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Time-sensitive inquiry: Vice News / Marshall Project story on COVID-19 and the BOP

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Hello,

While we decline to provide an interview with Director Carvajal or to comment on any allegations, we can provide you with the following information.

The Bureau of Prisons (BOP) is carefully monitoring the spread of the COVID-19 virus. As with any type of emergency situation, we carefully assess how to best ensure the safety of staff, inmates and the public. All of our facilities are implementing the BOP's guidance on mitigating the spread of COVID-19. That guidance can be found on our website at <https://www.bop.gov/coronavirus/index.jsp>.

In response to COVID-19, the BOP has instituted a comprehensive management approach that includes screening, testing, appropriate treatment, prevention, education, and infection control measures. The BOP has been coordinating our COVID-19 efforts since January 2020, using subject-matter experts both internal and external to the agency, including guidance and directives from the Centers for Disease Control and Prevention (CDC), the Office of Personnel Management (OPM), the Department of Justice (DOJ), and the Office of the Vice President.

Using the Incident Command System (ICS) framework, we developed and implemented an incident action plan that addressed our Continuity of Operations Program (COOP), supply management, inmate movement, inmate visitation, and official staff travel, as well as other important aspects. Our Central and Regional Offices, and the National Institute of Corrections continue to coordinate planning and guidance with state and local prisons and jails.

The first phases of our nationwide action plan were vital steps essential to slowing the spread of the virus. These actions included establishing a task force to begin strategic planning and building on our already existing procedures for managing pandemics. We started limiting facility-to-facility transfers, and other inmate movement, as well as implementing screening, quarantine and isolation procedures. In addition, we suspended social and legal visits, cancelled staff training and travel, limited access for contractors and volunteers, and established enhanced screening for staff and inmates, including temperature checks. We began inventorying sanitation, cleaning, and medical supplies and procuring additional supplies of these items. All of these actions were carried out with the goal of reducing the risk of introducing and spreading the virus inside our facilities.

All BOP institutions were on enhanced modified operations as of April 1, 2020, under Phase 5 of our action plan found here https://www.bop.gov/resources/news/pdfs/20200331_press_release_action_plan_5.pdf. This action was taken as a means to further mitigate exposure and spread of COVID-19 at the facility. Enhanced modified operations are not a lockdown, but rather a means to minimize inmate movement, to minimize congregate gathering, and maximize social distancing among the inmate population. Under enhanced modified operations, inmates are limited in their movements within the institution, with inmate movement in small numbers authorized for access to Commissary, laundry, showers, telephone and electronic messaging access, medical and mental health care, and some essential work details or work assignments. Symptomatic inmates are not placed on any work details or work assignments. Just like in communities nationwide who have been required to shelter-in-place, the BOP implemented this course of action to mitigate the spread of the virus.

As of April 13, 2020, Phase 6 of our action plan found here https://www.bop.gov/resources/news/pdfs/20200414_press_release_action_plan_6.pdf, extends enhanced modified operations under Phase 5 until May 18, 2020.

On Monday, May 18, 2020, the Director of the Bureau of Prisons ordered the implementation of Phase 7 of its COVID-19 Action Plan. This phase extends all measures from Phase 6, to include measures to contain movement and decrease the spread of the virus. The Phase 7 Action Plan will remain in place through June 30, 2020, at which time the plan will be evaluated.

We realize that suspending social visiting has an impact on inmates and their loved ones, but our primary purpose in doing so is to help keep them and the community safe. In order to compensate for the absence of in-person visits, we increased monthly telephone minutes for all inmates from 300 to 500 minutes in recognition of how important it is

for families to stay in touch during this time. Telephone calls are free to inmates for the duration of this emergency (collect calls will still be charged to the receiving phone number). Inmate mail is being distributed daily. Additionally, video sessions are free of charge to the female population at 16 facilities that offer the Video Service. Please note, the system requires sessions to be scheduled four days in advance.

During this time, access to legal counsel remains a paramount requirement but, like social visiting, the BOP needs to reduce the risk of exposure created by external visitors. As such, while in general, legal visits are suspended for 30 days, case-by-case accommodation will be accomplished at the local level and confidential legal calls will be allowed in order to ensure inmates maintain access to counsel. Also, inmates still have the ability to observe faith traditions, although they may be modified to allow for social distancing or other health precautions.

With respect to inmate movement generally, BOP movement nationwide is down 94% from this time last year, and this is directly a result of steps we have taken as we have implemented our COVID-19 pandemic plan. However, the BOP is required to accept inmates awaiting trial remanded to our custody. We must also accept newly-convicted inmates for service of their sentence. This requirement is based in federal statute (see the Bail Reform Act, Title 18 U.S.C. § 3141); if a federal judge orders a pre-trial offender to be detained, the Federal government, which includes BOP facilities, must assume custody and care of the inmate. To be clear, while the BOP can control and limit its intra-agency movements, we have no authority to refuse inmates brought to us by the US Marshals Service.

Effective March 26, the BOP issued guidance that all newly admitted inmates into the BOP were screened and temperature checked by employees wearing Personal Protective Equipment (PPE), to include surgical masks, face shields/goggles, gloves, and gowns in accordance with CDC guidance. If an inmate is asymptomatic, they are placed in quarantine for a minimum of 14 days. If symptomatic for COVID-19, the inmate must be placed in isolation until they test negative for COVID-19 or are cleared by medical staff as meeting CDC criteria for release from isolation. All institutions have areas set aside for quarantining and isolation. Symptomatic or positive staff self-quarantine at their homes. Inmates are treated at the institution unless medical staff determine they require hospitalization. All symptomatic inmates are treated per CDC guidelines.

Staff, contractors, and other visitors to the institution also must undergo a screening and temperature check by a staff member or contractor wearing appropriate PPE prior to entering the facility, with those who register a temperature of 100.4° Fahrenheit or higher denied access to the building. As much as possible, staff are being assigned to the same posts and not rotating, as an additional measure to mitigate the spread of the virus.

For those staff that are presenting with symptoms or have been identified as a close contact of a COVID-19 diagnosed individual, given the critical role our staff play with regard to public safety, we have developed a letter for staff who are in close contact of a COVID-19 positive individual to provide to the local Health Department, to ensure such persons receive priority COVID-19 testing.

All inmates releasing or transferring from BOP facilities to the community will be placed in quarantine for 14 days prior to their scheduled departure from the institution. This includes but is not limited to Full Term releases, Good Conduct Time releases, releases to detainers, furloughs, and transfers to Residential Reentry Centers (RRC's or halfway houses) or home confinement. If an inmate is in isolation on their release date, the institution will notify the local health authorities in the location where the inmate is releasing. Institution staff may also coordinate with local Health Department authorities to minimize exposure with the public upon release. Transportation that will minimize exposure will be used, with an emphasis on transportation by family and friends, and inmates will be supplied a cloth facial covering to wear.

As a nationwide system, we are able to leverage and transfer resources from institutions without incidences of COVID-19 to institutions with greater need. Soap is available throughout the institutions and in cells, and is made available in common areas of each facility (e.g., restrooms, work sites). In addition to providing hand soap in common areas and to indigent inmates who do not have the means to purchase soap, individual bars of soap are available as needed for the inmate population, or can be purchased for personal use in the inmate commissary if an inmate prefers. Inmates have been educated on CDC guidelines for hand washing, coughing/sneezing in a sleeve or tissue, and no physical contact. Additionally, staff, including all executive staff and department heads, are making frequent rounds throughout housing units, door-to-door, conducting wellness checks, and if an inmate reports feeling ill, he/she is immediately screened by health services personnel. Inmates presenting as symptomatic are isolated in accordance with CDC and public health directives.

Sanitation efforts continue across all institutions. All cleaning, sanitation, and medical supplies have been inventoried at the BOP's facilities, and currently an ample supply is on hand and ready to be distributed or moved to any facility as deemed necessary. As the COVID-19 outbreak continues to evolve, the BOP updates and refines its recommendations based on CDC guidance, and protocols, and will continue to provide helpful information to staff, inmates and federal, state and local partners.

The BOP has PPE supplies and is utilizing them in accordance with CDC guidance. As has been made clear by the CDC (<https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/index.html>), supplies of PPE and prudence dictates that equipment is used to optimize the limited supply available in both the private and public sectors.

Guidance as to where and when PPE such as N95 masks should be worn have been provided to all sites, is consistent with CDC guidance, and depends on several factors, including whether or not an institution has an active case and each employee's job description. As noted in guidance from the CDC and OSHA, there are several types of respiratory masks as well as surgical face masks; certain masks are appropriate and effective in certain scenarios and not in others. Some scenarios would require an employee to wear the N95 mask, whereas it would not be necessary in other cases. Guidance on what types of PPE are necessary and under what circumstances is available here www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/index.html. Staff working in areas of isolation and quarantining are required to wear full PPE.

In response to the April 3rd updated guidance from the CDC, we issued surgical masks to everyone – staff and inmates – in our prisons. Federal Prison Industries (FPI, or UNICOR) factories began production on cloth face coverings for our staff and inmate population, non-surgical medical gowns for medical facilities, and packaging hand sanitizer for use within the BOP and other agencies. We will distribute the cloth face coverings as they are produced to preserve surgical masks for quarantine and screening purposes with the goal being, consistent with CDC guidance, to limit transmission of coronavirus by “asymptomatic” or “pre-symptomatic” persons when social distancing cannot be achieved.

Given the surge in positive cases at select sites and in response to the Attorney General's directives, the BOP began immediately reviewing all inmates who have COVID-19 risk factors, as described by the CDC, to determine which inmates are suitable for home confinement. The BOP was originally focused on a priority list of inmates in accordance with the Attorney General's guidance to BOP issued March 26, 2020. However, the Attorney General's memo issued on April 3, 2020 asked the BOP to immediately maximize appropriate transfers to home confinement of all appropriate inmates held at Oakdale, Danbury, Elkton, and other similarly situated facilities. That process is ongoing.

The Department of Justice confirmed that the BOP has discretion under the Attorney General's memoranda on March 26 and April 3 regarding which home confinement cases are appropriate for review in order to fight the spread of the pandemic. The BOP will proceed expeditiously consistent with that confirmation.

Inmates do not need to apply to be considered for home confinement. Case management staff are urgently reviewing all inmates to determine which ones meet the criteria established by the Attorney General. The Department of Justice has also increased resources to review and make appropriate determinations as soon as possible. While all inmates are being reviewed for suitability, any inmate who believes he/she is eligible may request to be referred to home confinement and provide a release plan to their Case Manager. The BOP may contact family members to gather needed information when making decisions concerning home confinement placement.

Guidance related to the BOP's use of home confinement in response to Attorney General Barr's original memo to the BOP on March 26 instructing the BOP to prioritize home confinement as an appropriate response to the COVID-19 pandemic may be found here https://www.bop.gov/resources/news/20200405_covid19_home_confinement.jsp. We are urgently reviewing all inmates to determine which ones meet the criteria to be suitable for home confinement as established by the Attorney General.

On April 3, the Attorney General exercised emergency authority under the CARES Act to further increase home confinement as found on our public website here https://www.bop.gov/coronavirus/docs/bop_memo_home_confinement_april3.pdf

For the number of COVID-19 home confinement transfers since the Attorney General's March 26 memo, visit the COVID-19 home confinement section of our resource page on our public website here <https://www.bop.gov/coronavirus/index.jsp>.

For more information about COVID-19, to include the BOP's COVID-19 Action Plan, the official number of COVID-19 related deaths, and the number of open, positive test, COVID-19 cases for staff and inmates, please visit the BOP's Coronavirus resource page on our public website here <https://www.bop.gov/coronavirus/index.jsp>. Scroll down to the "Full Breakdown and Additional Details" link under the "COVID-19 Cases" heading for the number of cases at each institution.

Due to the rapidly evolving nature of this public health crisis, the BOP will update the open COVID-19 confirmed positive test numbers and the number of COVID-19 related deaths daily at 3:00 p.m. The positive test numbers are based on the most recently available confirmed lab results involving open cases from across the agency as reported

by the BOP's Office of Occupational Health and Safety. The number of open positive test cases only reflects current cases that have not been resolved.

The total number of open, positive test, COVID-19 cases fluctuates up and down as new cases are added and resolved cases are removed.

The BOP continues to provide testing for COVID-19, symptomatic inmates, as recommended by the CDC. We are expanding COVID-19 testing of inmates utilizing the Abbott ID NOW instrument for Rapid RNA testing at select facilities experiencing widespread transmission. Expanding the testing with the Abbott ID NOW instruments on asymptomatic inmates will assist the slowing of transmission with isolating those individuals who test positive and quarantining contacts.

The deployment of these additional resources will be based on facility need to contain widespread transmission and the need for early, aggressive interventions required to slow transmission at facilities with a high number of at-risk inmates such as medical referral centers. Increased testing of these inmates with the Abbott ID NOW instruments may increase the number of COVID-19 positive cases reflected on the BOP's website.

While a prison setting is unique when addressing a pandemic, the care and treatment of an identified positive COVID-19 case is not. The BOP follows CDC guidance the same as community doctors and hospitals with regard to quarantine and isolation procedures, along with providing appropriate treatment. The majority of inmates who tested positive COVID-19 are not exhibiting the outward symptoms or ill-effects, and do not require hospitalization. Specifically, asymptomatic (positive with no symptoms) inmates are quarantined per CDC guidance, and do not require the level of care offered in a hospital setting. Inmates who are symptomatic (positive with symptoms) are isolated and provided medical care in accordance with CDC guidance. Symptomatic inmates, whose condition rises to the level of acute medical care, will be transferred to a hospital setting; either at a local hospital, or at an institution's hospital care unit, if they have one.

When a COVID-19 related inmate death occurs, and next of kin have been notified, additional information will be posted to our public website found here https://www.bop.gov/resources/press_releases.jsp. Please note that the situation is very fluid and we are constantly updating this information. We recommend you visit the site frequently.

We understand these are stressful times for both staff and inmates. The local Crisis Support Team (CST) has been activated at many BOP facilities, checking on the welfare of staff. On Friday, April 3, 2020, BOP activated a nationwide 24-hour support line for all staff. The support line offers an outlet for staff to openly and anonymously discuss their concerns, receive support and engage in problem solving. The Employee Assistance Program (EAP), which is offered in coordination with Federal Occupational Health in the Department of Health and Human Services, is also available to staff. EAP provides free confidential counseling services via licensed, certified professional counselors. EAP services are available 24 hours a day for staff and their families.

We are deeply concerned for the health and welfare of those inmates who are entrusted to our care, and for our staff, their families, and the communities we live and work in. It is our highest priority to continue to do everything we can to mitigate the spread of COVID-19 in our facilities.

Thank you.

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