature of the incident involved a use of force by staff. Next, we

confirmed the results with management and discussed the Department's process for collecting and analyzing use of force data.

Finally, we evaluated the implementation of the Department's body camera program by reviewing purchase documentation including purchase orders, invoices, budgetary requests, and testimony. Next, we performed a physical inventory of the body cameras. We then discussed why the body cameras were not implemented with management. Lastly, we discussed the impact of video evidence on cases with staff from the Department's IG's Office and the Attorney General's Office.

We used nonstatistical audit sampling for our audit work, which was the most appropriate and cost-effective method for concluding on our audit objective. Based on our professional judgment, review of authoritative sampling guidance, and careful consideration of underlying statistical concepts, we believe that nonstatistical sampling provided sufficient, appropriate audit evidence to support the conclusions in our report. For these tests, we did not project the findings to the population. Our samples included both randomly and judgmentally selected items.

Our audit work was conducted from July 2020 to October 2021. We conducted this performance audit 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In accordance with NRS 218G.230, we furnished a copy of our preliminary report to the Director of the Department of Corrections. On February 16, 2022, we met with agency officials to discuss the results of the audit and requested a written response to the preliminary report. That response is contained in Appendix D, which begins on page 37.

Contributors to this report included:

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Deputy Legislative Auditor

Chris Kelly, CPA
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Audit Supervisor

Shannon Riedel, CPA
Chief Deputy Legislative Auditor

Appendix D

Response From the Department of Corrections

Steve Sisolak
Governor

Charles Daniels
Director



STATE OF NEVADA
Department of Corrections

Northern Administration
5500 Snyder Ave.
Carson City, NV 89701
(775) 977-5500

Southern Administration
3955 W. Russell Rd.
Las Vegas, NV 89118
(725) 216-6000

March 2, 2022

Daniel L. Crossman, CPA
Legislative Auditor
Legislative Building
401 S. Carson Street
Carson City, NV 89701-4298

RE: Department of Corrections, Use of Force

Dear Mr. Crossman:

This is in response to the Legislative Auditors Performance Audit on the Department of Corrections, Use of Force.

Thank you for the opportunity over the last year, to meet and discuss the various audit findings. As a result of these meetings and the information provided, our team has been able to begin to update policies and procedures to address these findings and ensure the Nevada Department of Corrections (NDOC) has an efficient and effective operation.

NDOC has accepted all recommendations and has attached what items have already been implemented and/or in being finalized.

If you have any questions or need further information, please do not hesitate to contact Christina Leathers, Assistant to the Director at (725) 216-6022, or cleathers@doc.nv.gov.

Charles Daniels, Director
Nevada Department of Corrections

Attachment

1. Develop a process and training program for the Inspector General's Office to ensure all referred use of force grievances are reviewed and completed in a timely manner.

NDOC's Inspector General (IG) ensured that all Office of Inspector General (OIG) staff have received the proper training documents relating to the Nevada Offender Tracking Information System (NOTIS) and the Grievance Module. With the assistance of NDOC's Deputy Director Support Services, Information Technology staff are also providing in-person instruction for anyone in the OIG who needs further assistance. All IG staff who have access to the Grievance Module have received the training documents.

2. Ensure use of force grievances are reviewed by the Inspector General's Office prior to inmates being paroled.

NDOC's Inspector General will make every effort to ensure that excessive force grievances are reviewed before an offender is paroled. Factors which may preclude this from happening include, when the grievance is submitted in relation to the offender's parole date and exit from the Department. In the event that an offender is paroled and exits the Department before the normal grievance review process is completed an expedited process will be utilized to respond to any outstanding use of force grievances. The response will be sent to the institution which can then be forward it to the parolee's address.

3. Ensure individual institutions follow Department policies for screening use of force grievances before referring to the Inspector General's Office.

NDOC's Deputy Director Programs will ensure that training for all Grievance Coordinators will be developed and delivered to ensure that the screening of use of force grievances will be properly completed and processed before they are referred to the Inspector General's Office.

4. Require Inspector General's Office to track Use of Force Review Panels in accordance with Department regulation to ensure they are conducted and completed timely.

NDOC's IG, in cooperation with NDOC's Deputy Director Operations will ensure that all use of force incident reviews are completed by the institution in a timely manner. A tracking system to ensure timely reports has been initiated by the Deputy Director Operations office and announced by memorandum dated February 23, 2022 (Exhibit 1), to all institutions and facilities. In accordance with Administrative Regulation 405.13, Use of Force Incident/Serious Incident Reviews, a written use of force incident report will be prepared and forwarded in a timely manner. The report will be distributed to the Warden, Deputy Director Operations and IG. The IG developed and announced a unique group-email account for the purpose of ensuring timely submissions and reviews in the Weekly All-operations Meeting agenda dated March 1, 2022. (Exhibit 2)

5. Forward Use of Force Review Panel Reports to the Inspector General's Office.

NDOC's Inspector General, as mentioned in recommendation number 4 above, has developed and announced a unique group-email account created for this purpose. All institutions will submit completed Use of Force reports in a timely manner and forward them to the Warden, Deputy Director Operations and Inspector General's office for tracking and reporting.

6. Ensure adequate oversight of prospective officers when working inside institutions prior to attaining correctional officer credentials.

NDOC's Deputy Director Operations published a memorandum dated February 23, 2022 (Exhibit 3), which formally announced seven (7) guidelines establishing rules governing the utilization, oversight, function and duties that prospective officers may perform when working inside institutions prior to attaining correctional officer credentials. Administrative Regulation 360 – Correctional Employee/Officer Basic Training Program" is pending update with those guidelines.

7. Develop policies and procedures which provide clear guidance on what functions and duties prospective officers may perform prior to attaining certification as a correctional officer.

NDOC's Deputy Director Operations published a memorandum dated February 23, 2022 (Exhibit 3), which formally announced seven (7) guidelines establishing rules governing the utilization, oversight, function and duties that prospective officers may perform when working inside institutions prior to attaining correctional officer credentials. Administrative Regulation 360 – Correctional Employee/Officer Basic Training Program" is pending update with those guidelines.

8. Monitor all use of force related training at the Department level. Ensure officer training aligns with weapons assigned and used.

NDOC's Deputy Director Operations is presently considering best methods to monitor all use of force related training at the Department level and to ensure officer training aligns with weapons assigned and utilized. With the Employee Development Manager as the designated Project Manager, The Department's Employee Development (Training) Division will develop and select a method within the next 60 days.

9. Develop a process for the identification and timely removal of obsolete weapons from armories.

NDOC's Deputy Director Support Services will ensure refresher training is conducted for all Institutional Armors and Administrative Service Officers to ensure the proper disposal and removal of obsolete weapons from facility armories in accordance with Administrative Regulation 210 – Purchasing, Receiving and Payment, as well as Administrative Regulation 215 – Fixed Asset Inventory Control.

10. Establish a process to periodically review the authorized weapons list to ensure weapons are consistent with those currently used by the Department.

NDOC's Deputy Director Operations guided the creation of an Ordinance Manual to be included under Administrative Regulation 412 – Armory Weapons and Control that identifies all approved weapons and munitions for the Department. The Ordinance Committee who will review authorized weapons lists to ensure weapons are consistent with those which are currently used by the Department will consist of the Deputy Director Operations and four (4) Wardens.

11. Develop a department-wide policy and training program for the use of the restraint chair.

NDOC's Deputy Director Operations will ensure that the Employee Development (Training) Division completes the training curriculum for the use of the restraint chair which is currently in progress. That curriculum is being developed in accordance with recently revised Nevada Revised Statutes and the manufactures specifications and directions in applying and utilizing the restraint chair.

12. Follow Department policy to routinely review and update Administrative Regulations and operating procedures.

NDOC's Director's Office, under the oversight of the Assistant to the Director, will ensure that the Management Analyst IV complies with Administrative Regulation 100 – Administrative Regulations so that all department policies, administrative regulations and operational procedures are routinely reviewed and updated.

13. Develop department-wide guidance for coding use of force data and train staff to properly classify the data in the Department's computer system.

NDOC's Deputy Director Operations will ensure a refresher training class is included in the 2022 custody supervisor in-service training curriculum that instructs the proper classification of use of force data in the Department's computer system. With the Employee Development Manager as the designated Project Manager, The Department's Employee Development (Training) Division will develop and initiate the training plan within the next 60 days. This development will in turn necessitate a future update of Administrative Regulation 400 – General Security/Supervision Guidelines (to include the coding instructions), and/or others as necessary.

14. Develop a process for continual review, monitoring, and correcting use of force data to ensure accuracy and completeness.

NDOC's Deputy Director Operations is presently considering best methods to gather and review, monitor, correct and correct use of force data. A Project Manager and team will select a system which supports this recommendation within the next 60 days, which will in turn may necessitate a future update to Administrative Regulation 405 – Use of Force.

15. Collect, analyze, and report required incident data to assist in allocating resources and training development.

NDOC's Deputy Director Operations will also consider the best methods to collect, analyze, and report use of force incident data to assist in allocating resources and training development. A Project Manager and team will select a system which supports this recommendation within the next 60 days, which will in turn may necessitate a future updates to Administrative Regulation 405 – Use of Force as well as Administrative Regulation 359 – Employee Development Program Coordination and Supervision and/or others as deemed necessary.

16. Develop and implement a plan to utilize body cameras as represented to the Legislature. If not feasible, cease payment of annual maintenance costs on unused equipment and allow the cameras to be repurposed or sold.

NDOC's Deputy Director Operations is presently considering best methods to develop and implement a plan to utilize body cameras as presented to the Legislature, or, if not feasible, to cease payment of annual maintenance costs on unused equipment and allow the cameras to be repurposed or sold. A Project Manager and team will select a resolution and method which supports this recommendation within the next 60 days.

Department of Corrections' Response to Audit Recommendations

<u>Recommendations</u>	<u>Accepted</u>	<u>Rejected</u>
1. Develop a process and training program for the Inspector General's Office to ensure all referred use of force grievances are reviewed and completed timely	<u> X </u>	<u> </u>
2. Ensure use of force grievances are reviewed by the Inspector General's Office prior to inmates being paroled	<u> X </u>	<u> </u>
3. Ensure individual institutions follow Department policies for screening use of force grievances before referring to the Inspector General's Office	<u> X </u>	<u> </u>
4. Require the Inspector General's Office to track Use of Force Review Panels in accordance with Department regulation to ensure they are conducted and completed timely.....	<u> X </u>	<u> </u>
5. Forward Use of Force Review Panel Reports to the Inspector General's Office	<u> X </u>	<u> </u>
6. Ensure adequate oversight of prospective officers when working inside institutions prior to attaining correctional officer credentials	<u> X </u>	<u> </u>
7. Develop policies and procedures which provide clear guidance on what functions and duties prospective officers may perform prior to attaining certification as a correctional officer	<u> X </u>	<u> </u>
8. Monitor all use of force related training at the Department level. Ensure officer training aligns with weapons assigned and used	<u> X </u>	<u> </u>
9. Develop a process for the identification and timely removal of obsolete weapons from armories.....	<u> X </u>	<u> </u>
10. Establish a process to periodically review the authorized weapons list to ensure weapons are consistent with those currently used by the Department.....	<u> X </u>	<u> </u>
11. Develop a department-wide policy and training program for use of the restraint chair	<u> X </u>	<u> </u>
12. Follow Department policy to routinely review and update administrative regulations and operating procedures.....	<u> X </u>	<u> </u>
13. Develop department-wide guidance for coding use of force data and train staff to properly classify the data in the Department's computer system	<u> X </u>	<u> </u>
14. Develop a process for continual review, monitoring, and correcting use of force data to ensure accuracy and completeness	<u> X </u>	<u> </u>

Department of Corrections' Response to Audit Recommendations
(continued)

<u>Recommendations</u>	<u>Accepted</u>	<u>Rejected</u>
15. Collect, analyze, and report required incident data to assist in allocating resources and training development	<u> X </u>	<u> </u>
16. Develop and implement a plan to utilize body cameras as represented to the Legislature. If not feasible, cease payment of annual maintenance costs on unused equipment and allow the cameras to be repurposed or sold	<u> X </u>	<u> </u>
TOTALS	<u> 16 </u>	<u> </u>