DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

PANDEMIC RESPONSE REPORT

21-012

DECEMBER 2020

Remote Inspection of Federal Medical Center Fort Worth

EVALUATION AND INSPECTIONS DIVISION

INTRODUCTION

OIG COVID-19 Inspection Efforts

In response to the coronavirus disease 2019 (COVID-19) pandemic, the U.S. Department of Justice (Department, DOJ) Office of the Inspector General (OIG) initiated a series of remote inspections of Federal Bureau of Prisons (BOP) facilities, including BOP-managed institutions, contract prisons, and Residential Reentry Centers (RRC). In total, these facilities house approximately 154,000 federal inmates. The OIG inspections sought to determine whether these institutions were complying with guidance related to the pandemic, including Centers for Disease Control and Prevention (CDC) guidelines, DOJ policy and guidance, and BOP policy. While the OIG was unable to meet with staff or inmates as part of these remote inspections, the OIG incorporated staff, inmate, and other stakeholder input into each inspection. The OIG issued a survey to over 40,000 staff working at facilities housing BOP inmates. The OIG also established a COVID-19 specific hotline through which we received complaints from inmates, staff, and other parties.

DOJ COVID-19 Complaint

Whistleblower Rights and Protections

The CDC has noted that the confined nature of correctional facilities, combined with their congregant environments, "heighten[s] the potential for COVID-19 to spread once introduced" into a facility. According to BOP data, as of November 16, 2020, 21,111 inmates and 2,718 BOP staff in BOP-managed institutions and community-based facilities had tested positive for COVID-19.[1] In those institutions, including Federal Medical Center (FMC) Fort Worth, where widespread inmate testing has been conducted, the percentage of inmates testing positive has been substantial. The number of inmates testing positive for COVID-19 at FMC Fort Worth was approximately 42 percent as of May 12.

Between April 23 and April 30, 2020, the DOJ OIG conducted a remote inspection of the BOP's FMC Fort Worth, Texas, to understand how the COVID-19 pandemic affected the institution and to assess the steps FMC Fort Worth officials took to prepare for, prevent, and manage COVID-19 transmission within the facility. FMC Fort Worth is a federal medical center that houses offenders classified at all security levels (minimum, low, medium, and high) who have special medical and mental health needs. There are 1,260 male inmates assigned to this facility. As a Care Level 4 institution, Fort Worth's population includes inmates with chronic care needs and inmates requiring specialized medical care.[2] The institution has five general population housing units, one Nursing Care Center Unit, and a Jail Unit. The institution has an on-board staffing complement of 344.

We conducted this inspection through telephone interviews with Fort Worth officials, review of documents related to the BOP's and FMC Fort Worth's management of the COVID-19 pandemic, data regarding Fort Worth inmates and Fort Worth

[1] This estimate does not include inmates who tested positive, recovered, and were released by the BOP.

[2] BOP officials assign each inmate a care level based on the inmate's individual medical needs. Care levels range from Care Level 1 for the healthiest inmates to Care Level 4 for inmates with the most serious medical conditions. The BOP also assigns each institution a care level from 1 to 4, based on the institution's level of medical staffing and resources. (Cont'd)

related staff and inmate COVID-19 cases that was developed by the OIG's Office of Data Analytics (ODA), the incorporation of FMC Fort Worth specific results from our BOP-wide survey, and consideration of complaints sent to the OIG Hotline.[3] (See Appendix 1 for the scope and methodology of the inspection and Appendix 2 for a summary of results from FMC Fort Worth respondents to the OIG's survey.) Our focus was to determine whether FMC Fort Worth's policies and practices complied with BOP directives implementing CDC guidance and intended to control the transmission of COVID-19 within each facility, as well as DOJ policy and guidance.[4]

Summary of Inspection Results

The OIG's remote inspection of FMC Fort Worth found that:

- Due to the intensity of the outbreak at FMC Fort Worth, the number of inmates receiving care at local hospitals was at times double that of normal operations. This required FMC Fort Worth to reassign Correctional Officers to the local hospitals, which strained staff resources at the FMC.
- The institution's physical layout made it difficult to implement effective social distancing because the facility's five general population units and Nursing Care Center Unit, which house the majority of the institution's inmates, have cells without doors. As a result, inmates can move freely within their units. FMC Fort Worth took steps to increase social distancing by creating new housing for inmates in the gymnasium and in tents erected in the recreation yard.
- The availability of enhanced testing equipment at FMC Fort Worth allowed the institution to test a greater number of inmates faster and to identify and medically isolate a large number of COVID-19 positive, asymptomatic inmates.
- Although FMC Fort Worth complied with BOP guidance regarding personal protective equipment (PPE) and sanitation, our survey data indicates that institution staff were concerned that such items were insufficient.
- In response to our BOP-wide survey, FMC Fort Worth staff were far more likely than staff at other BOP institutions to identify additional staff to cover posts, more space to quarantine

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The goal of the care level system is to match inmate medical needs with institutions that can meet those needs. A Care Level 4 institution is capable of treating inmates requiring inpatient care.

[3] The inspection team did not seek to assess the validity of OIG Hotline complaints as part of the remote inspections but rather considered them as we assessed the overall situation at the institution during the period of our review.

[4] Starting in January 2020, the BOP began issuing to its institutions policy directives and guidance documents detailing requirements for managing a range of activities intended to control the transmission of COVID-19 (see Appendix 3 for a timeline of the BOP's guidance to its institutions). Several of these directives were aligned with CDC guidance and were intended to assist BOP institutions in implementing CDC guidelines. Our focus was assessing FMC Fort Worth's adherence to these BOP directives.

inmates, and increased social distancing measures for staff and inmates as immediate needs of the facility to address the pandemic.

We describe these findings in greater detail, and other observations we made during our remote inspection, in the Inspection Results section of this report.

COVID-19 at FMC Fort Worth

FMC Fort Worth is a BOP-managed administrative security federal medical center in northeastern Texas that, as of November 29, housed a total of 1,260 male offenders needing medical care. Fort Worth identified its first COVID-19 positive inmate on April 8 and its first COVID-19 positive staff member on April 14. The first inmate death due to COVID-19 occurred on April 22. As of November 29, there had been 12 inmate deaths due to COVID-19. Also as of that date, the BOP reported that 602 inmates and 15 staff members had recovered from COVID-19 and that 9 inmate and 17 staff members were COVID-19 positive.

Inmate Population as of November 29, 2020[a]

1,260

Active Inmate Cases as of November 29, 2020[b]

9

Inmate COVID-19 Deaths as of November 29, 2020

12

Active Inmate COVID-19 Cases Over Time, March 31–November 29, 2020[b]

[a] Population totals may differ from BOP statistics due to categories of inmates (e.g., juveniles) excluded from the data received by the OIG.

[b] The BOP defines "active cases" as open and confirmed cases of COVID-19. Once someone has recovered or died, he or she is no longer considered an active case.

Data Source: BOP

DOJ Federal Staff as of November 29, 2020

344

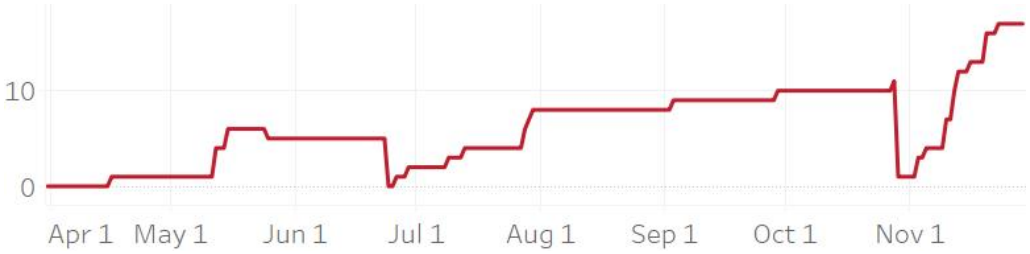
Active Staff Cases as of November 29, 2020

17

Staff COVID-19 Deaths as of November 29, 2020

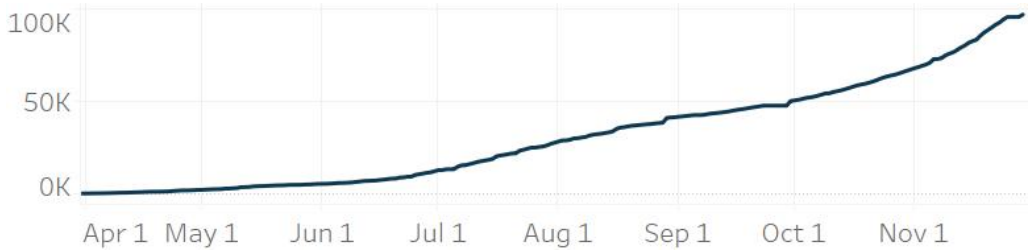
0

Active Staff COVID-19 Cases Over Time, March 31–November 29, 2020



Data Sources: BOP, National Finance Center

Total Confirmed Tarrant County COVID-19 Cases Over Time, March 31–November 29, 2020[a]



[a] Total confirmed cases are cumulative positive COVID-19 cases.

Data Source: COVID-19 Data Repository by the Center for Systems Science and Engineering at Johns Hopkins University

TABLE OF CONTENTS

INSPECTION RESULTS 1

Staffing Challenges Resulting from Monitoring Hospitalized Inmates 1

Social Distancing 2

COVID-19 Testing 7

COVID-19 Screening 9

Personal Protective Equipment 10

Inmate Communications, Access to Counsel, and Commissary 12

Use of Home Confinement and Compassionate Release Authorities 13

APPENDIX 1: SCOPE AND METHODOLOGY OF THE INSPECTION 22

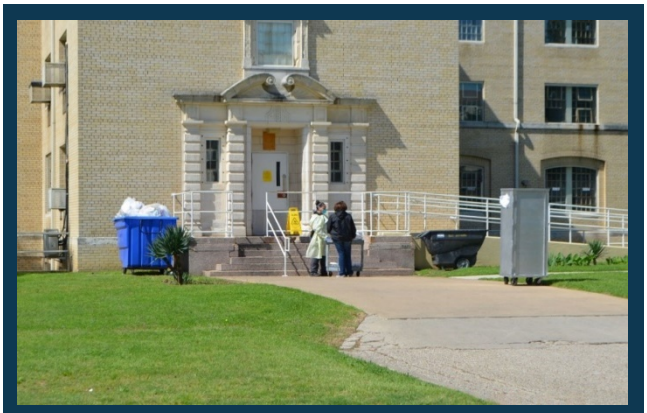
APPENDIX 2: OIG COVID-19 SURVEY RESULTS FOR FMC FORT WORTH 23

APPENDIX 3: TIMELINE OF BOP GUIDANCE 28

INSPECTION RESULTS

Staffing Challenges Resulting from Monitoring Hospitalized Inmates

Through interviews and document review, we learned that, due to the intensity of the COVID-19 outbreak at FMC Fort Worth, as many as 32 inmates received care at two hospitals, compared to an average of 10 to 15 during normal operations.[5] BOP security requirements required Fort Worth to assign teams of two Correctional Officers for each inmate receiving care in a hospital.[6] To prevent the staff assigned to the hospital from potentially transmitting COVID-19 to staff working at the FMC, once assigned to the hospital, the Correctional Officers were not allowed to fill posts at the FMC. FMC Fort Worth indicated that, between April 16, when the first inmate was hospitalized for COVID-19, to April 22, the day before temporary duty (TDY) staff from other BOP institutions began their assignments monitoring inmates at the hospitals, the number of FMC Fort Worth staff members assigned to the hospitals ranged between 20 and 81.



Entryway to an FMC Fort Worth Unit

Source: BOP, with OIG enhancement

Some FMC Fort Worth staff we interviewed were concerned that the number of staff assigned to monitor hospitalized inmates, who were then not available to work at the FMC, strained the FMC's staffing resources. FMC Fort Worth indicated that these circumstances required all staff members to work extended hours to ensure that the institution and hospitals were provided with proper security coverage. This aligns with OIG survey results, which indicated that FMC Fort Worth staff were more likely than the staff of other institutions to identify having additional staff to cover posts as an immediate need. Specifically, 67 percent of Fort Worth staff who responded to the survey (60 of 89 responses), compared to 39 percent of BOP-wide staff, cited additional staff to cover posts as an immediate need for the FMC. On April 22, Fort Worth officials requested TDY staff to supplement the remaining staff, and, on April 23, they obtained a waiver allowing one Correctional Officer for every two hospitalized inmates in one room.[7] On April 23, the first TDY staff began their

[5] According to Fort Worth staff, the institution has arrangements with three local hospitals to provide additional care for inmates with COVID-19.

[6] BOP Program Statement 5538.07, Escorted Trips, December 10, 2015.

[7] FMC staff told the OIG that, if a hospital was unable to accommodate the BOP's request for inmates to share rooms, then one Correctional Officer was assigned for each inmate who was not sharing a room. Additional Correctional Officers served as roving escorts to provide relief and support (e.g., coverage for lunch breaks) to the BOP staff assigned to the hospitals.

(Cont'd)

assignment to the local hospitals. Until this point, 20 FMC Fort Worth staff had been monitoring 29 hospitalized inmates at 2 hospitals. As of May 12, 7 FMC Fort Worth staff and 24 TDY staff were assigned to monitor 28 hospitalized inmates at 2 hospitals.

Social Distancing

FMC Fort Worth took steps to modify institutional operations and maximize social distancing in accordance with the BOP's March 2020 guidance.[8] On March 13, the BOP directed Wardens to immediately "implement modified operations to maximize social distancing in [BOP] facilities" to the extent practicable.[9] Beginning March 13, the FMC began planning to suspend social visits and inmate movements between facilities.[10] FMC Fort Worth staff notified inmates of these changes through a memorandum from the Warden on March 25, 2020.[11]

We found that the physical layout of FMC Fort Worth makes physical distancing difficult, which may have affected the institution's ability to control the spread of the virus. This challenge was reflected in survey results, which showed that 48 percent of FMC Fort Worth staff (43 of

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[8] The BOP enacted a "14-day nationwide action to minimize movement to decrease the spread" of COVID-19 in its Phase Five Action Plan, effective April 1, and extended this action in its Phase Six, Seven, Eight, and Nine Action Plans. Some institutions chose to describe this action as a "Shelter in Place," "Stay in Place," or "Stay in Shelter." In announcing this action, the BOP noted, "the BOP's actions are based on health concerns, not inmate destructive behavior."

The BOP's Extension to the Phase Nine Action Plan extended the restrictions through October 31 and provided new guidance on COVID-19 risk mitigation measures. Those measures included the suspension of nonessential staff travel and in-person training, increased accommodation of inmate access to counsel and legal materials, expansion of certain programming and resumption of outdoor recreation for general population inmates, and resumption of unannounced internal BOP compliance reviews. On August 31, the BOP issued a Modification to the Phase Nine Action Plan, which outlined measures to safely resume social visiting. Phase Nine also extended measures outlined in the Phase Eight Action plan, such as enhanced procedures for in-person court trips; inmate intake procedures, which required all inmates to be tested for COVID 19 on arrival at an institution; and inmate movement between BOP institutions. On November 1, the BOP extended Action Plan Phase Nine and its Modification until further notice.

[9] See BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Phase Two Action Plan, March 13, 2020, 3.

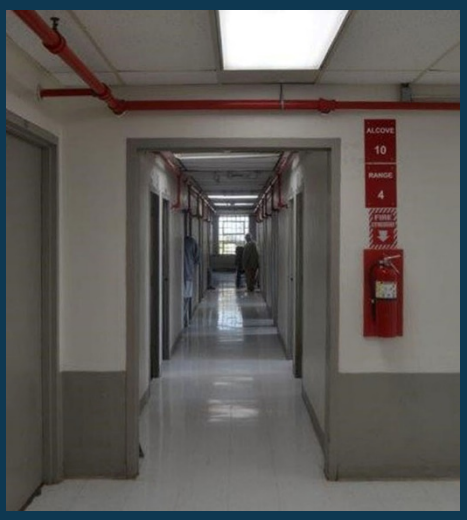
Social distancing, also called "physical distancing," means keeping at least 6 feet between yourself and other people and not gathering in groups. In a correctional setting, the CDC recommends implementing a host of social distancing strategies to increase the physical space between incarcerated people (ideally 6 feet between all individuals, regardless of the presence of symptoms), noting that not all strategies will be feasible in all facilities and strategies will need to be tailored to the individual space in the facility and the needs of the population and staff. See CDC, "Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities," March 23, 2020 (updated December 3, 2020), www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html (accessed December 7, 2020).

[10] Warden, FMC Fort Worth, memorandum for FMC Fort Worth Staff, BOP Coronavirus (COVID-19) Protective Measures, March 13, 2020, 1–2.

[11] Warden, FMC Fort Worth, memorandum for FMC Fort Worth Inmate Population, COVID-19 Modified Operations Update 2, March 25, 2020, 1.

89 responses) believed that increased social distancing measures were needed for staff and inmates at Fort Worth, compared to only 33 percent of staff BOP-wide.

Controlling the transmission of the virus within the institution required separate areas to house inmates exposed to COVID-19 and to house inmates who tested positive for COVID-19. According to survey results, 60 percent (53 of 89 responses) of FMC Forth Worth staff identified more space to quarantine inmates as an immediate need, compared to only 23 percent of staff at all BOP institutions. FMC Fort Worth staff told us that other than the Jail Unit and the Special Housing Unit, all housing units at FMC Fort Worth are open: they have cells without doors, and bathrooms are communal. The photographs below illustrate the physical layout of an FMC Fort Worth unit.



Left, Entryway Inside the Building; ***Right,*** Open Unit and Cells Without Doors

Source: BOP, with OIG enhancement

This layout allows inmates to move freely throughout the unit and limits staff members' ability to prevent them from congregating or meeting in large or small groups within the unit. Based on documentation provided by FMC Fort Worth, the Jail Unit and Special Housing Unit house approximately 200 inmates, meaning that 1,300 of FMC Fort Worth's approximately 1,500 inmates were housed in open units during our inspection. As a result, when a COVID-19 case was identified in a unit, there was the potential for a high number of additional infections in that unit. For example, according to documentation, by April 20, FMC Fort Worth had identified 22 COVID-19 positive inmates. Three days later, on April 23, Fort Worth identified that 140 inmates were COVID-19 positive, thus demonstrating how widely COVID-19 had spread within the institution.

To reduce the potential for spread, FMC Fort Worth instituted mass quarantines by unit.[12] This meant that inmates who tested positive for COVID-19 were all housed in the same unit and inmates testing negative were removed from units experiencing a COVID-19 outbreak and placed in a unit with other inmates who did not have COVID-19. Beginning on March 25, FMC staff began designating various areas of the institution as isolation and quarantine units.[13] On April 22, as the number of positive COVID-19 inmate cases increased, FMC Fort Worth designated another unit to house COVID-19 positive inmates because the initial unit did not have enough space to handle the increased number of cases. Fort Worth continued to change which areas were designated to be the isolation and quarantine units as the number of positive inmate cases changed. For example, between March 25 and May 10, Fort Worth designated four different areas to serve as isolation units. Between March 26 and May 11, three different areas served as quarantine units. According to survey results, staff at FMC Fort Worth approved of the handling of symptomatic inmates compared to staff at all BOP institutions: 89 percent of FMC Fort Worth staff (74 of 83 responses) reported that symptomatic inmates were placed in medical isolation, while only 64 percent of staff BOP-wide responded in the same way. Further, 66 percent of FMC Fort Worth staff (55 of 83 responses) reported that the movements of inmates out of their medical isolation areas was kept to an absolute minimum, compared to only 38 percent of staff BOP-wide who responded that inmate movements were minimized.

We found that Fort Worth took some actions to address the physical challenges of its facility. First, to promote social distancing and overcome the lack of cell doors, staff hung plastic sheets made by UNICOR over the doorways of some open cells (see photographs below).[14]

[12] Quarantine is used to keep someone who might have been exposed to COVID-19 away from others for 14 days to help prevent the spread of disease and determine whether the person develops symptoms. In a correctional setting, the CDC recommends, ideally, quarantining individuals in a single cell with solid walls and a solid door that closes. If symptoms develop during the 14-day period, the person should be placed in medical isolation and evaluated for COVID-19. See CDC, "Interim Guidance."

[13] Isolation is used to separate people who are infected with the virus (those who are sick with COVID-19 and those with no symptoms) or have COVID-19 symptoms from people who are not infected. In a correctional setting, the CDC recommends using the term "medical isolation" to distinguish it from punitive action. See CDC, "Interim Guidance."

[14] Federal Prison Industries, called UNICOR, is a government organization within the BOP that provides employment to staff and inmates at federal prisons throughout the United States.

Plastic Sheeting, Made by UNICOR, on Doors of Occupied Cells to Help Prevent Cross-Contamination

Source: BOP, with OIG enhancement

Interior of Cells

Source: BOP, with OIG enhancement

Second, officials told us that on April 14 Fort Worth established a temporary housing unit in the gymnasium to increase social distancing. This unit had a capacity of 100 inmates and was used to house inmates in the Residential Drug Abuse Program who had not tested positive for COVID-19. The gymnasium unit was used until August 18, when the remaining inmates who had been

housed in the gymnasium were returned to their normal housing units. A photograph of the temporary gymnasium unit is shown below.

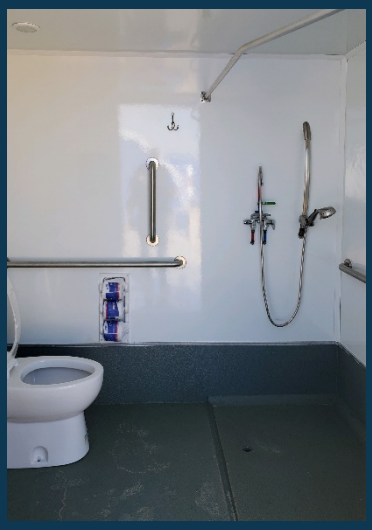
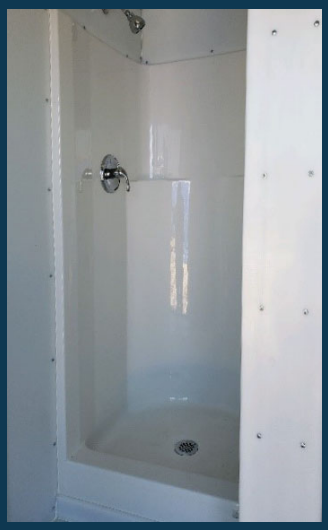
Temporary Gymnasium Unit

Source: BOP, with OIG enhancement

Third, at the time of our inspection, officials also told us that Fort Worth was setting up tents in the recreation yard to serve as a recovery unit for inmates who remained symptom free for a number of days, as determined by CDC guidance. The tents included a negative pressure room and were heated and air conditioned. We learned subsequently that inmates began to occupy the recovery unit on May 7. As of May 15, there were 89 inmates housed in the recovery unit. Photographs of the recovery unit tents and related bathroom and showering facilities are shown below.

Left, Medical Tent Exterior; ***Right,*** Medical Tent Interior

Source: BOP, with OIG enhancement

Left, Doorway Leading to the Ward; ***Center,*** Bathroom; ***Right,*** Shower

Source: BOP, with OIG enhancement

At the time of our inspection, officials we spoke to believed that there was enough space to house inmates according to their COVID-19 exposure status; however, they believed that, if the FMC began to receive new transfers, they could run out of quarantine space because all new inmates had to be quarantined for 14 days before being moved into a general population unit. In addition, an official told us that, in the event of an increasingly large outbreak, Fort Worth may have a more difficult time separating inmates who have tested positive for COVID-19 from inmates who are suspected positive, or who have tested negative, because the FMC may not have sufficient space to create additional quarantine and isolation units.

COVID-19 Testing

On March 13, the BOP issued guidance for institutions to test symptomatic inmates for COVID-19 consistent with local health authority protocols.[15] We found that FMC Fort Worth complied with this guidance. After the first COVID-19 positive inmate was identified on April 8, FMC Fort Worth identified an additional 18 COVID-19 positive inmates over the next 8 days. According to the Health Services Administrator, FMC Fort Worth was then identified as a hot spot and prioritized to receive one of the new rapid test machines.[16]

[15] BOP, memorandum for All Chief Executive Officers, March 13, 2020, 3.

[16] The BOP received 10 rapid test machines on April 10. 0n April 24, the BOP announced the use of this tool for expanded testing of inmates at institutions that received the equipment. BOP, "BOP Expands COVID-19 Testing," April 24, 2020, www.bop.gov/resources/news/20200424_expanded_testing.jsp# (accessed December 7, 2020).

(Cont'd)

On April 20, Fort Worth began testing inmates using a rapid test machine, which was a significant enhancement over the previously available testing capabilities. We found that the use of the rapid test machine improved FMC Fort Worth's ability to quickly identify inmates who had COVID-19 and, therefore, may have assisted the institution in mitigating the risks associated with asymptomatic inmates. Fort Worth staff told the OIG that the institution was selected to receive the rapid test machine because of its high infection rates. Fort Worth staff also told us that the rapid test machine provided results in approximately 15 minutes and allowed about eight tests to be completed each hour. By comparison, the prior testing system that used an outside laboratory returned results in 3–5 days. One FMC Fort Worth staff member told us that under the prior system inmates would remain in the same unit while awaiting their results, meaning that an inmate who eventually tested positive may have resided for 3–5 days in the same unit as inmates who were experiencing no symptoms or had tested negative. This prior process increased the risk of COVID-19 transmission.

Upon receiving the rapid test machine, on April 20, FMC Fort Worth staff told us that the FMC first tested all of the inmates who resided in the unit where the first COVID-19 case was diagnosed and then began testing inmates from other units whose symptoms merited testing. According to information provided by the FMC, as of May 12, 521 asymptomatic inmates had tested positive. Fort Worth provided information to the OIG that indicated that, when the FMC tested the inmates in the original "hot spot" unit, there was a significant number of positive results even though the vast majority of the inmates were asymptomatic.[17]

As of May 22, FMC Fort Worth had received several shipments of additional rapid test kits, which put it in a better position to take actions to ensure that appropriate inmates were assigned to quarantine and isolation units to minimize the exposure of other inmates and that COVID-19 positive inmates received medical treatment when needed. After using about 240 test kits by April 28, the FMC received an additional 400 rapid test kits on May 6 and 960 on May 22. FMC officials told us that, going forward, the institution plans to continue to use its testing resources to manage COVID-19 by testing symptomatic and quarantined inmates, as well as retesting inmates who previously tested COVID-19 negative, prior to reintegrating them into the general population.

During our inspection, FMC Fort Worth did not test staff for COVID-19 and, at no time between March and November 1, did BOP policy require institutions to test staff.[18] In June, the BOP Medical Director told us that staff are the primary vulnerability for introduction of COVID-19 into institutions, so testing staff could help mitigate the spread of the disease in institutions. He added, however, that the BOP cannot mandate COVID-19 testing as a condition of employment and that

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According to the BOP's website, the primary role of the rapid test machine is "rapid testing of newly symptomatic cases to confirm the diagnosis quickly." According to BOP officials, commercial laboratory tests are generally more accurate than the rapid tests, but it takes approximately 2 days to obtain commercial laboratory test results.

[17] At the time of our inspection, CDC guidelines did not prioritize testing asymptomatic inmates.

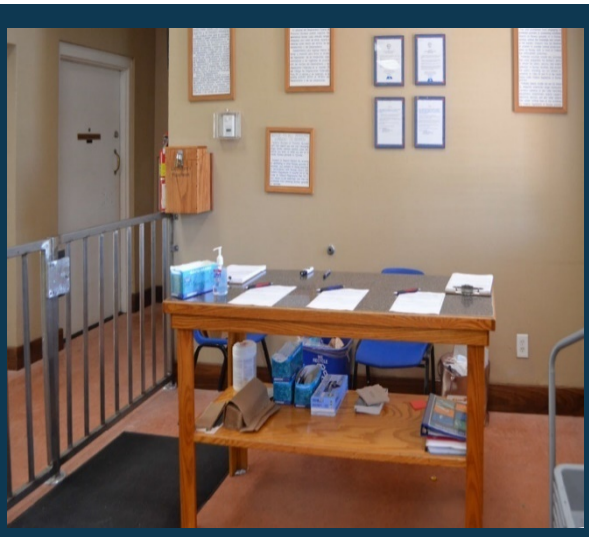
[18] At the time of our inspection, neither BOP nor CDC guidance required institutions to test staff for COVID-19.

the BOP's ability to test staff is limited by resources because testing all staff would be labor intensive. Therefore, in lieu of requirements, the BOP encourages the development of community partnerships through which staff can choose to be tested. In September, BOP officials informed us that in July the BOP awarded a contract with an outside provider to offer testing to federal staff, which as of September was being implemented. The contract is intended to supplement the testing resources available in communities, especially where those resources are limited.

COVID-19 Screening

Based on staff interviews and document reviews, we found that FMC Fort Worth had processes in place to screen staff and inmates for COVID-19 in compliance with BOP policy requirements. In January, the BOP's Health Services Division issued a memorandum to all BOP institutions informing them of possible COVID-19 symptoms, including fever, cough, headaches, and diarrhea.[19]

FMC Fort Worth staff told the OIG that there is only one entry to the institution, which is the front lobby. During our inspection, staff told us that each day medical staff took the temperature of and completed a symptom checklist for each employee who reported to duty. A log sheet documented dates, employee names, temperatures, symptoms, and whether a staff member was placed on leave. FMC staff told the OIG that Health Services staff screened all staff in every shift in this manner. The photographs below depict front lobby hygiene signs and the staff screening station at the front lobby.[20]



Left, Front Lobby Hygiene Signs; ***Right,*** Nurse Station for Screening Incoming Staff

Source: BOP, with OIG enhancement

[19] BOP, memorandum for All Clinical Directors, Health Services Administrators, Quality Improvement/Infection Prevention Coordinators, Guidance on 2019 Novel Coronavirus Infection for Screening and Management, January 31, 2020, 2.

[20] According to information that FMC Fort Worth provided, the front lobby screening site was established on March 20.

With regard to the inmate screening process, FMC Fort Worth staff told the OIG that the institution began screening new inmates on February 28. Screening for existing inmates began on April 8, which was also the day the first positive COVID-19 inmate case was identified. Staff told us that twice a day they checked the temperature of inmates considered high risk who had one or more health conditions such as lung or heart issues, obesity, diabetes, and high blood pressure. In addition, temperature and symptom checks were done twice daily on inmates in the quarantined units.[21] New inmates and inmates to be released were screened, temperature checked, and quarantined for 14 days prior to being sent to the general population or released from the prison.

Personal Protective Equipment

We found that FMC Fort Worth provided PPE in accordance with CDC and BOP guidance. Between January 31 and April 6, the BOP issued seven policy directives and guidance documents intended to help its institutions implement evolving CDC guidance concerning the use of PPE and face coverings in various scenarios.[22] The BOP's March 18 directive required all BOP employees performing staff screenings to "wear appropriate personal protective equipment," defined as a "surgical mask, face shield/goggles, gloves and a gown."[23] On March 25, the Warden sent staff a memorandum requiring staff in the institution's isolation unit to utilize PPE when entering an inmate's room but did not specify what types of PPE were required.[24] On April 4, FMC Fort Worth issued surgical masks to staff but staff were not required to wear them.[25] On April 6, in response to revised CDC guidance on April 3 advising that face coverings be worn in public settings where social distancing measures are difficult to maintain, the BOP directed institutions to "[issue] surgical masks as an interim measure to immediately implement CDC guidance, given the close contact environment of correctional institutions."[26] On April 6, inmates were sent a TRULINCS

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[21] One staff member did the screening while another staff member recorded the information in a report in SENTRY, the BOP's inmate management system. The reports were maintained by the Director of Quality Management.

SENTRY is a real-time information system consisting of various applications for processing inmate information relating to the care, classification, subsistence, protection, discipline, and programs of federal inmates.

[22] The CDC defines PPE as "a variety of barriers used alone or in combination to protect mucous membranes, skin, and clothing from contact with infectious agents." Depending on the situation, PPE may include gloves, surgical masks, N95 respirators, goggles, face shields, and gowns. Cloth face coverings are intended to keep the wearer from spreading respiratory secretions when talking, sneezing, or coughing. The CDC does not consider cloth face coverings to be PPE.

[23] BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Phase Two Action Plan Update Number 1, March 18, 2020, 3. Initially, on March 13, the BOP issued guidance that employees screening staff for COVID-19 wear an N95 respirator. For more information, see BOP, memorandum for All Chief Executive Officers, March 13, 2020, 3.

[24] Warden, FMC Fort Worth, memorandum for All Staff, Influenza-Like Illness Isolation 2nd Floor Lubbock Procedures, March 25, 2020, 1–2.

[25] Warden, FMC Fort Worth, memorandum for FMC Fort Worth Staff, Issuance of Surgical Masks for Staff, April 3, 2020, 1.

[26] BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Update–Use of Face Masks, April 6, 2020, 1–2. The guidance indicated that the BOP would be distributing cloth face coverings to institutions, which would replace the use of surgical masks at that time. For more information, see CDC, "Considerations for Wearing Masks," April 3,

(Cont'd)

bulletin advising them to wear a surgical mask in the common areas of their units.[27] On April 8, the Warden reminded staff in two medical units—the Nursing Care Center Unit and the Dallas Unit—to wear surgical masks. On April 10, the Warden required FMC Fort Worth staff in the quarantine unit to wear surgical masks, face shields, gloves, and gowns while working in the unit.[28] On April 16, FMC Fort Worth mandated that all staff and inmates wear face coverings.[29] Initially, inmates were provided with one surgical mask per week. During the week of April 23, each inmate was provided with three washable cloth masks produced by UNICOR.

FMC Fort Worth Health Services officials told us that, initially, many staff and inmates were not wearing masks; but, as the outbreak at FMC Fort Worth escalated and it became a mandate, mask wearing increased among both staff and inmates. During the first 2 weeks of April, staff began to be fitted and trained on how to properly use an N95 respirator. In addition, each day upon entry to the facility, staff were provided a new surgical mask. FMC Health Services staff continued to provide guidance to nonmedical staff on how to properly use and maintain PPE.[30] An FMC staff member told us that, during the time of our inspection, staff were not required to wear PPE while in their offices but were required to wear PPE during interactions with inmates. Inmates were also required to wear a face mask.

Although none of the staff we interviewed expressed concerns about the supply of PPE at FMC Fort Worth, 74 percent of Fort Worth staff who responded to our survey (66 of 89 responses) considered access to more PPE for staff as their most immediate need, compared to 68 percent BOP-wide. However, 35 percent of FMC Fort Worth staff (32 of 92 responses) also reported that the institution provided PPE with no limits to the quantity available to staff, compared to 14 percent of staff BOP-wide. According to FMC Fort Worth officials we interviewed, both medical and correctional staff had access to N95 respirators and staff had access to replacement gloves, gowns, N95 respirators, shoe coverings, and face shields as needed. FMC staff told us that supplies of PPE were kept both in the Lieutenants' office and in the units. One FMC official told the OIG that some staff wanted an unlimited supply of PPE at their disposal and got upset when PPE was not more easily accessible.

2020 (updated November 12, 2020), www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html (accessed December 7, 2020).

[27] The Trust Fund Limited Inmate Computer System (TRULINCS) is a secure system used by inmates to initiate and track financial transactions, as well as to access pay-as-you-go services such as limited messaging (email).

[28] Warden, FMC Fort Worth, memorandum for FMC Fort Worth Staff, COVID-19 Modified/Secured Operations, April 10, 2020, 1.

[29] Warden, FMC Fort Worth, memorandum for Inmate Population, COVID-19 Modified/Secured Operations, April 16, 2020, 1.

[30] As of April 24, FMC Fort Worth reported that 98.1 percent of its staff had been trained on the use of the N95 respirator. Additionally, the institution posted signs in staff areas with information about how to wear PPE and shared information from the CDC via email.

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Inmate Communications, Access to Counsel, and Commissary

We found that FMC Fort Worth took steps, such as suspending social visits and restricting inmate movements, in accordance with the BOP's March 2020 guidance to modify operations to maximize social distancing.[31] Further, we found that the institution took steps to ensure that inmates continued to have access to telephones, counsel, and the commissary. A March 13 memorandum from the Warden to FMC Fort Worth staff stated that, although social visits for inmates were suspended, inmates were to be given additional telephone minutes. This memorandum also stated that legal counsel in-person visits were permitted on a case-by-case basis. According to FMC Fort Worth, as of June 30, no inmates had requested in-person visits with their legal counsel. The Warden's memorandum also stated that confidential telephone calls were allowed between inmates and their attorney. According to Fort Worth officials, inmates worked with their Unit Team to set up telephone calls to speak with their legal counsel. Fort Worth staff told us that the inmates had access to telephones every day and were able to make legal calls. Upon receiving suggestions from other BOP facilities to increase opportunities for inmate communication with families during the pandemic, on April 16 the Warden informed the inmates that he was reducing the wait time between inmate calls to family members, from 30 to 15 minutes, so that more inmates could make calls each day.[32] FMC Fort Worth staff also told the OIG that inmates continued to have access to TRULINCS to email their family.

As discussed above, during the pandemic a significant number of inmates were transported to local hospitals to receive treatment for COVID-19. To facilitate communication between hospitalized inmates and their families, as well as between the institution and the inmates' families, FMC Fort Worth designated a staff member to serve as a liaison. The liaison assisted the hospitalized inmates in maintaining contact with their families by facilitating phone calls. The staff member also stated that after inmates died she handled all communications with the families, including those concerning disposition of remains.

FMC Fort Worth staff told the OIG that inmates continued to have access to the commissary during the period in which restrictions were in place. We also were advised that inmates had a $50 purchase limit and that, to reduce transmission risks from having inmates going to the commissary themselves, staff began delivering the purchases to each unit beginning on April 10.

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[31] On March 13, the BOP directed institutions to suspend all legal and social visits for 30 days, which was subsequently extended until October 31 and, on November 1, until further notice. BOP, memoranda for All Chief Executive Officers, March 13, 2020, 1; Coronavirus (COVID-19) Phase Nine Action Plan, August 5, 2020, 1–3; Coronavirus (COVID-19) Extension to Phase Nine Action Plan, November 1, 2020.

[32] Warden, FMC Fort Worth, memorandum for Inmate Population, April 16, 2020, 1. According to FMC staff, the time limitation did not apply to inmate calls to their attorneys.

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Fort Worth staff also told us that inmates had access to soap and water but were not allowed to have hand sanitizer containing alcohol because alcohol is contraband. We note that, without alcohol, hand sanitizer is not effective against the virus.

Use of Home Confinement and Compassionate Release Authorities

In response to the COVID-19 pandemic, the Attorney General authorized the BOP, consistent with pandemic-related legislation enacted in late March 2020, to reduce the federal prison population by transferring inmates from prison to home confinement.[33] In an April 3 memorandum, the Attorney General also directed the BOP to "immediately maximize appropriate transfers to home confinement of all appropriate inmates" at those prisons "where COVID-19 is materially affecting operations."[34] The BOP assigned to its Central Office the responsibility for developing guidance implementing the Attorney General's directives and initially identifying inmates who would be considered for possible transfer to home confinement.

Over the next 5 weeks, the BOP Central Office issued three guidance memoranda and sought to assist institutions in identifying eligible inmates by providing them with rosters of inmates that the Central Office determined might be eligible for transfer pursuant to the BOP's guidance. The Central Office's initial policy guidance in early April was focused on transferring to home confinement those inmates who faced the greatest risks from COVID-19 infection, including elderly inmates. In late April, the BOP began to expand its use of home confinement to cover inmates other than those who were elderly or at high risk for serious illness due to COVID-19, as determined by CDC guidance. In addition, the BOP allowed institution Wardens to identify inmates otherwise ineligible for home confinement under Central Office guidance criteria and to seek approval from the Central Office to transfer those inmates to home confinement.

During the period from April 3 to May 18, the BOP Central Office and the South Central Regional Office sent FMC Fort Worth 3 rosters identifying a total of 241 inmates who were potentially eligible for transfer to home confinement. FMC Fort Worth staff reviewed the inmates on the rosters to determine whether each inmate met the criteria for home confinement and had a viable home release plan. This review process, coupled with the 14-day prerelease quarantine period the BOP required to ensure that inmates placed into a community did not have COVID-19, resulted in at least 3 weeks between the time the Central Office identified an inmate for transfer consideration to the date the inmate was actually transferred to home confinement. By May 6, 4 weeks after receiving the initial roster of 41 inmate names from the Central Office, FMC Fort Worth had transferred 8 inmates to home confinement and had released 1 inmate under the

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[33] Home confinement, also known as home detention, is a custody option whereby inmates serve a portion of their sentence at home while being monitored.

[34] William P. Barr, Attorney General, memorandum for Director of Bureau of Prisons, Increasing Use of Home Confinement at Institutions Most Affected by COVID-19, April 3, 2020, www.justice.gov/file/1266661/download (accessed December 7, 2020), 1.

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compassionate release authority. According to information provided by FMC Fort Worth, many inmates did not qualify for transfer to home confinement because of a history of violence or lack of a viable release plan. As of August 27, FMC Fort Worth reported that 58 of the 241 inmates who appeared on the 3 rosters were transferred to home confinement or an RRC or were released under the compassionate release authority (discussed below).[35]

Attorney General and BOP Memoranda Regarding the Use of Home Confinement

On March 26, the Attorney General directed the BOP to prioritize the use of home confinement as a tool to combat the dangers that COVID-19 posed to "at-risk inmates who are non-violent and pose minimal likelihood of recidivism."[36] At the time, the BOP had the authority to transfer an inmate to home confinement for the final months of his or her sentence, subject to the following statutory limitations: (1) for any inmate, the shorter of 10 percent of the term of imprisonment or 6 months; (2) for an inmate age 60 or older, up to one-third of his or her sentence, if he or she met certain additional criteria; and (3) for a terminally ill inmate, any period of time, if he or she met certain additional criteria.[37] The Attorney General's memorandum identified a "non-exhaustive" list of factors that the BOP should consider in determining whether to transfer an inmate to home confinement. Those factors included:

- the age and vulnerability of the inmate to COVID-19, based on CDC guidelines;
- the security level of the institution where the inmate was currently housed, with priority given to those in minimum and low security facilities;
- the inmate's disciplinary history, with inmates who engaged in violent or gang-related activity in prison, or who incurred a BOP violation during the prior 12 months, not receiving priority treatment;
- the inmate's Prisoner Assessment Tool Targeting Estimated Risk and Needs (PATTERN) score, with inmates exceeding a minimum score not receiving priority treatment;[38]

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[35] There were three compassionate release cases, which FMC Fort Worth staff told us were granted by judges after those inmates filed compassionate release requests with the courts.

[36] William P. Barr, Attorney General, memorandum for Director of Bureau of Prisons, Prioritization of Home Confinement as Appropriate in Response to COVID-19 Pandemic, March 26, 2020, www.justice.gov/file/1262731/download (accessed December 7, 2020).

[37] 18 U.S.C. §§ 3624(c)(2) and 34 U.S.C. § 60541(g)(5)(A). Additionally, federal law allows the BOP Director to seek court approval to modify an inmate's sentence of imprisonment for "extraordinary and compelling reasons," which is commonly referred to as "compassionate release" (18 U.S.C. § 3582(c)). As we describe below, following the issuance of the Attorney General's April 3 memorandum the BOP Director did not need to seek judicial approval under § 3582(c) if he determined that an inmate should be transferred to home confinement.

[38] To assess inmates' recidivism risk, the BOP uses the PATTERN system, which the Department developed in response to the FIRST STEP Act of 2018. The FIRST STEP Act directed the Department to complete its initial risk and needs assessment for each federal inmate by January 15, 2020. Among other things, the assessment calculated inmates' recidivism risk using a point system that classifies inmates into minimum, low, medium, or high risk categories based on: (1) infraction convictions during current incarceration; (2) number of programs completed; (3) work programming; (Cont'd)

- whether the inmate had a verifiable reentry plan "that will prevent recidivism and maximize public safety"; and
- the inmate's crime of conviction.

The memorandum further required an assessment by the BOP Medical Director, or designee, of the inmate's risk factors for severe COVID-19 illness, the risks of COVID-19 infection at the inmate's prison facility, and the risks of COVID-19 infection at the planned home confinement location.

The following day, on March 27, the President signed into law the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which authorized the BOP Director to lengthen the maximum amount of time that an inmate may be placed in home confinement "if the Attorney General finds that emergency conditions will materially affect the functioning of the [BOP]."[39] The following week, on April 3, the Attorney General issued a memorandum that found, as provided for in the CARES Act, "that emergency conditions are materially affecting the functioning of the [BOP]."[40] As a result of that finding, the BOP Director was authorized by the CARES Act to increase the amount of time that inmates could be placed in home confinement. The memorandum instructed the BOP to "immediately maximize appropriate transfers to home confinement of all appropriate inmates" at those prisons "where COVID-19 is materially affecting operations." In assessing inmates for transfer to home confinement, the memorandum stated that the BOP should be "guided by the factors in my March 26 Memorandum, understanding, though, that inmates with a suitable confinement plan will generally be appropriate candidates for home confinement rather than continued detention at institutions in which COVID-19 is materially affecting their operations."

In response to the Attorney General's memoranda, the BOP issued three memoranda, on April 3, April 22, and May 8, 2020. The BOP's April 3 memorandum provided institutions with "sample rosters…to aid in the identification of inmates who may be eligible for home confinement" and stated that eligible inmates "must be reviewed utilizing [the BOP's] Elderly Offender Home Confinement Program criteria and the discretionary factors listed in the [Attorney General's March 26 memorandum]."[41] As mentioned above, among the discretionary factors were an inmate's vulnerability to COVID-19 and age, based on CDC guidelines, which included people with underlying medical conditions and, during our inspection, included people age 65 years and older

(4) drug treatment while incarcerated; (5) noncompliance with financial responsibility; (6) history of violence; (7) history of escape; (8) education score; (9) age at time of the assessment; (10) instant violent offense; (11) history of sex offense; and (12) criminal history score. For more information, see Office of the Attorney General, ***The First Step Act of 2018: Risk and Needs Assessment System–Update*** (January 2020), nij.ojp.gov/sites/g/files/xyckuh171/ files/media/document/ the-first-step-act-of-2018-risk-and-needs-assessment-system-updated.pdf (accessed December 7, 2020).

[39] Pub. L. No. 116-136.

[40] Barr, memorandum for Director of Bureau of Prisons, April 3, 2020.

[41] The criteria in the BOP's Elderly Offender Home Confinement Program generally mirror those found in § 603 of the FIRST STEP Act, 34 U.S.C. § 60541, and require an inmate to, among other things, be at least 60 years old, have served at least two-thirds of his or her prison sentence, and not have been convicted of a crime of violence or sex offense.

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and people of all ages with underlying medical conditions.[42] The April 3 memorandum also stated that inmates were required to have "maintained clear conduct for the past 12 months to be eligible." It further provided that pregnant inmates should be considered for placement in home confinement or an available community program.

The BOP's April 22 memorandum expanded the number of inmates who were eligible for consideration for transfer to home confinement, as authorized by the Attorney General's April 3 finding pursuant to the CARES Act.[43] Specifically, the memorandum stated that the BOP was prioritizing for home confinement consideration those inmates who either (1) had served 50 percent or more for their sentence or (2) had 18 months or less remaining on their sentence and had served 25 percent or more. In assessing whether inmates who met the expanded prioritization criteria were candidates for home confinement, the memorandum continued to apply the criteria from the Attorney General's March 26 memorandum. Additionally, the BOP's April 22 memorandum continued to provide that pregnant inmates should be considered for placement in home confinement or an available community program. Finally, the BOP's memorandum allowed a Warden to seek approval from the BOP Central Office to transfer to home confinement an inmate who did not meet the memorandum's criteria if the Warden determined that transfer was necessary "due to [COVID-19] risk factors, or as a population management strategy during the pandemic." We note, however, that the April 22 memorandum did not specifically address the instruction in the Attorney General's April 3 memorandum that the BOP "immediately maximize appropriate transfers to home confinement" at those institutions "where COVID-19 is materially affecting operations" and "that inmates with a suitable confinement plan will generally be appropriate candidates for home confinement rather than continued detention at institutions in which COVID-19 is materially affecting their operations."

The BOP's third memorandum, issued May 8, was generally consistent with its April 22 memorandum, with one specific difference.[44] The May 8 memorandum permitted inmates to be considered for transfer to home confinement despite having committed certain misconduct in prison during the prior 12 months if in the Warden's judgment home confinement "does not create an undue risk to the community." The May 8 memorandum, like the April 22 memorandum, did not specifically address the Attorney General's instruction that the BOP "immediately maximize appropriate transfers to home confinement" at those institutions most

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[42] The CDC states that people with chronic lung disease, moderate to severe asthma, serious heart conditions, severe obesity, diabetes, chronic kidney disease, and liver disease, particularly if not well controlled, are at high risk for severe illness from COVID-19. The CDC's guideline also identifies people who are immunocompromised as being at risk. The guideline states that many conditions can cause a person to be immunocompromised, including cancer treatment, smoking, bone marrow or organ transplantation, immune deficiencies, poorly controlled HIV or AIDS, and prolonged use of corticosteroids and other immune weakening medications. While the CDC previously stated that individuals age 65 years and older were more at risk for serious illness, it later modified this guidance to state that risk steadily increases with age. CDC, "People at Increased Risk," updated November 30, 2020, www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-increased-risk.html (accessed December 7, 2020).

[43] The BOP's April 22 memorandum rescinded its April 3 memorandum.

[44] The BOP's May 8 memorandum rescinded its April 22 memorandum.

affected by COVID 19 or that inmates at such institutions "with a suitable confinement plan will generally be appropriate candidates for home confinement rather than continued detention."

OIG Estimate of Fort Worth Inmates Potentially Eligible for Home Confinement Consideration Based on BOP Guidance and Available Authorities

In order to independently assess the number of FMC Fort Worth inmates potentially eligible for transfer to home confinement applying the authorities described above and the BOP guidance criteria, the OIG's ODA used data from the BOP's inmate management system, SENTRY. This information did not allow the ODA to replicate every criterion used by the BOP to determine home confinement eligibility and, as a result, in some instances, the ODA used certain proxies. For example, in applying the public safety criteria in the BOP guidance, the ODA considered all 1,193 FMC Fort Worth inmates in a minimum or low security facility as potentially eligible for home confinement, whereas the BOP considered certain additional public safety factors that may have limited the eligibility of some of those inmates for home confinement consideration. Separately, in estimating the number of inmates who were eligible for transfer to home confinement under 18 U.S.C. § 3624(c)(2) prior to enactment of the CARES Act, the ODA included only those inmates in minimum or low security facilities with a remaining sentence of 6 months or less, although the statute applies to all inmates regardless of the security level of the institution where they are incarcerated but limits placement into home confinement to no more than 10 percent of the inmate's sentence.[45] Further, in determining the number of inmates who were at high risk of severe illness from COVID-19 and therefore were eligible for home confinement consideration under BOP guidance, the ODA included inmates age 65 or older only. Determinations about whether inmates' specific underlying medical conditions placed them in a high risk category or made them appropriate for transfer were made by the institution based on a case file review, which the OIG did not undertake in connection with our remote inspection.[46]

Based on the available data, the ODA estimated that, as of April 12, approximately 631 of the 1,193 inmates in Fort Worth's minimum and low security facilities were potentially eligible for home confinement under existing authorities and BOP guidance.[47] By comparison, the BOP Central Office and South Central Regional Office identified 241 inmates for home confinement

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[45] The text of 18 U.S.C. § 3624(c)(2) states that "the authority under this subsection may be used to place a prisoner in home confinement for the shorter of 10 percent of the term of imprisonment of that prisoner or 6 months. The [BOP] shall, to the extent practicable, place prisoners with lower risk levels and lower needs on home confinement for the maximum amount of time permitted under this paragraph."

[46] Moreover, according to the BOP's Administrator of Reentry Services, different institutions may have different interpretations of how severe a medical condition deemed by the CDC as high risk must be for the inmate to be considered eligible for home confinement. As noted below, FMC Fort Worth Health Services staff evaluated whether an inmate's medical needs could still be met if the inmate was placed in the community.

[47] In addition to the general eligibility criteria described above, BOP officials applied a series of additional criteria, such as presence of an adequate release plan and conduct in the institution, to determine actual eligibility.

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consideration between April 3 and May 18.[48] The table below details the ODA's estimated number of inmates eligible for transfer by available authority or BOP guidance factor.

Table

OIG Estimate of the Number of Fort Worth Inmates Eligible for Transfer to Home Confinement Based on BOP Guidance and Available Authorities

Authority	18 U.S.C. § 3624(c)(2) Prior to the CARES Act	FIRST STEP Act: Pilot Program for Elderly, Nonviolent Offenders	Post-CARES Act and the Attorney General's April 3 Finding: BOP Implementing Guidance	
Inmate Population	Inmates with a security level of minimum or low with a remaining sentence of 6 months or less	Inmates with a security level of minimum or low who were at least 60 years of age and had served at least two-thirds of their sentence	Inmates with a security level of minimum or low who were at least 65 years of age (i.e., at high risk according to the CDC)	Inmates with a security level of minimum or low with COVID-19 risk factor(s) (e.g., at least 65 years of age) and who had served at least 50 percent of their sentence or at least 25 percent with 18 months or less remaining
Number of Inmates as of April 12, 2020	75	48	38	470

Notes: Some inmates may have been eligible for release under multiple authorities, but the table counts each inmate only once. If eligible under multiple authorities, the inmate would be counted under the first authority for which he was eligible, moving from left to right.

Our estimate of inmates with a minimum or low security level includes inmates who had a minimum or low individual security level and those who were assigned to a minimum or low security unit within a facility with multiple security levels.

Sources: 18 U.S.C. § 3624(c)(2); 34 U.S.C. § 60541(g); CARES Act, Pub. L. No. 116-136; and OIG data analysis

FMC Fort Worth's Use of Home Confinement

Between April 20 and May 12, increased testing for COVID-19 revealed that FMC Fort Worth was experiencing a major COVID-19 outbreak, at the height of which approximately 42 percent of inmates tested positive. Because the BOP did not provide specific instruction to institutions about how to implement the Attorney General's April 3 memorandum that the BOP "immediately maximize appropriate transfers to home confinement" at those institutions "where COVID-19 is materially affecting operations," we could not determine whether FMC Fort Worth's actions met the BOP's intention. We did find that, as a result of these directives, as of May 22, the BOP provided rosters totaling 241 inmates as potentially eligible for CARES Act transfers and FMC Fort Worth transferred 18 inmates to home confinement or an RRC. FMC Fort Worth officials told us that they had also

[48] As we noted above, the OIG's ODA used data from the BOP's inmate management system, SENTRY, to assess the universe of potentially eligible Fort Worth inmates. The ODA did not have data to replicate all of the criteria that the BOP used to determine home confinement eligibility, which included the BOP's PATTERN risk data.

approved additional inmates for transfer; however, these transfers were delayed due to the inmates testing positive for COVID-19.

As noted above, to facilitate institutions' implementation of the Attorney General's directives, the BOP Central Office and the South Central Regional Office created and disseminated to institutions a series of rosters applying the factors identified in the criteria from the BOP memoranda. FMC Fort Worth received three different rosters identifying a total of 241 inmates who were potentially eligible for transfer to home confinement. BOP officials stated that multiple rosters were provided because each successive BOP memorandum expanded the inmate eligibility criteria.

Upon receipt of each roster, FMC Fort Worth's Unit Team, Health Services, Social Services, and Special Investigative staffs reviewed the case files for each inmate to assess whether the inmate should be considered for transfer to home confinement based on the factors identified in the BOP's current memorandum. The Case Manager and Unit Team determined whether the inmate met the criterion for home confinement and had a viable release plan. The Case Manager and Unit Team also performed a halfway house review and prepared the related paperwork. Special Investigative staff provided information about whether the inmate had any gang relations or had a history of violence. Health Services staff provided the Unit Team with a physician's summary of the inmate's medical history, which included medical clearance information such as the inmate's stability and extent of symptoms. For inmates approved for transfer to home confinement, Social Services staff ensured that the inmates had a supply of medication, medical records for continuity of care, and a medically appropriate discharge plan.

As of May 22, FMC Fort Worth reported that 18 of the 241 inmates identified as potentially eligible for transfer to home confinement had been transferred to home confinement or an RRC and that 1 additional inmate had been granted a compassionate release (discussed below). As noted above, FMC staff also told the OIG that some home confinement transfers originally scheduled for May were delayed because the inmates tested positive for COVID-19. As a result, the inmates were medically isolated and their transfers delayed to June and after they had tested negative for COVID-19.[49] By June 18, another 28 cases were approved for transfer to home confinement or an RRC, bringing the total to 46 inmates to be transferred to home confinement or an RRC. Additionally, as of June 18, 3 of the original 241 inmates were granted compassionate release by a federal judge. We also found that 45 (60 percent) of the OIG-estimated 75 minimum and low security FMC Fort Worth inmates with 6 months or less remaining in their sentence as of April 12 were no longer at FMC Fort Worth as of June 14. Of these 45 inmates, OIG analysis found that

[49] FMC staff told the OIG that all of these inmates were informed of the reason for the delay in their transfer to home confinement.

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31 were transferred under authorities pursuant to the CARES Act, 13 were released because they had completed their sentence, and 1 inmate died in custody.[50]

All in all, we found that, after reviewing the 241 inmate files, as of June 18 Fort Worth had denied the transfers of 181 inmates for a variety of reasons. For example, 59 inmates were denied because their PATTERN scores were too high, 56 inmates were denied because they had a history of violence, 19 inmates were denied because they had not yet served 50 percent of their sentence, and 18 inmates had significant prison incident reports. Other reasons for denial included a history of escape attempts, detainers, or pending charges.

We found that FMC Fort Worth's use of home confinement in response to the spread of COVID-19, as a mechanism to reduce either the at-risk inmate population or the overall prison population to facilitate social distancing, has been limited. The OIG recognizes and appreciates the importance of the public safety considerations associated with the potential release of BOP inmates and the challenges that BOP officials face in determining whether to transfer an inmate to home confinement. These are difficult, risk-based decisions. However, as of June 14, 30 of the 75 inmates with less than 6 months remaining in their sentence as of April 12 were still at the institution. Under the law, these inmates were going to be returning to their communities no later than early October, many likely much sooner.

The BOP was given authority to expand the existing release criteria, and the Attorney General had directed the BOP to "immediately maximize appropriate transfers to home confinement of all appropriate inmates" at prisons "where COVID-19 is materially affecting operations." FMC Fort Worth had a significant outbreak of COVID-19, during which, at one point, there were over 600 active cases of COVID-19 at the institution. The OIG recognizes that this outbreak resulted in delays to the transfer of inmates to home confinement. Yet, as of June 18, when the COVID-19 outbreak at FMC Fort Worth had subsided, only 46 of 241 potentially eligible inmates identified on BOP rosters had been transferred to home confinement or an RRC.[51] As a result, we believe that FMC Fort Worth could have more fully leveraged its expanded authorities to transfer inmates to home confinement in response to the COVID-19 pandemic.

Compassionate Release

Another means by which inmates can be moved from prison to home is through a reduction to their sentence pursuant to the compassionate release statute, 18 U.S.C. § 3582(c)(1)A)(i).[52] Under

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[50] The OIG further noted that 20 of the 45 inmates also appeared on the BOP Central Office and South Central Regional Office rosters.

[51] As noted above, in addition to the 46 inmates who were transferred to home confinement or an RRC, 3 of the 241 potentially eligible inmates were granted compassionate release.

[52] For more information about how the BOP manages its compassionate release program, see BOP Program Statement 5050.50, Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§ 3582 and 4205(g), January 17, 2019. In 2013, the OIG issued a report examining the BOP's compassionate release program. (Cont'd)

the statute, either the BOP or an inmate may request that a federal judge reduce the inmate's sentence for "extraordinary and compelling reasons," such as age, terminal illness, other physical or medical conditions, or family circumstances. An inmate must first submit a compassionate release request to the BOP; but the inmate is permitted to file a motion directly with the court if the BOP denies the petition, or 30 days after the inmate files the petition with the BOP, whichever occurs first.

We were told that the BOP prioritized using the home confinement authorities described above to respond to the COVID-19 pandemic because those authorities allow the BOP to approve inmates for release whereas compassionate release requires the approval of a federal judge. Officials in the BOP's Office of General Counsel told us that the COVID-19 pandemic has not changed the BOP's eligibility requirements for compassionate release. Additionally, the Department has taken the position, in legal guidance when responding to compassionate release motions filed by inmates with courts, that the risk of COVID-19 by itself is not an "extraordinary and compelling" circumstance that should result in the grant of a compassionate release request.[53] Thus, COVID-19 would not cause the BOP to support a petition for compassionate release that it would not have supported otherwise.

FMC Fort Worth indicated that, between March 1 and June 30, 164 inmates applied for compassionate release citing COVID-19. Of these 164 requests, 15 were approved. Four were denied by the Warden and approved by a sentencing district judge, and the other 11 requests were made directly to and approved by a judge. By comparison, between December 1, 2019, and February 29, 2020, only five inmates applied for compassionate release. According to information provided by FMC Fort Worth, the reason for denying the requests was that the requests did not meet the medical criteria.

To provide more insight into these issues, the OIG is reviewing and will report separately on the Department's and the BOP's use of early release authorities, especially home confinement, to manage the spread of COVID-19 within BOP facilities.

The OIG found, at that time, that the program had been poorly managed and inconsistently implemented. See DOJ OIG, ***The Federal Bureau of Prisons' Compassionate Release Program***, E&I Report I-2013-006 (April 2013), www.oig.justice.gov/reports/2013/e1306.pdf.

[53] Executive Office for United States Attorneys, "Compassionate Release Litigation Guidance," May 18, 2020.

SCOPE AND METHODOLOGY OF THE INSPECTION

The OIG conducted this inspection in accordance with the Council of the Inspectors General on Integrity and Efficiency's ***Quality Standards for Inspection and Evaluation*** (January 2012). We conducted this inspection remotely because of CDC guidelines and DOJ policy on social distancing. This inspection included telephone interviews with FMC Fort Worth officials, review of documents produced by the BOP related to the BOP's and FMC Fort Worth's management of the COVID-19 pandemic, the results of an OIG survey issued to all BOP staff, and analysis of BOP and COVID-19 data. The photographs included and discussed in the report to illustrate the housing units, gymnasium, recovery tents, and staff screening station were taken by FMC Fort Worth officials at the OIG's request.

We also considered 68 complaints we received from inmates, family members, and staff at Fort Worth that were submitted between April 21 and August 12. The inspection team did not substantiate or assess the validity of the specific complaints; however, we generally inquired with FMC Fort Worth about them. The topics of these complaints included home confinement and compassionate release, quarantine and isolation, and inmate access to communication. Other complaints pertained to concerns about cleaning supplies, social distancing, PPE, and inmate medical care.

To understand staff concerns, impacts, and immediate needs related to COVID-19, we issued an anonymous, electronic survey to all BOP government employees from April 21 through April 29, 2020. We invited a total of 38,651 employees to take the survey and received 10,735 responses, a 28 percent response rate. Institution staff represented 9,932 of the 10,735 responses (93 percent). We received 96 survey responses from FMC Fort Worth personnel, representing about 31 percent of staff assigned to the institution.

We conducted telephone interviews with the FMC Fort Worth Health Services Administrator, one Associate Warden, one Case Manager, one Captain, one Lieutenant, one Social Worker, one Medical Officer, and one Union Official. We also conducted a group teleconference with FMC Fort Worth management, including the Warden, two Associate Wardens, and the Health Services Administrator.

The main issues we assessed through our interviews, data and document requests, and survey results were the institution's compliance with BOP directives and CDC guidelines related to PPE; COVID-19 testing; medical response and capability; social distancing, quarantine, sanitation, supplies, and cleaning procedures; and conditions of confinement. We also assessed actions taken to reduce the inmate population through implementation of relevant authorities.

We reviewed CDC guidelines and BOP-wide guidance and procedures, as well as information and guidance provided to FMC staff and inmates, including memoranda and emails from FMC management, PPE and cleaning supplies inventory documents, staff respiratory program fit test results, documentation of staff COVID-19 screening, documentation of inmate COVID-19 screening in quarantine, and FMC Fort Worth staffing reports.

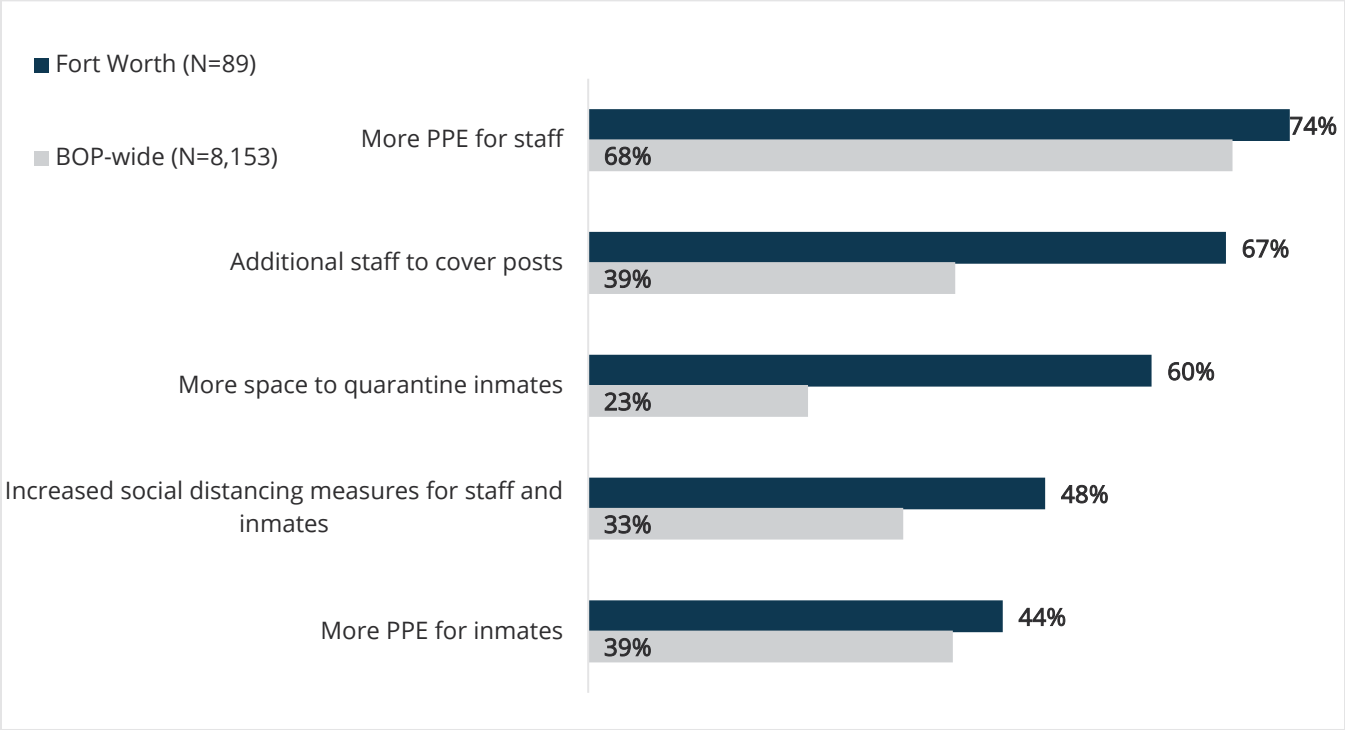
OIG COVID-19 SURVEY RESULTS FOR FMC FORT WORTH

Open Period	Invitations Sent to BOP Institution Staff	Overall Responses[54]	Fort Worth Responses
April 21–29, 2020	38,651	10,735 (of 38,651)	96 (of 314)

Fort Worth Responses: Departments–84 (of 96 responses):

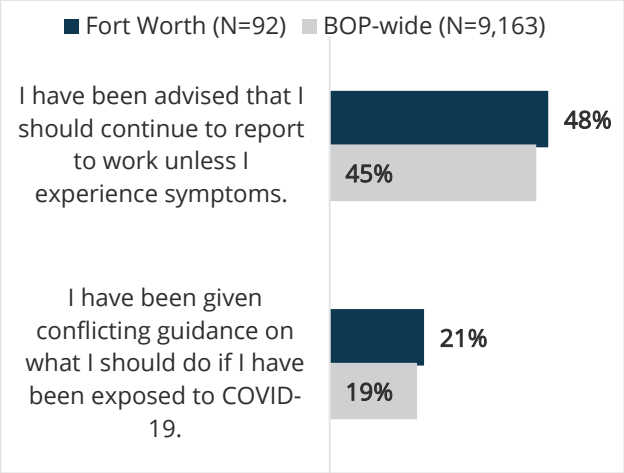
Health Services: 33% | Correctional Services: 25% | Correctional Programs: 7% | All Other Departments: 35%

Which of the following are immediate needs for your institution during the COVID-19 pandemic? (Top 5 Responses)



[54] The OIG survey collected staff perceptions on a range of topics pertaining to the way the BOP and individual institutions were managing the COVID-19 pandemic. The views expressed in the staff responses may not necessarily reflect actual circumstances.

Which of the following statements best describes the current guidance you have received from facility leadership about what you should do if you have been exposed to COVID-19? (Top 2 Responses)



How strongly do you agree with the following statements about the adequacy of the guidance you have received about what you should do if you have been exposed to COVID-19? (All Responses)

Respondents rated each item on a 5-point scale, with "strongly disagree" worth 1 point and "strongly agree" worth 5 points. "Don't know" responses are excluded.

	Fort Worth Rating	BOP-wide Rating
The guidance was timely.	2.98	3.18
The guidance was clear.	2.82	2.97
The guidance was comprehensive.	2.88	3.03

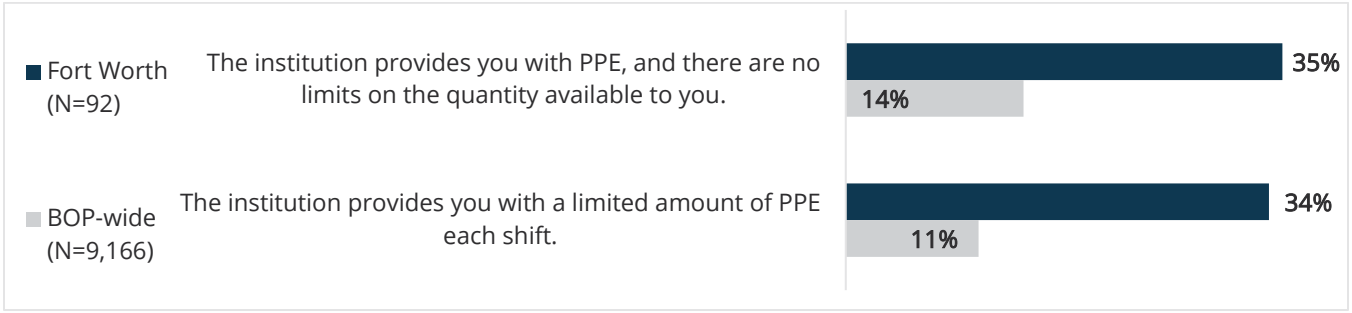
How strongly do you agree with the following statements about the adequacy of the practices your institution is taking to mitigate the risk of spreading COVID-19? (Top 3 and Bottom 3 Responses)

Respondents rated each item on a 5-point scale, with "strongly disagree" worth 1 point and "strongly agree" worth 5 points. "Don't know" responses are excluded.	Fort Worth Rating (N=90)	BOP-wide Rating (N=8,978)
Three Practices Rated Highest:		
Staff are given sufficient information about COVID-19 symptoms and preventive actions (hand washing, wearing masks).	4.20	4.09
Inmates are given sufficient information about COVID-19 symptoms; preventive actions (e.g., hand washing, wearing masks); and changes to their daily routines.	4.15	4.10
Inmates have ample opportunity to shower at least three times a week.	4.00	4.27
Three Practices Rated Lowest:		
Inmates are provided with a sufficient supply of masks.	3.29	3.44
Inmates are provided a sufficient supply of hand sanitizer where sinks are not available.	2.86	3.07
Shared staff equipment such as radios and keys is regularly cleaned and sanitized.	2.71	3.15

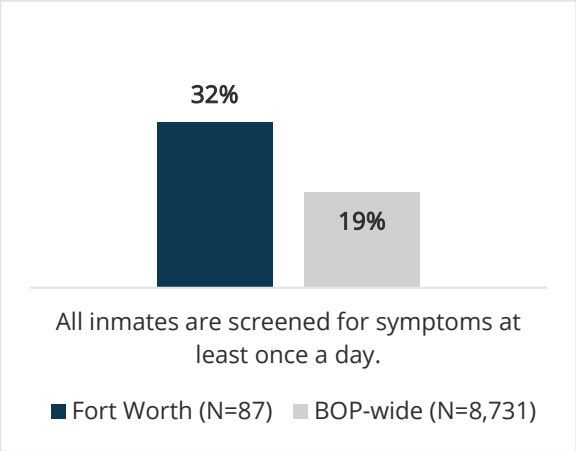
Please identify which, if any, of the following social distancing measures your institution is currently employing to increase the amount of space between staff and inmates. (Top 5 Responses)

	Fort Worth Percent of Respondents (N=85)	BOP-wide Percent of Respondents (N=8,435)
The amount of time that inmates are required to remain in their housing units each day has been increased.	58%	59%
The number of inmates participating in a program or activity at one time has been reduced.	33%	42%
Daily schedules are adjusted so that only one housing unit at a time is allowed to enter common space (such as the inmate cafeteria, Health Services clinic, library, classrooms, chapel, work space, or recreation space).	29%	44%
The number of inmates released, including those transferred to halfway houses or placed on home confinement, has increased.	28%	26%
Alternative activities for in-person programs have been introduced.	15%	20%

Which of the following statements best describes the current guidance you have received from facility leadership about your use of personal protective equipment (PPE)? (Top 2 Responses)

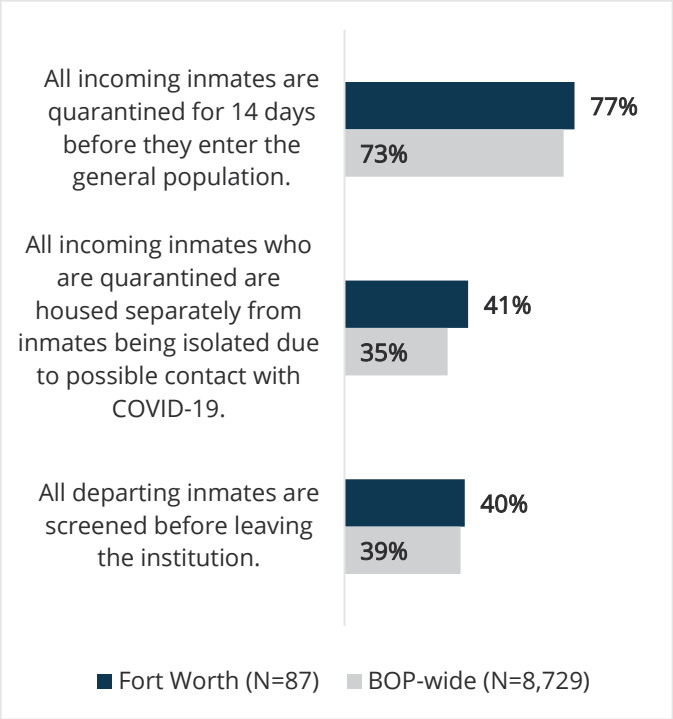


Which of the following statements best describes the current approach to COVID-19 screening of existing inmates (temperature check, questioning about other symptoms) at your institution?[55] (Top Response)

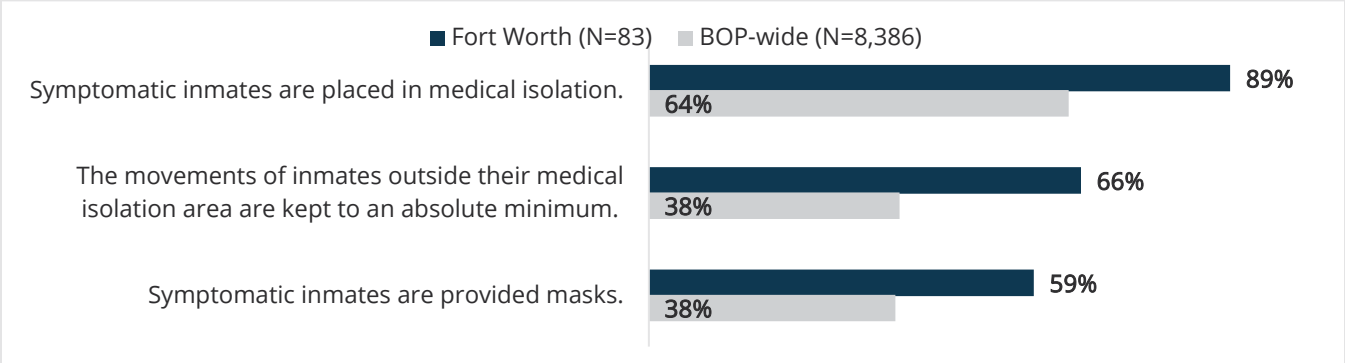


Note: Thirty percent of respondents chose "I don't know."

Please identify which, if any, of the following COVID-19 measures for screening incoming and departing inmates (temperature check, questioning about other symptoms) your institution is currently taking. (Top 3 Responses)



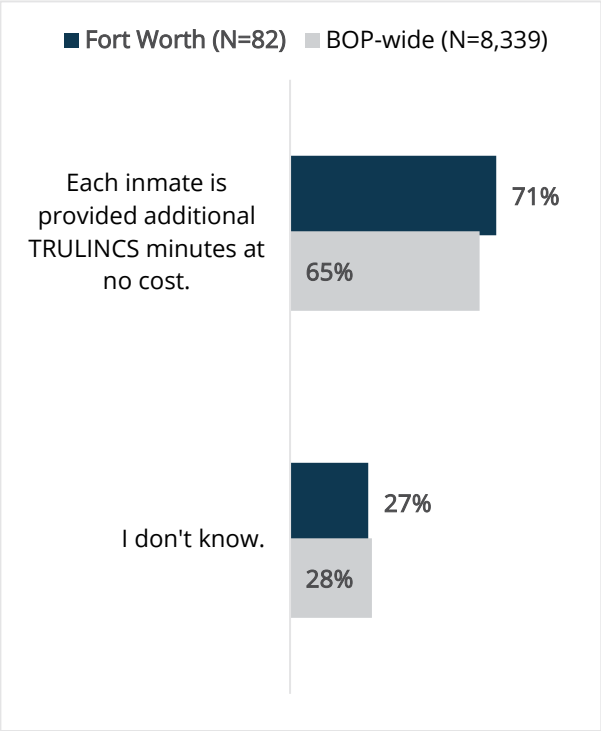
Please identify which, if any, of the following measures your institution is currently employing to manage inmates with COVID-19 symptoms. (Top 3 Responses)



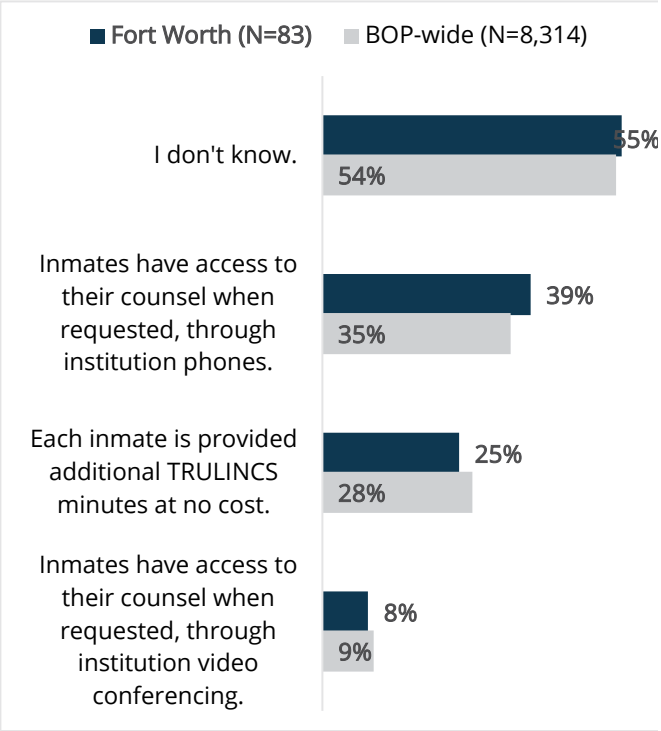
[55] Although BOP policy does not require the screening of every inmate, the BOP's Phase Five Action Plan, issued on March 31, 2020, emphasized the importance of practices for identifying symptomatic inmates as early as possible. In addition to the required intake screening and exit screening, the action plan mentioned broader screening initiatives such as daily screening or enhanced surveillance at institutions affected by COVID-19, in consultation with the Regional Quality Improvement/Infection Prevention and Control Consultant.

(Cont'd)

Please identify which, if any, of the following strategies your institution is currently employing to facilitate inmates' ability to communicate with family and friends outside the institution with whom they would normally interact.[56] (Top 2 Responses)



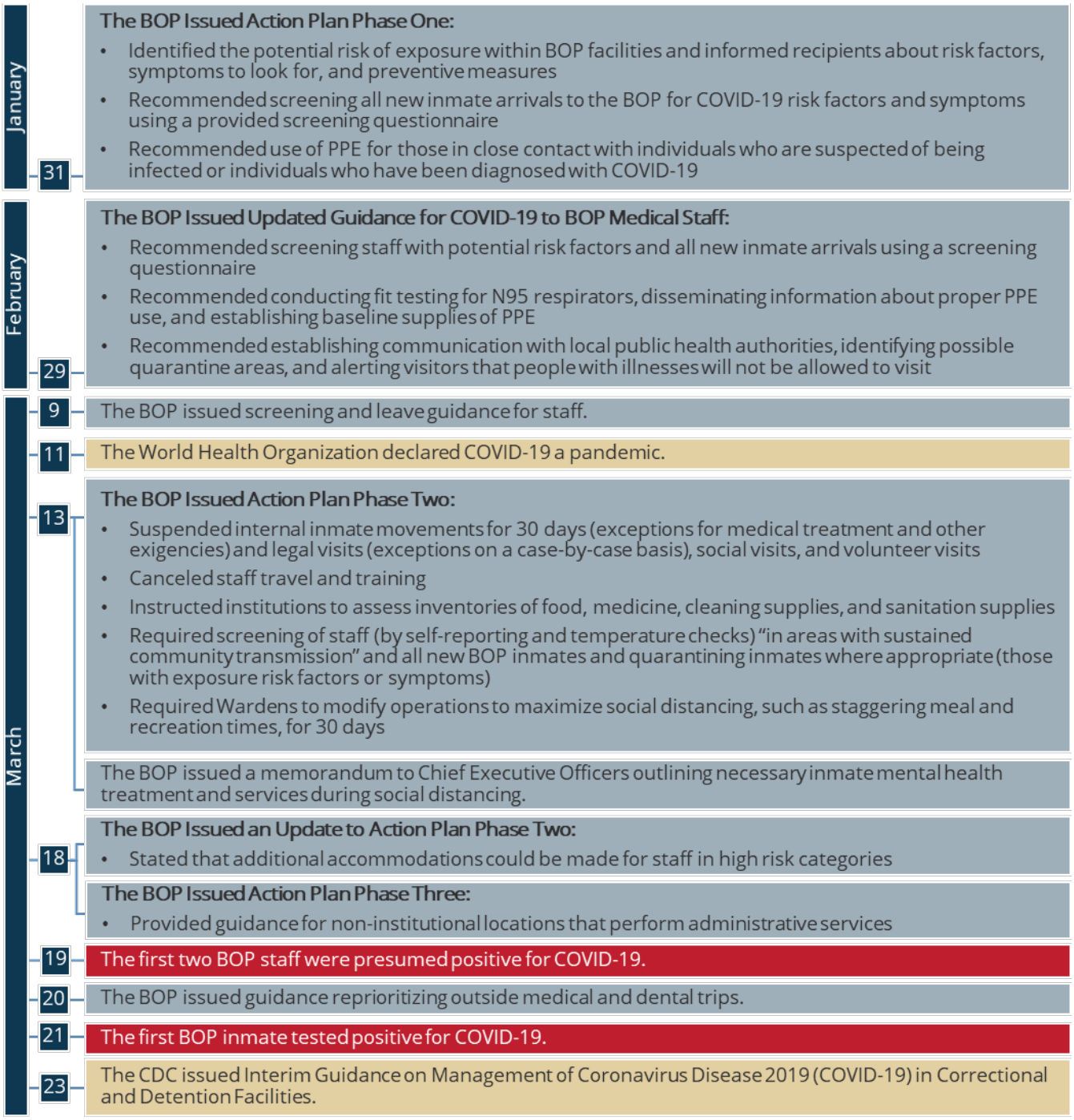
Please identify which, if any, of the following strategies your institution is currently employing to facilitate inmates' ability to communicate with legal counsel.[57] (Top 4 Responses)



[56] The BOP provides inmates both telephone and messaging options. Inmates received an increase, from 300 to 500 minutes, of monthly telephone time pursuant to the BOP's Phase Two Action Plan in March 2020. Per BOP policy governing TRULINCS, the BOP "provides a messaging option for inmates to supplement postal mail correspondence to maintain family and community ties." The policy provides time parameters for inmate use of this messaging option but does not set a limit on the number of minutes inmates may use it per month. Additionally, the policy states that inmates are charged a per-minute fee to use this messaging option. BOP Program Statement 4500.12, Trust Fund/Deposit Fund Manual, March 14, 2018.

[57] Per BOP policy governing TRULINCS, "inmates may place attorneys, 'special mail' recipients, or other legal representatives on their public email contact list, with the acknowledgment that public emails exchanged with such individuals will not be treated as privileged communications and will be subject to monitoring." BOP Program Statement 4500.12.

TIMELINE OF BOP GUIDANCE



March (Cont'd.)

26 — **The BOP Issued Action Plan Phase Four:**

- Required all new inmates to be screened using a screening questionnaire and temperature check. If asymptomatic, inmates were to be quarantined for at least 14 days or until cleared by medical staff. If symptomatic, inmates were to remain in isolation until they tested negative for COVID-19 and were medically cleared.
- Required all inmates to be screened upon exiting the facility. Any symptomatic inmates were to be placed in isolation.
- Required all staff/contractors/other visitors to be screened upon entering the facility using a screening questionnaire and temperature check
- Required institutions to develop alternatives to in-person court appearances
- Required all non-bargaining unit positions to comply with and participate in the respiratory protection program, including completing medical clearance, training, and fit testing for N95 respirators

28 — **The BOP Issued an Update to Action Plan Phase Four:**

- Required inmates transferring within the BOP, in addition to new inmates, to be screened upon arrival

31 — **The BOP Issued Action Plan Phase Five:**

- Enacted a 14-day nationwide action, effective April 1, to minimize movement within BOP facilities
- Emphasized continued and ongoing screening of all inmates to identify asymptomatic cases and encourage early reporting of symptoms by inmates
- Required prompt and thorough contact tracing investigations for symptomatic cases, quarantining close contacts of suspected or confirmed COVID-19 cases, and isolating any inmates with symptoms similar to COVID-19
- Emphasized good hygiene and cleaning practices
- Required institutions to limit staff movements to the areas to which they were assigned
- Limited inmate movements to prevent group gatherings and maximize social distancing, directed work details to continue with appropriate screening
- Worked with the U.S. Marshals Service to limit inmate movements between institutions
- Required all staff to be fit tested for N95 respirators (included shaving all facial hair)
- Announced that UNICOR had initiated the manufacturing of face masks for inmates

April

3 — The BOP issued a memorandum directing Chief Executive Officers to: (1) establish a point of contact with local public health officials and local hospitals, if not already established and (2) be responsive and transparent with outside stakeholders to demonstrate that the BOP is taking aggressive action to mitigate the spread of COVID-19.

The CDC issued new guidance recommending the use of cloth face coverings in addition to social distancing.

6 — The BOP issued a memorandum to Chief Executive Officers indicating that it was working to issue face masks to all staff and inmates to lessen the spread of COVID-19 by asymptomatic or pre-symptomatic individuals.

7 — The BOP issued a memorandum to Chief Executive Officers establishing that all inmates being released or transferred from a BOP facility into the community be placed in quarantine for 14 days prior to release.

13 — **The BOP Issued Action Plan Phase Six:**

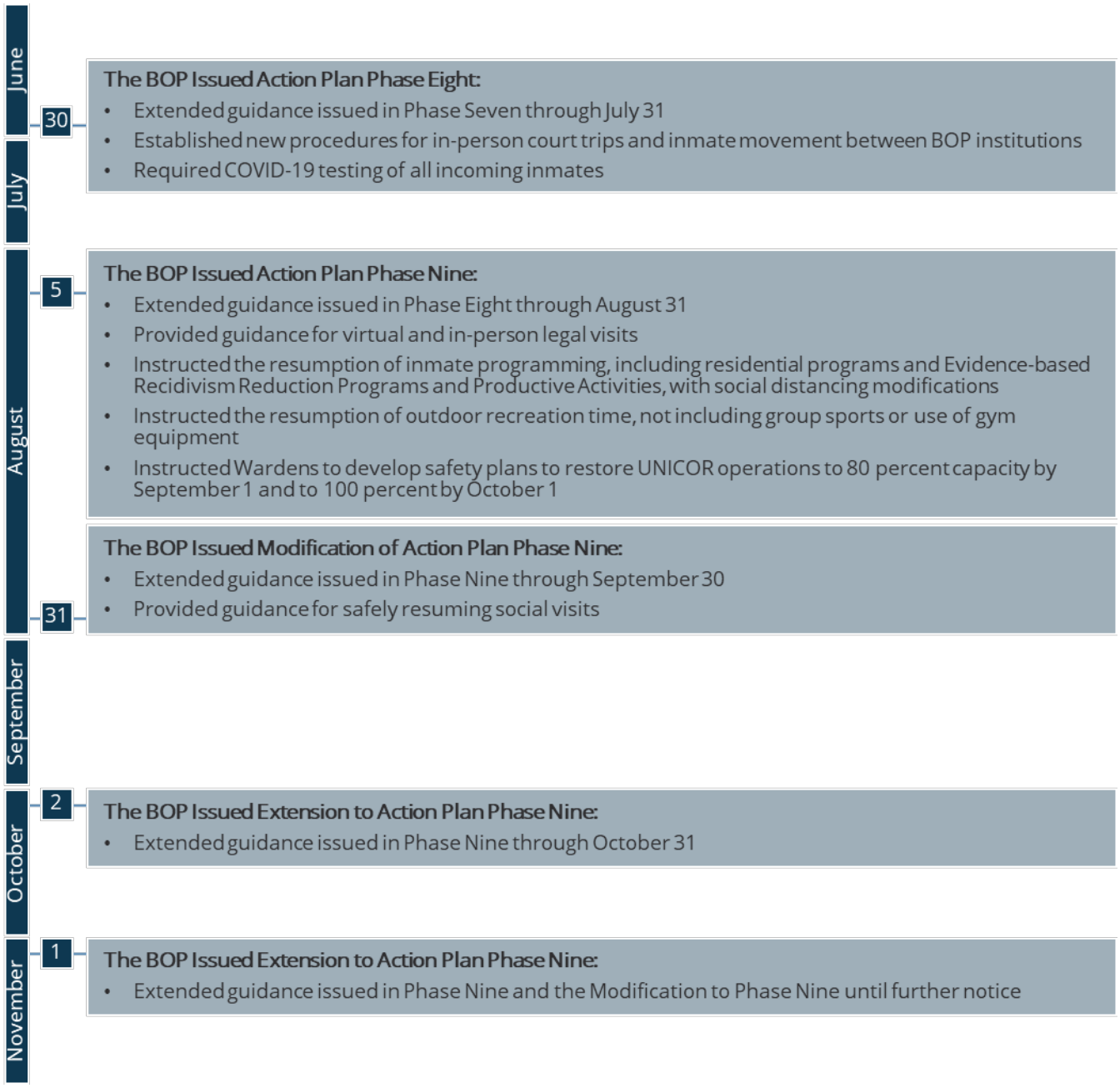
- Extended guidance issued in Phase Five through May 18

24 — The BOP expanded COVID-19 testing to include asymptomatic inmates following the acquisition of rapid ribonucleic acid testing equipment at select BOP facilities.

May

18 — **The BOP Issued Action Plan Phase Seven:**

- Extended guidance issued in Phase Six through June 30



Source: OIG analysis of documents provided by the BOP