DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

PANDEMIC RESPONSE REPORT

21-032

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Remote Inspection of Federal Correctional Institution Milan

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. In total, these facilities house approximately 152,000 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 surveys 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 congregate environments, "heighten[s] the potential for COVID-19 to spread once introduced" into a facility.[1] According to BOP data, as of January 21, 2021, 44,806 inmates and 5,904 BOP staff in BOP-managed institutions and community-based facilities had tested positive for COVID-19.[2] In those institutions where widespread inmate testing has been conducted, the percentage of inmates testing positive has been substantial.

Between May 11 and June 30, 2020, the DOJ OIG conducted a remote inspection of the BOP's Federal Correctional Institution (FCI) Milan (pronounced MY-lan) to understand how the COVID-19 pandemic affected the institution and to assess the steps Milan officials took to prepare for, prevent, and manage COVID-19 transmission within the facility (see Appendix 1 for the scope and methodology of the inspection). We conducted this inspection through telephone interviews with Milan officials, review of documents related to the BOP's and Milan's management of the COVID-19 pandemic, data regarding Milan inmates and Milan-related staff and inmate COVID-19 cases that was developed by the OIG's Office of Data Analytics (ODA), and the incorporation of Milan-specific results from a BOP-wide employee survey regarding COVID-19 issues that was conducted by the OIG in late April (see Appendix 2 for a summary of survey results from Milan respondents). We also considered complaints reported to the OIG Hotline, including those from inmates and staff at Milan.[3] Our focus was determining whether Milan's policies and practices complied with BOP directives implementing CDC guidelines

[1] CDC, "Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities," March 23, 2020 (updated December 31, 2020), www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html (accessed January 14, 2021).

[2] In this report, all estimates of total BOP or total institution-specific inmate cases do not include inmates who tested positive, recovered, and were released by the BOP.

[3] The inspection team did not seek to assess the validity of these individual 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.

intended to control the transmission of COVID-19 within each facility, as well as DOJ policy and guidance.[4]

Summary of Inspection Results

We found that Milan suffered one of the BOP's early COVID-19 outbreaks. The first Milan staff member received a COVID-19 positive test result on March 27, and, 1 week later, on April 3, the first three Milan inmates received a positive test result. As of June 30, the BOP reported that 57 Milan staff members and 98 inmates had tested positive for COVID-19 and 3 inmates had died as a result of COVID-19. By early summer, Milan had largely contained the further spread of COVID-19. However, in December, Milan saw a new wave of COVID-19 cases, and, as of January 17, the BOP reported 16 active staff cases and 35 active inmate cases.[5] We also found that Milan's physical design—specifically, its two open-bay, dormitory-style units, which house roughly half of its inmate population—posed significant challenges to achieving social distancing among inmates. Notwithstanding the inherent challenge of socially distancing inmates in open-layout housing units, we identified other issues that impacted Milan's ability to contain the spread of the disease at the institution. For example, we found that:

- By early April, Milan's Basic Prisoner Transportation (BPT) staff escorted at least one, and possibly more, inmates with COVID-19 symptoms to the local hospital without wearing appropriate personal protective equipment (PPE) because Milan's correctional and Health Services staff did not recognize certain symptoms as potentially being COVID-19 related. We believe that the failure of Milan to provide PPE to BPT staff in these circumstances potentially increased those staff members' risk of contracting COVID-19 and potentially contributed to the spread of COVID-19 at Milan. According to a Milan official, 24 BPT staff subsequently contracted COVID-19 and were placed on sick leave by mid- to late April.
- FCI Milan complied with the CDC's April 3 guidance recommending that face coverings be worn in public settings by making surgical masks available to staff on April 4 and distributing surgical masks to all inmates between April 4 and April 6. However, by the time the CDC issued its guidance, COVID-19 was already spreading throughout the institution.
- By early May, 75 percent of Milan's medical staff had contracted COVID-19, creating serious staffing shortages in Milan's Health Services Department. According to Milan's Chief Psychologist, the depletion of medical staff was the most significant and dangerous challenge to Milan's COVID-19 response. Additionally, staffing shortages generally due to the COVID-19

[4] Starting in January 2020, the BOP began issuing to its institutions memoranda 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 Milan's adherence to these BOP directives.

[5] This report primarily details Milan's efforts to mitigate the spread of COVID-19 between March 27 and June 30, 2020. We describe, in brief, the December 2020 increase in inmate and staff cases at FCI Milan in Appendix 4.

outbreak were a consistent challenge for Milan and made it difficult for the institution to restrict staff movement within the institution to prevent the spread of the virus.

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

COVID-19 at Milan

FCI Milan is a low security Federal Correctional Institution with a Federal Detention Center (FDC) located in Washtenaw County, Michigan, approximately 15 miles south of Ann Arbor and 30 miles southwest of Detroit. As of January 17, 2021, the FCI housed 1,031 sentenced adult male inmates; the FDC housed an additional 221 adult male inmates, most of whom were awaiting trial. Milan employs approximately 284 federal staff members who provide daily correctional services to inmates.

Milan's first COVID-19 positive staff member left work with symptoms on March 13, was tested the same day, and received a positive test result on March 27. Milan's first three COVID-19 positive inmates were tested on March 30 and received positive results on April 3. As of June 30, the BOP reported that 98 total inmates had tested positive for COVID-19, with 3 COVID-19 related inmate deaths having occurred between April 24 and 30. Also as of June 30, the BOP reported that a total of 57 Milan staff members had tested positive for COVID-19. At that time, the largest influx of staff and inmate positive test results had occurred during the first 2 weeks of April, and Milan had largely contained the further spread of COVID-19 by early summer. However, Milan saw a new wave of COVID-19 cases in December at the FDC (see Appendix 4). As of January 17, 2021, the BOP reported 16 active staff cases and 35 active inmate cases.

Milan COVID-19 Data

Inmate Population as of January 17, 2021[a]

1,252

Active Inmate Cases as of January 17, 2021[b]

35

Inmate COVID-19 Deaths as of January 17, 2021

3

Active Inmate COVID-19 Cases Over Time, March 30, 2020–January 17, 2021[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 January 17, 2021

284

Active Staff Cases as of January 17, 2021

16

Staff COVID-19 Deaths as of January 17, 2021

0

Active Staff COVID-19 Cases Over Time, March 30, 2020–January 17, 2021

Data Sources: BOP, National Finance Center

Total Confirmed Washtenaw County COVID-19 Cases Over Time, March 30, 2020–January 17, 2021[a]

[a] Total confirmed cases are cumulative positive COVID-19 cases. As of January 17, 2021, Washtenaw County, Michigan, had 15,413 confirmed COVID-19 cases.

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

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INSPECTION RESULTS

PPE and Cloth Face Coverings

We found that FCI Milan complied with the CDC's April 3, 2020 guidance recommending that face coverings be worn in public settings by making surgical masks available to staff on April 4 and distributing surgical masks to all inmates between April 4 and April 6. However, by the time the CDC issued its guidance, COVID-19 was already spreading throughout the institution. We further found that, during the early days of the spread of COVID-19 at Milan, Milan's correctional and Health Services staff did not recognize some symptoms as potentially being related to COVID-19. As a result, by early April Milan's BPT staff escorted at least one inmate, but possibly more, with COVID-19 symptoms to the hospital without wearing PPE appropriate for close contact with COVID-19 positive and symptomatic persons.[6] This may have been a factor in BPT staff contracting COVID-19 and potentially contributed to the spread of COVID-19 at Milan.

PPE for Staff Having Close Contact With COVID-19 Suspected or Positive Inmates

On February 29, the BOP issued an inmate screening tool that made clear that staff having close contact with inmates suspected or confirmed to have COVID-19 should wear an N95 respirator, eye protection, gloves, and a gown.[7] Consistent with this requirement, we found that Milan provided and required staff to don the correct PPE before entering its isolation and quarantine units.[8] However, we also found that by early April Milan's BPT staff did not wear the required PPE while transporting at least one, but possibly multiple, inmates with COVID-19 symptoms to the local hospital, in part because the institution did not recognize certain symptoms as potentially being related to COVID-19. We believe that the early confusion about COVID-19 symptoms, and the resultant failure to provide appropriate PPE to BPT staff transporting at least one, and possibly more, COVID-19 positive inmates to the hospital, potentially increased those BPT staff members' risk of contracting COVID-19 and may have contributed to the spread of COVID-19 among staff and inmates at the institution.

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[6] In its response to our report (see Appendix 5), the BOP acknowledged that in early April BPT staff escorted an inmate who ultimately tested positive for COVID-19 to the local hospital without wearing appropriate PPE because the inmate's symptoms were not identified as COVID-19 related at the time of transfer. During our fieldwork, as described below, a Milan Lieutenant stated that he believed this happened multiple times at the beginning of the outbreak.

[7] This guidance has been reiterated and expanded upon in additional guidance documents. BOP, Guidance for COVID-19 Personal Protective Equipment, March 18, 2020; CDC, "Interim Guidance." The CDC guidance emphasized that an N95 respirator "is preferred" but stated that, in the instance of an N95 shortage, "face masks are an acceptable alternative." On April 2, the BOP distributed a "Vehicle Transport of Inmates Safety Check for COVID-19" to help institutions implement the CDC's guidance in the transport setting.

[8] Staff who were fit tested received an N95 respirator; staff who were not fit tested for an N95 respirator received a reusable surgical mask instead.

According to Milan's Health Services Administrator (HSA), in March and early April medical staff were more likely to attribute symptoms like shortness of breath or chest pains to noncontagious causes, such as allergies or asthma, rather than to COVID-19.[9] A Milan Lieutenant added that, as a result of these mistaken attributions, BPT staff transporting some potentially COVID-19 positive inmates were not provided the PPE required for close contact with COVID-19 symptomatic or positive individuals. It was only after a number of these inmates tested positive for COVID-19 at the hospital, the Lieutenant stated, that Milan staff realized that the BPT staff who transported those inmates should have been wearing the PPE required for close contact with COVID-19 positive or suspected persons.

Another Milan Lieutenant, who acted as Captain for 2 weeks while the Captain was on sick leave due to COVID-19, told us that 24 BPT staff contracted COVID-19 and were on sick leave by mid- to late April. We did not determine the exact dates the BPT staff got sick with the virus, but he said that several told him that they attributed their infection to going to the hospital without proper PPE. Milan's local Union President told us that, in one instance, a BPT staff member requested an N95 respirator to transport an inmate to the emergency room but was told that the institution could not provide him one given its limited supply of N95 respirators and the need to reserve them for medical staff. The inmate eventually tested positive and then died from COVID-19; the BPT staff member who escorted him also tested positive, and was eventually placed on a ventilator, but ultimately survived.

The Milan Warden explained that, because Milan's PPE supplies were limited before April 3, the institution had to reserve its PPE—and particularly its N95 respirators—for its quarantine and isolation wards and could not distribute it to staff "in situations where we didn't deem that it was necessary," such as emergency hospital trips for inmates not suspected to have COVID-19. While we recognize the institution's desire to closely manage its stock of N95 respirators during a period of a nationwide shortage, we note that Milan used only 7 of its 235 N95 respirators during the last 2 weeks of March.

Compliance With Other Guidance Regarding PPE and Face Coverings

Between January 31 and April 6, 2020, the BOP issued seven guidance memoranda intended to help its institutions implement evolving CDC guidance concerning the use of PPE and face coverings in various scenarios.[10] Initially, on March 13, the BOP issued guidance stating that

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[9] We note that the BOP issued guidance in January that identified shortness of breath as a potential symptom of COVID-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.

[10] 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.

employees screening staff for COVID-19 should wear appropriate PPE, to include an N95 respirator, face shield, goggles, gloves, and a gown. On March 18, the BOP issued new guidance that retained the March 13 guidance's PPE requirement for all employees that conducted staff screening but downgraded the requirement from wearing an N95 respirator to wearing a surgical mask.[11] We found that Milan complied with this new directive regarding the use of face masks. Milan began screening all staff entering the institution on March 19, when Michigan was first deemed an area of "high sustained community transmission" by the CDC. According to Milan's HSA, employees conducting the staff screenings were provided—and required to wear—a mask, gloves, and goggles or safety glasses, which were the "least amount of PPE that medical staff were supposed to be wearing."[12] He also told us that gowns, foot covers, and hairnets were all available to, but not required for, staff screeners.

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."[13] We found that Milan anticipated and complied with the BOP's guidance, making surgical masks available to staff on April 4 and distributing surgical masks to all inmates between April 4 and April 6.[14] Milan received a shipment of cloth face coverings from UNICOR on April 8 and subsequently distributed three cloth face coverings to each staff member and two face coverings to each inmate.[15]

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[11] See BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Phase Two Action Plan, March 13, 2020, and BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Phase Two Action Plan Update Number 1, March 18, 2020.

[12] Milan's HSA explained that, although "enclosed goggles" were provided to staff screeners, some employees conducting screenings preferred to wear BOP-issued safety glasses instead. The HSA stated that, although enclosed goggles would have been better, he considered safety glasses to be sufficient eye protection for staff screeners because they generally "cover your mucus membrane."

[13] BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Update–Use of Face Masks, April 6, 2020. The guidance indicated that the BOP would be distributing cloth masks to institutions and that these cloth masks would replace the use of surgical masks at that time. For more information, see CDC, "What to Do if You Are Sick," February 24, 2020 (updated December 31, 2020), www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html#:~:text=If%20you%20have%20a%20fever,contact%20your%20healthcare%20provider, and "Considerations for Wearing Masks," April 3, 2020 (updated December 18, 2020), www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html (both accessed January 14, 2021). On April 15, the BOP made the wearing of "face coverings provided by the agency" mandatory for all BOP staff and inmates except in a few limited circumstances.

[14] Milan made the surgical masks available to staff for pick-up in the Lieutenants' office. One employee we spoke with stated that it would have been better if the Lieutenants had actively distributed masks to the staff rather than requiring staff to go to the Lieutenants' office to request masks, as staff do not always have time to visit the Lieutenants' office before or after their shifts.

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

However, by the time the CDC issued its April 3 guidance, COVID-19 was already spreading throughout the institution: 3 Milan inmates and 1 staff member had already tested positive for COVID-19, and 19 staff members who eventually tested positive had left work with COVID-19 symptoms. By April 6, the date Milan completed its distribution of surgical masks to inmates, six more inmates had tested positive for COVID-19 and two more staff members who eventually tested positive had left work with symptoms. By April 8, the date Milan received its first shipment of cloth face coverings from UNICOR, eight more inmates had tested positive and nine more staff members who eventually tested positive had left work with symptoms. Accordingly, Milan's issuance of surgical masks to staff and inmates between April 4 and April 6, in response to the CDC's guidance, likely occurred too late to prevent the spread of COVID-19 at the institution.

Both the local Union President and some survey respondents reported that some staff members requested face coverings or masks prior to April 3 but were told that Milan's mask supply was limited and had to be reserved for Health Services and other staff directly interacting with inmates suspected or confirmed to have COVID-19. One employee told us that he raised concerns about having to conduct daily rounds throughout the institution without wearing any PPE but that a Milan official told him that Milan's PPE supply was limited and reserved for Health Services staff.[16] Although several Milan officials told us that any staff member who requested PPE was provided it, the Warden, Captain, and HSA all acknowledged that, prior to April 3, Milan's PPE inventory—and particularly its supply of N95 respirators—was limited and that, as a result, the institution had to be "selective" in distributing PPE, which was not required by BOP guidance, in order to ensure sufficient inventory for staff interacting with COVID-19 positive or suspected inmates.[17] Two FCI Milan Health Services officials told us that the institution began attempting to purchase additional PPE as early as January. We found that, consistent with BOP directives, in March the institution attempted to procure additional PPE through the BOP's medical supplies contractor but was told that N95 respirators were on back order and could not be provided. Immediately after the first three inmates tested positive on April 3, Milan requested and received a large shipment of PPE from another BOP institution in the North Central Region. Milan continued to request and receive additional shipments of PPE from the Regional Office throughout April as the COVID-19 outbreak progressed.

We reviewed Milan N95 inventory documents and found that on March 17 Milan had 235 N95 respirators and 314 surgical masks in its inventory. Although Milan did not receive additional N95 respirators until April 3, it received an additional 1,000 surgical masks from its supplier on or around March 18. Nevertheless, BOP Central Office officials explained to the OIG that, in the absence of evidence-based, CDC guidance recommending the widespread use of face coverings in

[16] The employee reported that he contracted COVID-19 after conducting rounds without PPE, which resulted in a 6-week absence because he experienced an especially severe case.

[17] On February 29, the BOP issued guidance to "establish baseline PPE supplies for gloves, surgical masks, N95 respirator masks, face shields and gowns" and to "move to purchase additional supplies, as necessary." BOP, memorandum for All Clinical Directors, Health Services Administrators, and Quality Improvement/Infection Prevention Coordinators, Guidance Update for Coronavirus Disease 2019 (COVID-19), February 29, 2020.

correctional environments prior to April 3, the BOP did not believe it wise to distribute face coverings broadly to all staff and inmates. Milan's local Union President told us that, prior to the issuance of the CDC guidance, some staff wore their own masks inside the institution; but Milan management discouraged this practice because they did not want to stress the inmates.

Staffing Shortages Due to the COVID-19 Outbreak at Milan

We found that staffing shortages related to COVID-19 were a challenge that continually threatened to hamper Milan's ability to adequately respond to the COVID-19 outbreak that it experienced in April 2020. Prior to the outbreak, Milan's March 2020 staffing report indicated that Milan had filled 288 (93 percent) of its 309 full-time salaried positions. However, according to Milan documentation, as of May 28, 56 Milan staff had to take COVID-19 related sick leave. We found that Health Services Department and BPT staff shortages, in particular, created significant challenges for the institution.

While Milan's medical providers stated that they were able to maintain continuity of care for all inmates, we found that Milan's Health Services Department staff was hit particularly hard by COVID-19. Prior to the outbreak, Milan had filled 17 of its 18 Health Services positions: 4 Public Health Service (PHS) officers and 13 full-time salaried BOP staff.[18] Health Services officials reported that approximately 75 percent of all Milan medical staff contracted COVID-19 and had to take sick leave at some point during the outbreak, including 50 percent during the outbreak's first week.[19] Among the medical staff that fell ill and took leave were the Clinical Director, the HSA, and four Registered Nurses. According to a Mid-Level Practitioner, she often worked alone and took on the responsibilities of other medical staff on sick leave. Milan's Chief Psychologist told us that the depletion of medical staff was the most significant challenge in Milan's COVID-19 response because staff had to work longer hours and were "stretched very thin," which was especially dangerous in a prison setting. Milan's HSA told us that medical staff responded to the outbreak by shifting from 16-hour coverage to 24-hour coverage. Twenty-four-hour medical coverage means that one nurse was physically present at Milan 24 hours a day. In addition to the nurse, an Advanced Practice Provider was available on call for 24 hours a day during the April COVID-19 outbreak. Although these measures enabled Milan to continue its daily operations while still providing medical care to its inmates, medical staff told us that staffing shortages took a toll on their own health and well-being.

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[18] FCI Milan has 5 PHS-allocated positions: 1 Clinical Director, 1 HSA, 1 Chief Pharmacist, 1 Staff Program Manager, and 1 Mid-Level Practitioner (vacant at the time of our inspection). FCI Milan's 13 full-time salaried Health Services positions consist of 1 Assistant HSA, 1 Dentist, 1 Dental Hygienist, 4 Registered Nurses, 4 Mid-Level Practitioners, 1 Health Services Assistant, and 1 Health Information Technician. Although FCI Milan reported no vacancies for its full-time salaried Health Services employees, it did report 1 vacancy for a PHS Mid-Level Practitioner position.

[19] According to Milan's HSA, the high number of medical staff contracting COVID-19 was due to the virus's highly contagious nature.

Milan also experienced significant shortages of BPT-certified staff during the April outbreak as approximately 24 BPT staff members took sick leave in April due to COVID-19. The increase in the number of inmates at the community hospital required an increase in the number of BPT-certified staff stationed at the hospital as escorts, rendering them unavailable to work their posts at the institution. BOP policy requires a minimum of two staff escorts per inmate at a minimum or low security level during trips to outside medical facilities and states that escorts must keep inmates "within the constant and immediate visual supervision of escorting staff at all times."[20] Milan's daily incident briefing reports showed that, between April 4 and April 30, the number of inmates hospitalized ranged from 4 to 12, meaning that throughout that period between 8 and 24 BPT-certified staff members would be stationed at the hospital at any given time.

Milan's management responded to these absences by seeking waivers to the BPT escort policy for intubated inmates, by adjusting staffing assignments and shifts, and by requesting that the BOP Central Office send temporary duty (TDY) staff to Milan. On April 11, Milan's Warden began requesting from the BOP's Acting Assistant Director, Correctional Programs Division, waivers from the escort policy so that only one BPT staff member would be required to sit with any hospitalized inmate who was on a ventilator. The Warden told us that he requested the waivers to conserve staffing resources because an inmate on a ventilator poses a low escape risk. Milan's daily incident briefings showed that throughout April the number of inmates on ventilators ranged from one to five, meaning that these waivers would have freed up between one and five BPT staff members per shift.

Additionally, Milan's management increased the shift hours of correctional staff from 8 hours to 12 hours during the outbreak. The increased shift hours enabled Correctional Officers to cover more ground in the institution or to take over for someone who was on sick leave. Milan staff also took on additional responsibilities to compensate for staffing shortages during the outbreak. For example, Milan's local Union President told us that non-custodial staff were provided a schedule to, among other things, help run the commissary, gather laundry, and manage inmate sick calls.

In order to further alleviate staffing shortages, Milan requested TDY staff from other BOP institutions to assist it with medical care and other operations such as inmate transport. The Warden told us that Milan received its first TDY staffer, a Medical Technician, on April 7 and, as of May 7, the BOP had deployed 54 TDY staff, including 13 medical and 18 BPT staff, to the institution.[21] According to BOP data that we received, the 13 medical staff arrived at Milan between April 7 and April 23 and the 8 TDY BPT staff arrived between April 11 and April 16. Milan's Warden told us that the TDY BPT staff were assigned to the hospital and did not work any other posts. According to Milan's Clinical Director, TDY staff were instrumental to FCI Milan's ability to manage the outbreak because the institution's staff was not sufficient to handle the

[20] See BOP Program Statement 5538.07, Escorted Trips, December 10, 2015, §§ 570.44, 570.45.

[21] The 13 TDY medical care staff included 8 Registered Nurses, 1 Assistant HSA, 1 Nurse Practitioner, 1 Physician's Assistant, 1 Emergency Medical Technician, and 1 Medical Technician.

demands of COVID-19. Milan's Nurse Practitioner remarked that TDY staff had "rescued the institution." We noted that Milan began to demobilize its TDY staff in May 2020.

Social Distancing and Quarantine Measures

Social Distancing Measures

On March 13, the BOP issued a memorandum that directed Wardens to immediately "implement modified operations to maximize social distancing in [BOP] facilities" to the extent practicable.[22] This memorandum also directed institutions to suspend all social and legal visits for 30 days, which was subsequently extended until October 31 and, on November 1, until further notice. The BOP memorandum permitted institutions to accommodate case-by-case requests for legal visits and stated that institutions should offer video teleconferencing as an alternative to in-person legal visits. We found that Milan took several steps to modify institutional operations and maximize social distancing in accordance with guidance the BOP issued in March 2020:

- In response to the BOP's March 13 directive, the institution suspended inmate social and legal visits in accordance with BOP-wide guidance.
- On March 17, Milan modified its education, recreation, and food service schedules to reduce the number of inmates in group settings.
- On April 1, Milan implemented a "Stay in Shelter," or "modified lockdown," restriction in accordance with BOP guidance calling for a nationwide lockdown.[23]

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[22] See BOP, memorandum for All Chief Executive Officers, March 13, 2020.

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 recommended 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."

[23] The BOP enacted a "14-day nationwide action to minimize movement to decrease the spread" of COVID-19 in its Phase Five Action Plan on April 1 and extended this action in its Phase Six, Seven, and Eight Action Plans, effective through July 31. 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 disruptive behavior." See Appendix 3 for a timeline of the BOP's guidance to its institutions.

The BOP's Phase Nine Action Plan extended the restrictions through October 31 and provided new guidance on COVID-19 risk mitigation measures. Those measures included 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.

We found that Milan's physical design presented significant challenges to achieving social distancing of inmates. Specifically, roughly half of the FCI's inmate population is housed in open-bay units, where up to 74 inmates live together in open-air, dormitory-style bunks. The bunks are separated by built-in cement cubicles, making it impossible to move furniture to increase social distancing. When asked whether the institution could have moved any inmates from the open-bay units into other units where social distancing was easier, one Milan official said that they could not due to limited bed space and the need to clear a unit of existing inmates to make room for inmates at a higher risk of illness due to COVID-19.

Open-Bay Unit at FCI Milan

Source: BOP, with OIG enhancement

In late April, Milan implemented a few strategies in an attempt to promote social distancing in the open-bay dorms, including placing tape on the floor to demonstrate 6 feet of space and instructing inmates in all units to sleep head to toe when double bunked.[24] Nevertheless, Milan officials consistently identified the FCI's open-bay housing design as posing the most significant challenge to achieving social distancing, with one staff member stating that it is "almost impossible" to achieve social distancing in the open-bay units.

The Warden told the OIG that many of the inmates who tested positive for COVID-19 lived in the unit that housed a large number of inmates who worked in the UNICOR plant and did work for the Facilities Department.[25] The Warden also told us that a high number of staff working in the plant or for the Facilities Department tested positive for COVID-19. According to FCI Milan officials, the UNICOR plant operated within CDC-advised social distancing and sanitation measures from March 14 to March 31.[26] We note that the BOP's March 13 guidance, which directed institutions to "implement modified operations and to maximize social distancing in [BOP] facilities, to the extent practicable," also stated that "[Chief Executive Officers] and UNICOR staff should endeavor to maintain operations of UNICOR factories as long as practicable, with consideration of this guidance." Thus, Milan's decision to keep the plant open through March 31 was not out of

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[24] On April 13, the BOP directed institutions to evaluate "strategies for accomplishing" social distancing "especially in open-bay/barracks-style living quarters." BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Action Plan Phase Six, April 13, 2020.

[25] According to data the BOP sent the OIG on May 18, FCI Milan's H-Unit, which houses a large population of inmates who worked in the UNICOR plant and for the Facilities Department, had the highest number of inmates test positive for COVID-19 (15 total inmates) and the second highest rate of positive inmates per capita (approximately 7 percent), behind only the F-1 Unit, 1 of Milan's open-bay units (8.9 percent).

[26] See BOP, memorandum for All Chief Executive Officers, March 13, 2020.

compliance with BOP guidance, even though the plant was a potential source of close contact for the inmates and staff who worked there.[27]

Isolation/Quarantine Measures

Beginning on February 29, the BOP issued a succession of guidance addressing the separation of persons with COVID-19, those suspected of infection, or those in close contact with either, from staff and the inmate general population. Institutions initially were instructed to identify locations for isolation and quarantining of inmates, followed by directives to (1) isolate and test symptomatic inmates with exposure risk factors; (2) quarantine asymptomatic inmates with exposure risk factors; (3) quarantine incoming or existing asymptomatic inmates for 14 days and isolate those who were symptomatic; and (4) quarantine all close contacts of a COVID-19 case, either suspected or confirmed.[28] As of April 13, the BOP required isolation in single cells of any inmates with COVID-19 symptoms. BOP guidance also called for screening staff for risk factors and having them quarantine as recommended in CDC guidance.

We found that FCI Milan complied with BOP directives and took several steps to medically isolate and quarantine inmates to mitigate COVID-19 transmission. Based on our discussion with Milan staff and review of Milan documentation, we determined that Milan officials took the following medical isolation and quarantine actions for inmates at both the FCI and the FDC:

- During the week of March 8, Milan began screening all new inmates before allowing them to enter the institution's compound.
- Between March 8 and April 3, Milan made available 22 medical isolation and 22 quarantine beds in the FCI's Special Housing Unit (SHU).
- On March 16, the first COVID-19 symptomatic inmates were identified and placed into medical isolation in the FCI's SHU. The inmates tested negative on March 22.

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[27] The plant reopened on May 25 with only 25 inmate workers (10 percent of the regular workforce) to allow for increased social distancing. After identifying additional positive cases in the institution, the plant again shut down for the first 2 weeks of June.

[28] According to the CDC, isolation is used to separate people who (1) are infected with the virus (those who are sick with COVID-19 and those who are asymptomatic), (2) are awaiting test results, or (3) have COVID-19 symptoms from people who are not infected. BOP officials told us that its staff were not isolating inmates who are awaiting test results unless they are symptomatic. In a correctional setting, the CDC recommended using the term "medical isolation" to distinguish the isolation from punitive action. See CDC, "Interim Guidance."

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 recommended, ideally, quarantining an inmate in a single cell with solid walls and a solid door that closes. If symptoms develop during the 14-day period, the inmate should be placed in medical isolation and evaluated for COVID-19. See CDC, "Interim Guidance."

- On March 19, Milan began quarantining newly arriving asymptomatic inmates for 14 days in the FCI's SHU. Since that date and through June 16, Milan received and quarantined all 28 of its incoming inmates.
- On April 3, Milan retrofitted another unit as a long-term medical isolation unit and added 48 individual medical isolation cells. As of June 18, Milan reported that 115 inmates were housed in the FCI's isolation unit. On April 3, after moving medical isolation inmates from the FCI's SHU to the long-term medical isolation unit, Milan converted the 22 medical isolation beds in the SHU to quarantine beds, bringing the total number of quarantine beds available in the FCI's SHU to 44. As of June 18, Milan reported that 106 inmates had been housed in the FCI's quarantine unit.[29]
- On April 6, Milan established a 14-bed isolation unit in its FDC. Milan reported that, as of June 18, 10 inmates were housed in the FDC's isolation unit.
- On April 9, Milan established a unit for "at-risk" inmates to mitigate their possible exposure to COVID-19.[30] Milan staff identified these at-risk inmates by evaluating their individual chronic care reports in the BOP's Electronic Medical Record.
- On April 20, Milan identified the institution's visitation room for conversion to a 24-bed isolation overflow unit for "surge protection." Because COVID-19 cases at Milan stabilized, the overflow unit was not used.
- On April 21, Milan established a post-isolation unit consisting of eight beds for inmates that required extra monitoring before they were moved back to a general population housing unit.[31]

Staff Movement Restrictions

Milan officials told us that they attempted as much as possible to restrict staff movement to prevent cross-contamination and reduce the number of inmates and staff each employee was interacting with. For example, Milan's FDC Administrator told us that, with limited exceptions, most of the staff who worked at the FDC were assigned there exclusively. Nevertheless, correctional officials told us that, due to additional responsibilities resulting from staffing

[29] Before Milan established a quarantine unit in the FDC, FDC inmates were also quarantined in the FCI's SHU quarantine unit.

[30] Milan classifies at-risk inmates as individuals who may have a greater risk for negative outcomes if they were to contract COVID-19. Milan clinicians utilized information from the CDC website and their own clinical discretion to determine whom to house in the at-risk unit. At-risk populations that were placed in the unit included, but were not limited to, asthmatics on multiple medications, morbidly obese patients, and patients prescribed pharmaceuticals that may make them immunocompromised.

[31] Milan's clinical staff used discretion to determine whether inmates required time in the post-isolation unit before release back into the general population. Specifically, each day Milan's clinical staff assessed inmates who were in the post-isolation unit to ensure that the inmates could complete activities of daily living and exhibited physical improvement, if applicable, before being released back into the general population.

shortages, staff often had to rotate among different units and interact with more inmates than they normally would.

We also found that Milan did not take measures to restrict the movement of BPT staff returning from the local hospital. For example, the Captain stated that BPT staff would return to their correctional posts at Milan if the inmate they had escorted was not admitted and the BPT staff cleared the COVID-19 screening protocols at the institution's entrance. Milan's local Union President told us that the BPT staff, who might have been exposed to the virus by not wearing a mask when transporting symptomatic inmates, were not being quarantined following trips to the hospital. Additionally, Milan did not close its staff fitness center to help mitigate the spread of COVID-19 until March 31, despite the fact that on March 16 Michigan's governor issued an executive order temporarily closing all gyms and fitness centers in the state.

Staff and Inmate COVID-19 Screenings

We found that FCI Milan failed to promptly implement BOP inmate screening guidance issued in January and staff screening guidance issued in February 2020. In January 2020, the BOP's Health Services Division issued to all BOP institutions a memorandum that warned of possible COVID-19 symptoms, including fever, cough, headaches, shortness of breath, and diarrhea, and required them to use a BOP screening tool to screen all newly arriving inmates.[32] However, Milan did not start to screen all incoming inmates with the inmate screening tool until the week of March 8, more than 1 month after the BOP issued its January memorandum. Milan medical staff told us that all incoming inmates have always received a health screening and that any inmate demonstrating symptoms consistent with an influenza-like illness would be isolated before entering the general population.[33] We learned that Milan began screening its existing FCI inmate populations for COVID-19 on April 3, which was also the day that Milan identified its first positive COVID-19 inmate case. To conduct inmate screenings, medical staff visited each inmate's cell to check his temperature and evaluate him for symptoms. In addition to inmate screenings, Milan medical and nonmedical staff also conducted wellness checks of inmates to further identify potential inmate cases of COVID-19.

We also found that Milan experienced a delayed implementation of its staff screening procedures. On February 29, the BOP first directed institutions to screen staff for potential COVID-19 risk factors, including those who had had close contact with individuals diagnosed with COVID-19 or those who had traveled within the previous 14 days through or from locations identified by the

[32] BOP, memorandum for All Clinical Directors, Health Services Administrators, Quality Improvement/Infection Prevention Coordinators, January 31, 2020.

[33] On January 31, the BOP Medical Director issued BOP-wide guidance that stated, "To identify new inmates at risk for 2019-nCoV, screening for exposure risk factors and symptoms is recommended on all newly arriving inmates to the BOP." See BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Phase One Action Plan, January 31, 2020.

CDC as having increasing epidemiological risk.[34] We did not find evidence that Milan complied with this February 29 directive. On March 13, the BOP further instructed institutions in areas with "sustained community transmission" to implement enhanced health screening of staff, including the use of an updated health screening tool.[35] We found that Milan began screening all staff entering the facility for COVID-19 symptoms on March 19, which was when the CDC designated the state of Michigan as an area with "sustained community transmission." Initial COVID-19 staff screenings at Milan consisted of Health Services staff asking incoming staff questions about symptoms and travel and measuring their temperature. On March 30, nonmedical staff took over staff screenings at Milan's entrance. A Mid-Level Practitioner told us that, if nonmedical staff had any questions about an individual's symptoms, a Health Services professional could approach the screening area and further evaluate the individual.

COVID-19 Testing

Inmate Testing

On March 13, the BOP issued a directive instructing institutions to test inmates showing symptoms of COVID-19, and those with exposure risk factors, consistent with local health authority protocols.[36] On March 16, Milan tested two inmates who exhibited COVID-19 symptoms and placed them in isolation. On March 21, negative COVID-19 test results were returned for the two inmates and they were moved back into the general population. However, the institution's Mid-Level Nurse Practitioners who administered the tests to these two inmates told us that the inmates developed more typical COVID-19 symptoms subsequent to the tests. She said that Milan took the test results at face value, yet the inmates could have been in the early stages of the disease; had they been retested about 1 week later, the results could have been different. She also told us that she may have administered the first two inmates' tests incorrectly: when she herself was tested a few days later, she realized that she needed to probe deeper into the nasal cavity. She said that there was not a lot of guidance or instruction, at that time, for how to administer the test; that the training she received consisted of watching an internet video; and that additional training would have been helpful. Milan did not test any other inmates again for COVID-19 until 10 days after the first inmate's test results came back negative. Milan tested three other inmates on March 31, and all three test results came back positive on April 3. According to a Milan official, the three inmates who tested positive for COVID-19 on April 3 were housed

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[34] BOP, memorandum for All Clinical Directors, Health Services Administrators, Quality Improvement/Infection Prevention Coordinators, February 29, 2020.

[35] In addition to announcing the updated health screening tool, the BOP's March 13 memorandum instructed the HSAs of institutions in areas with sustained community transmission to designate healthcare professionals to perform and record temperature checks of staff during all shifts. All health screeners were required to have appropriate PPE, including an N95 respirator, face shield, goggles, gloves, and a gown. BOP, memorandum for All Chief Executive Officers, March 13, 2020.

[36] We found that on March 12 Milan's Warden notified all inmates that the institution was obtaining supplies to test inmates for COVID-19.

separately and did not have any contact with the two inmates who tested negative for COVID-19 on March 16.

Milan's Warden told us that "life changed" the day he realized that the virus was in the institution and, in response, he further modified operations to limit staff and inmate movements. On April 13, the North Central Regional Office ordered Milan a rapid test machine, and 3 days later it was delivered to the institution. Milan's HSA told us that, prior to arrival of the rapid test machine, Milan medical staff could test only about five inmates per week because it had to work with the local laboratories and because the CDC guidelines on who could be tested were strict, namely the individual needed to have a certain temperature.[37] He said that the rapid test machine allowed Milan to expand testing to inmates deemed to be at risk for severe illness from COVID-19 and those being released for home confinement and that, as of May 11, Milan had about 600 rapid test kits available. Milan's Clinical Director told us that the rapid test kit was used more like a screening tool and that a negative test result did not always indicate absence of the virus. He said that, even if an inmate's test result was negative, the Nurse Practitioner could still request that the inmate be quarantined and undergo an additional test, whose results would be examined by an outside laboratory. According to BOP data, by January 17, 2021, 691 inmates at the institution had received at least 1 COVID-19 test.

Milan's HSA explained that in early April the institution decided to test symptomatic inmates and inmates who had been exposed to individuals who had tested positive for COVID-19, as recommended by the CDC, as well as inmates who were transferring to home confinement. He added that, although Milan management considered testing the entire inmate population, it determined that this action was not necessary but noted that asymptomatic inmates were tested at the discretion of Milan's Clinical Director.[38]

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[37] According to Milan data, the institution had tested 85 inmates for COVID-19 as of May 1. Of this total, 61 were tested prior to the arrival of the rapid test machine on April 16. 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 process commercial laboratory test results.

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

See also BOP, COVID-19 Testing: Indications for Testing of Inmates in the Federal Bureau of Prisons, May 19, 2020. The BOP suggested prioritizing testing as high, intermediate, or low. High priority testing included asymptomatic inmates "with close or direct contact with a confirmed or suspect COVID-19 case," "new to the BOP admissions/intakes," "prior to release from quarantine," and "in open housing." Intermediate priority testing included asymptomatic inmates "departing a BOP facility for home confinement, regional reentry center, or full term/good conduct release." The low priority suggested testing of "all inmates at the institution without any known COVID-19 cases as part of an institution-wide surveillance program."

Staff Testing

During the time of our inspection, Milan did not test staff for COVID-19, and at no time between March and December 3 did BOP policy require institutions to test staff for COVID-19.[39] Milan's HSA said that, during the onset of the pandemic in early March, staff were denied tests by local health providers because the local health community was prioritizing tests for first responders and did not view Correctional Officers as first responders. On April 8, the Milan Associate Warden's secretary sent a memorandum to Milan staff with contact information for four COVID-19 testing sites in Michigan. The memorandum also advised staff to identify themselves as law enforcement officers directly exposed due to the nature of their work and to go to their primary care physician for screening if they were experiencing mild symptoms. Milan's Clinical Director and HSA told us that staff who live in Ohio (Milan is about 30 miles from the Ohio border) reported facing more challenges in getting tested than those who live in Michigan.

In June, the BOP Medical Director told us that the BOP cannot mandate staff COVID-19 testing as a condition of employment. Therefore, in lieu of requiring testing, the BOP encourages the development of community partnerships through which staff can choose to be tested. The BOP's Phase Seven Action Plan, issued on May 18, encouraged Wardens to identify and publish possible testing sites in the community where interested staff may be tested. In September, BOP officials informed the OIG that in July the BOP had awarded a contract with an outside provider to offer testing to federal staff. The contract, which ended September 30 and was followed by another contract awarded on October 1, was intended to supplement the community testing resources, especially where those resources are limited. According to the FCI Milan Warden, as of December 17, there were sufficient testing resources in the community but the institution was in the process of exercising the testing contract in case community testing resources become scarce in the future.

The largest influx of staff positive test results occurred during the first 2 weeks of April. According to BOP data, as of June 30, 57 Milan staff members, about 20 percent of Milan's total staff, had tested positive for the virus. The Warden explained that he believed that Milan and BOP officials were diligent in assisting Milan staff with locating hospitals and clinics where they could get tested. As a result, the Warden believed that the high number of staff tested was a factor contributing to the high number of staff testing positive, in addition to the prevalence of the infection in the area

[39] At the time of our inspection, neither BOP nor CDC guidance required institutions to test staff for COVID-19. The CDC recommended that correctional and detention facilities determine, in collaboration with state and local health officials, whether and how to implement testing strategies. The CDC further recommended that implementation of testing strategies "should be guided by what is feasible, practical, and acceptable, and should be tailored to the needs of each facility." The CDC recommended that correctional facilities consider broader testing of staff, beyond testing only close contacts of confirmed COVID-19 cases, when "contact tracing is not practicable, or if there is concern for widespread transmission following identification of new-onset COVID-19 infection among [inmates] or staff." See CDC, "Interim Considerations for SARS-CoV-2 Testing in Correctional and Detention Facilities," December 3, 2020, www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/testing.html (accessed January 14, 2021).

surrounding Milan. By the early summer, Milan began reporting very few active staff cases, and, as of January 17, the BOP reported 16 active staff cases for Milan.

Conditions of Confinement

Consistent with the BOP's Phase Five Action Plan issued on March 31, on April 1 Milan instituted a Stay in Shelter posture that, among other things, suspended all group programming and nonessential inmate work details.[40] The Stay in Shelter posture also restricted inmates to their cells for most of the day and allowed them out only in small groups, at designated times, to access showers, phones, and email terminals. Initially, under Milan's Stay in Shelter, inmates were allowed out of their cells for 2 hours per day. On April 3, when the first three Milan inmates tested positive for COVID-19, this time limit was reduced to 10 minutes per day for inmates in the FCI's open-bay units and 20 minutes per day for the remaining FCI and FDC inmates. On April 15, out-of-cell time for inmates in Milan's FDC was increased to 30 minutes per day. On May 4, out-of-cell time for inmates in the FCI was increased to 40 minutes per day for inmates in the open-bay units and 30 minutes per day for inmates in the other FCI units. During our group teleconference with Milan officials on May 11, the Warden stated that Milan management was looking into further increasing out-of-cell time. Milan's Executive Assistant reported that in late May inmates' out-of-cell time was increased to 1 hour per day and FCI inmates were also permitted an additional hour of recreation and library time every couple of days.

Although 65 percent of our survey respondents stated that inmates had ample opportunity to shower at least 3 times per week, one respondent reported that inmates were choosing to use their limited time outside their cells to call their loved ones rather than shower or clean the units.[41] Similarly, several survey respondents observed that, although inmates were provided additional free phone minutes to communicate with friends and family, inmates' ability to use those minutes was limited given their reduced time outside their cells during the Stay in Shelter.

Cleaning and Sanitation

Our document review and interviews with Milan staff showed that the institution increased its sanitation efforts in response to the April COVID-19 outbreak. For example, Milan provided documentation that management purchased battery-powered sprayers on April 5. Between April 6 and 26, Milan staff used these sprayers a total of three times to mass disinfect all housing units. Milan's Associate Warden told us that each housing unit designated inmate orderlies to clean high touch areas and showers, specifically, throughout the day. Additionally, during our interviews with Milan officials, they stated that the institution had sufficient sanitation supplies, including hand sanitizers. For example, institution officials told us that the Safety Department

[40] BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Phase Five Action Plan, March 31, 2020.

[41] In the FCI's open-bay units, inmates had access to showers 24 hours per day. Inmates in the other FCI units and the FDC units could shower only during their out-of-cell time.

secured enough hand sanitizer so that each staff member could receive a 2-ounce bottle and refill it as needed.[42] Further, we were advised that Milan outfitted all restrooms and housing units with extra soap dispensers and bleach-free sanitation wipes.

However, OIG survey results and complaints the OIG received indicated that some staff would have liked to see the institution take additional action to improve sanitation. Specifically, 24 out of 77 (31 percent) of Milan's staff that responded to a question from the OIG's survey identified more hand sanitizer as an immediate need for the institution. Additionally, the OIG received two hotline complaints regarding the unsanitary condition of inmate bathrooms at Milan.

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.[43] 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."[44] The BOP assigned to its Central Office the responsibility for developing guidance 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 sentenced 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 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.

This use of home confinement authorities applied only to sentenced inmates, and during the period from April 3 to May 11 the BOP Central Office and the North Central Regional Office sent FCI Milan 5 rosters identifying 56 inmates in total who were potentially eligible for transfer to

[42] The local Union President told us that, in light of the outbreak, Milan management also relaxed its policy on alcohol-based hand sanitizers so that staff could carry extra amounts of it while working in the institution.

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

[44] 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 January 14, 2021).

home confinement. Milan 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. We found that Milan officials followed Central Office guidance that required Milan to review its inmates (including but not limited to those on the rosters) by examining each inmate's criminal history and risk of recidivism, conduct in prison, health conditions, and home release plan, to determine whether the inmate met the BOP criteria for transfer to home confinement. This review process, coupled with the 14-day prerelease quarantine period that the BOP required to ensure that inmates released into a community did not have COVID-19, resulted in at least 2–4 weeks between the time the Central Office identified an inmate for home confinement consideration to the date the inmate was actually transferred to home confinement. As a result, we found that in April FCI Milan's ability to use 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 and facilitate social distancing, was limited. Indeed, as of May 6, 4 weeks after Milan received the initial roster from the Central Office, only 10 inmates eligible for transfer to home confinement in accordance with Coronavirus, Aid, Relief, and Economic Security Act (CARES Act) authorities and BOP guidance had left the institution.[45]

Attorney General and BOP Memoranda Regarding the Use of Home Confinement

On March 26, 2020, 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."[46] 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.[47] 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;

[45] Pub. L. No. 113-136.

[46] 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 January 14, 2021).

[47] 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.

- 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;[48]
- 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, 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 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]." The following week, on April 3, the Attorney General issued a memorandum entitled "Increasing Use of Home Confinement at Institutions Most Affected by COVID-19," which found, as provided for in the CARES Act, "that emergency conditions are materially affecting the functioning of the [BOP]."[49] 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

[48] 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, (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), www.nij.ojp.gov/sites/g/files/xyckuh171/files/media/document/the-first-step-act-of-2018-risk-and-needs-assessment-system-updated.pdf (accessed January 14, 2021).

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

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]."[50] As mentioned above, among the discretionary factors were an inmate's age and vulnerability to COVID-19, based on CDC guidelines, which included people with underlying medical conditions and, during our inspection, included people age 65 years or older and people of all ages with underlying medical conditions.[51] 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.[52] 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

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[50] 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.

[51] The CDC stated 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 identified people who are immunocompromised as being at risk. The guideline stated 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 or 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 January 4, 2021, www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/ index.html? CDC_AA_ refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2F people-at-increased-risk.html (accessed January 14, 2021).

On November 2, the CDC updated its guidance to distinguish between individuals with certain conditions who are at an increased risk of severe illness and those who might be at an increased risk. CDC "People with Certain Medical Conditions," updated December 29, 2020, www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html (accessed January 14, 2021).

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

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.[53] 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 institutions most 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 Milan Inmates Potentially Eligible for Home Confinement Consideration Based on BOP Guidance and Available Authorities

In order to independently assess the number of FCI Milan 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 1,199 inmates with a minimum or low security level (as of April 12, 2020) 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.[54] 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 with a minimum or low security level with a remaining sentence of 6 months or less, although the statute applies to all inmates regardless of security level but limits release to no more than

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

[54] The ODA determined that none of the 231 inmates housed at Milan's FDC as of April 12, 2020, were potentially eligible for home confinement.

10 percent of the inmate's sentence.[55] Further, in determining the number of inmates who were at high risk for severe illness from COVID-19 and therefore 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.[56]

Based on the available data, the ODA estimated that, as of April 12, 2020, approximately 666 of the 1,199 minimum or low security level inmates at Milan were potentially eligible for home confinement placement and had met the criteria for consideration under existing authorities and BOP guidance.[57] By comparison, the North Central Regional Office included 56 inmates in the 5 rosters it provided to Milan for home confinement consideration between April 3 and May 11.[58] The table below details the ODA's estimated number of Milan inmates eligible for transfer by available authority or BOP guidance factor.

[55] 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."

[56] 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.

[57] 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.

[58] 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 Milan 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.

Table

OIG Estimate of the Number of Milan 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 and 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	**61**	**38**	**19**	**548**

Notes: Some inmates may have been eligible for transfer 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 or she 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

FCI Milan's Use of Home Confinement

To facilitate institutions' implementation of the Attorney General's directives, the BOP Central and Regional Offices created and disseminated to institutions a series of rosters applying the factors identified in the criteria from the BOP memoranda. Milan received 5 different rosters identifying 56 inmates as potentially eligible for home confinement. Multiple rosters were provided because each successive BOP memorandum expanded the inmate eligibility criteria.

Milan officials told us that they received rosters of potentially eligible inmates from the BOP Central Office and reviewed each listed inmate's file to confirm eligibility. In determining each inmate's eligibility for home confinement, Milan officials were required to consider the list of factors stipulated in the Attorney General's and BOP's memoranda (discussed above), including the risk to public safety. As of June 30, 2020, Milan reported that:

- 26 of the 56 inmates were approved for transfer to home confinement and 30 were denied;

- 17 of the approved inmates had been transferred to home confinement;
- 7 of the approved inmates were awaiting their home confinement placement date; and
- 2 inmates received a reduction in sentence from the court pursuant to the compassionate release statute while Milan simultaneously considered them for home confinement. We describe the compassionate release statute in greater detail below.

We discussed with the Assistant Director of the BOP's Program Review Division, who at the time was serving as the acting Complex Warden of Federal Correctional Complex Lompoc, why BOP institutions may determine that so many inmates are ineligible for home confinement. He told us that, while the BOP views the Attorney General's directives as a way to reduce the inmate population to better facilitate social distancing within its facilities, it also has a responsibility to ensure that inmates who pose a risk to public safety are not released into the community. He noted that many inmates housed in minimum and low security facilities may appear to present minimal risk to the community based on their current institution security level but that some have criminal histories, including violence and sex offenses, that preclude them from home confinement placement. He explained that inmates initially classified as high security can, over time, work their way down to low or minimum security designations through good institutional conduct. As a result, the institution must review the case file for each potentially eligible inmate and cannot make generalized determinations of eligibility.

The OIG recognizes and appreciates the importance of the public safety considerations associated with the potential release of a BOP inmate and the challenges that BOP officials face in determining whether to transfer an inmate to home confinement. These are difficult, risk-based decisions. However, we also note that in early April, at a time when FCI Milan was facing a growing COVID-19 outbreak, the BOP had been given authority to expand 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." Despite this admonition, the data does not reflect that the BOP took immediate action at Milan. For example, as of April 12, approximately 61 minimum and low security Milan inmates had 6 months or less remaining in their sentence. Under the law, upon completion of the inmates' sentence, the BOP was obligated to release them from prison. Therefore, those inmates were going to be returning to their communities no later than early October, many likely much sooner. Moreover, nearly all of those 61 inmates would have been eligible for immediate home confinement consideration under BOP guidance and existing law.[59] Yet, we found that 74 percent

[59] While 18 U.S.C. § 3624(c)(2) would normally have limited the maximum amount of time that an inmate could be placed in home confinement for the shorter of 10 percent of the term of imprisonment of that inmate or 6 months, the BOP's post-CARES Act guidance eliminated that 10 percent restriction for inmates who had less than 18 months remaining in their sentence and had already served 25 percent of their sentence. For inmates with less than 6 months remaining in their sentence, that meant any inmate who had received an 8-month or longer sentence. According to the BOP, approximately 98 percent of defendants sentenced to a term of imprisonment have received a sentence of at least 1 year.

(45 of 61) of these inmates still remained at Milan as of May 10. By June 14, 39 percent (24 of 61) of these inmates continued to reside at Milan despite impending release into the community and the institution's widespread COVID-19 outbreak. As a result, we concluded that the BOP did not fully leverage its existing or expanded authorities under the CARES Act and the Attorney General's memoranda to promptly transfer FCI Milan inmates to home confinement.

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).[60] Under 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, when responding to compassionate release motions filed by inmates with courts, the Department has stated 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.[61] Thus, COVID-19 would not cause the BOP to support a petition for compassionate release that it would not have supported otherwise.

As a result of the COVID-19 pandemic, Milan reported that, between March 1 and June 15, 2020, the institution received 309 requests for compassionate release. In the 3 months preceding March 2020, Milan received just 9 requests for compassionate release. Between March 1 and June 15, the compassionate release petitions for 8 of the 309 Milan petitioners were approved via court order, following a motion by the inmate. Of the eight inmates whose compassionate release motion was approved by the court, one inmate was also approved for compassionate release by

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[60] 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. 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*, Evaluation and Inspections Report I-2013-006 (April 2013), www.oversight.gov/sites/default/files/oig-reports/e1306.pdf.

[61] See, for example, Response by the United States in Opposition to Defendant's Emergency Motion for Immediate Reduction of Sentence at 13-17, United States of America v. Saad, No. 16-cr-20197 (E.D. Mich. April 21, 2020), and Government's Response to Defendant's Motion for Compassionate Release at 9-11, United States of America v. Franco, No. 14-10205-01-EFM (D. Kan. July 28, 2020).

the BOP. At the time the inmate's petition was approved by the court, the BOP had already placed the inmate in home confinement. Two of the remaining seven inmates approved for compassionate release were simultaneously being considered by Milan for transfer to home confinement under the CARES Act authorities.

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.

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 FCI Milan officials, review of documents produced by the BOP related to the BOP's and FCI Milan'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. We also reviewed over 30 complaints received from inmates, staff, and other stakeholders submitted between April 4 and September 1 through our online COVID-19 Response Complaints form (an element of the OIG Hotline) and other means. The inspection team did not substantiate or assess the validity of the complaints received through the OIG Hotline. The complaints consisted of concerns about early release, testing, quarantine, social distancing, and COVID-19 exposure.

The photograph included in the report was taken by FCI Milan officials, at our request, to illustrate the housing units we describe in the report.

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 38,651 total employees to take the survey and received 10,735 responses, a 28 percent response rate. Milan institution staff represented 91 of the 10,735 responses (less than 1 percent). We received 91 survey responses from the approximately 287 FCI Milan personnel (on board at the time we issued the survey), representing about 32 percent of staff assigned to the institution.

We conducted telephone interviews with the Warden, Executive Assistant/FDC Administrator, Captain, Clinical Director, HSA, local Union President, Chief Psychologist, Supervisor of Education, and Case Management Coordinator (TDY), as well as two Lieutenants, a Nurse Practitioner, a Senior Officer Specialist, and a Case Manager. We also conducted a group teleconference with Milan management, including the Warden, two Associate Wardens, the Captain, the HSA, and the FDC Administrator.

The main issues we assessed through our interviews and data requests were the institution's compliance with BOP directives and CDC guidance 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 the information and guidance provided to FCI Milan staff and inmates, including emails from Milan 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 the quarantine units, and staffing reports.

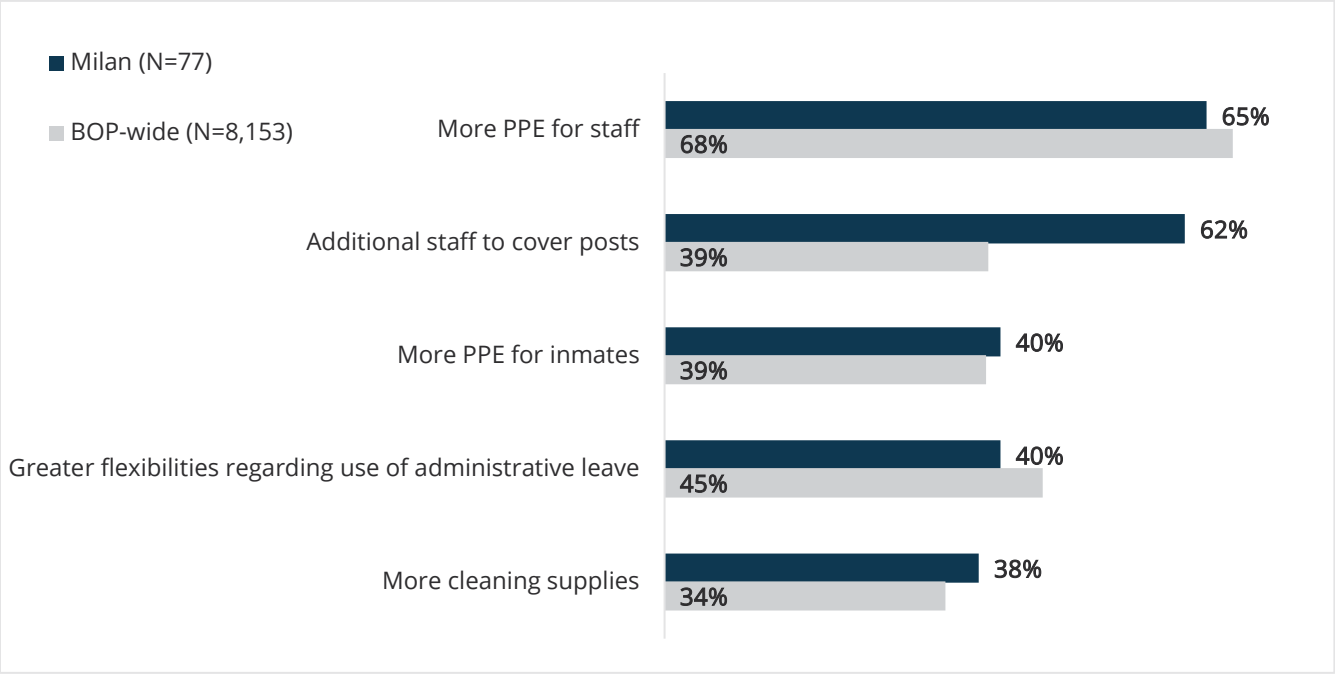
OIG COVID-19 SURVEY RESULTS FOR FCI MILAN

Open Period	Invitations Sent to BOP Institution Staff	Overall Responses[62]	Milan Responses
April 21–29, 2020	38,651	10,735 (of 38,651)	91 (of 287)

Milan Responses by Department

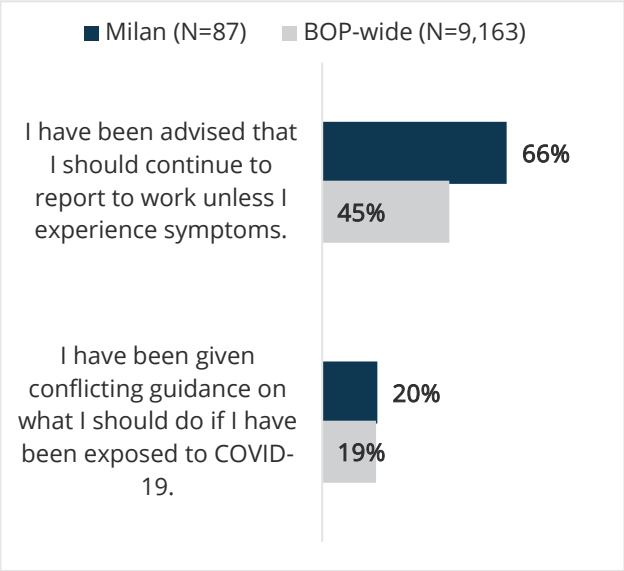
Correctional Services: 43% | Facilities Management: 8% |Correctional Programs: 7% | All Other Departments: 42%

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



[62] 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.

	Milan Rating	BOP-wide Rating
The guidance was timely.	3.07	3.18
The guidance was clear.	3.04	2.97
The guidance was comprehensive.	3.14	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)

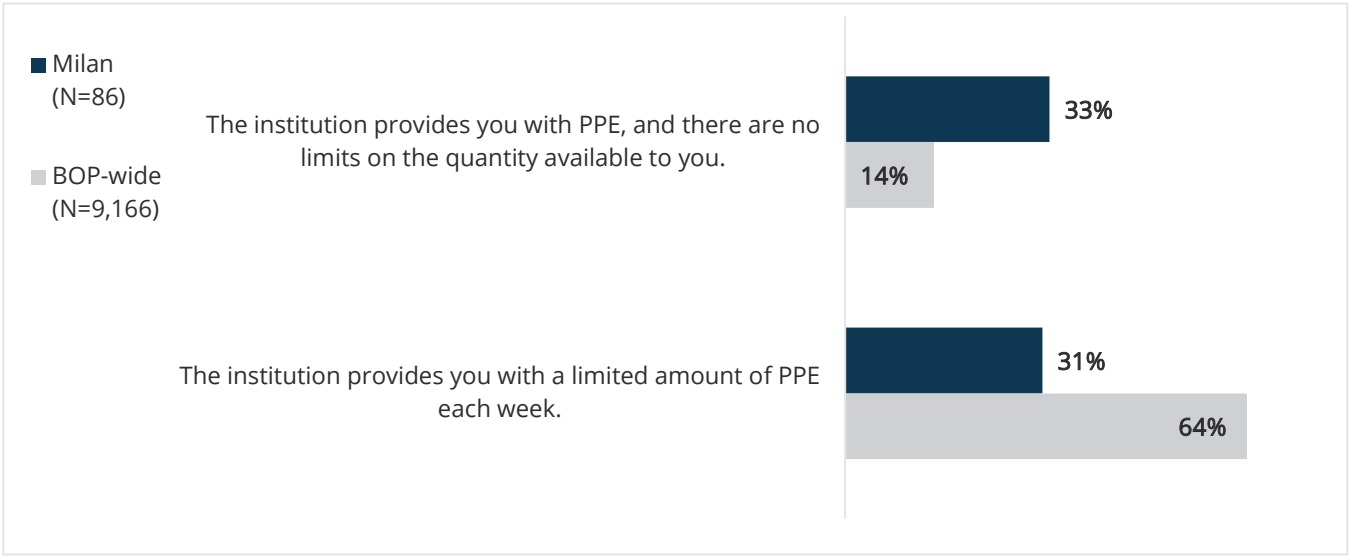
Respondents rated each item on a 5-point scale, with "strongly disagree" worth 1 point and "strongly agree" worth 5 points. "Don't know" responses are excluded.	Milan Rating (N=86)	BOP-wide Rating (N=8,978)
Three Practices Rated Highest:		
Inmates are given sufficient information about COVID-19 symptoms; preventive actions (e.g., hand washing, wearing masks); and changes to their daily routines.	4.29	4.10
Staff are given sufficient information about COVID-19 symptoms and preventive actions (hand washing, wearing masks).	4.25	4.09
Inmates have ample opportunity to shower at least three times a week.	4.13	4.27
Three Practices Rated Lowest:		
Inmates are provided with a sufficient supply of masks.	3.57	3.44
Staff are provided a sufficient supply of masks.	3.33	3.13
Inmates are provided a sufficient supply of hand sanitizer where sinks are not available.	3.13	3.07

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)

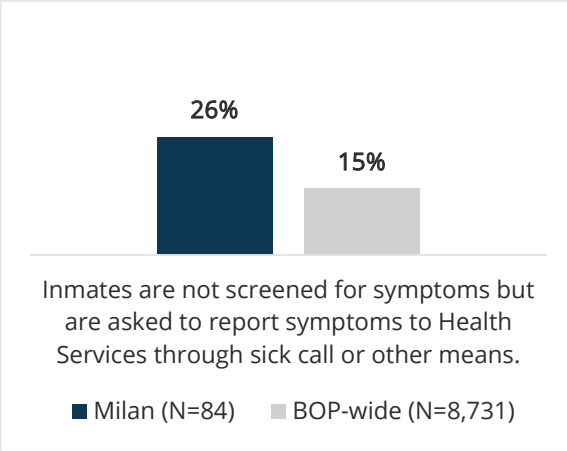
	Milan Percent of Respondents (N=79)	BOP-wide Percent of Respondents (N=8,435)
The amount of time that inmates are required to remain in their housing units each day has been increased.	63%	59%
The number of inmates participating in a program or activity at one time has been reduced.	42%	42%
Daily schedules 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).	32%	44%
The number of inmates released, including those transferred to halfway houses or placed on home confinement, has increased.	29%	26%
Other (Please Describe)	20%	10%

Note: The majority of Milan respondents who answered "Other" reported that the Stay in Shelter implemented on April 1, 2020, was the institution's main social distancing strategy.

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)

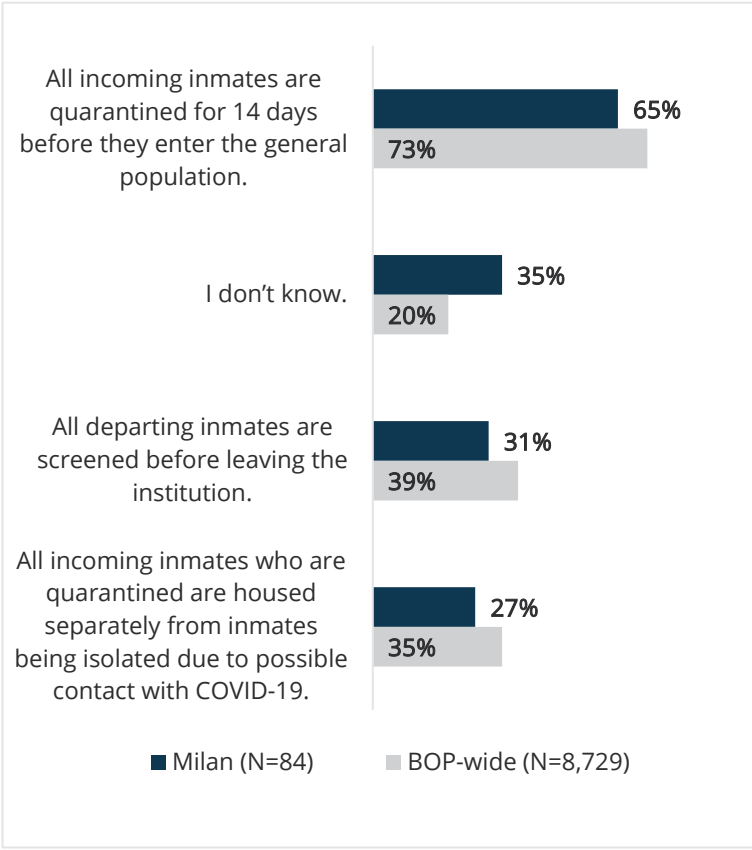


Which of the following statements best describes the current approach to COVID-19 screening of existing inmates (temperature check, questioning about other symptoms) at your institution?[63] (Top Response)



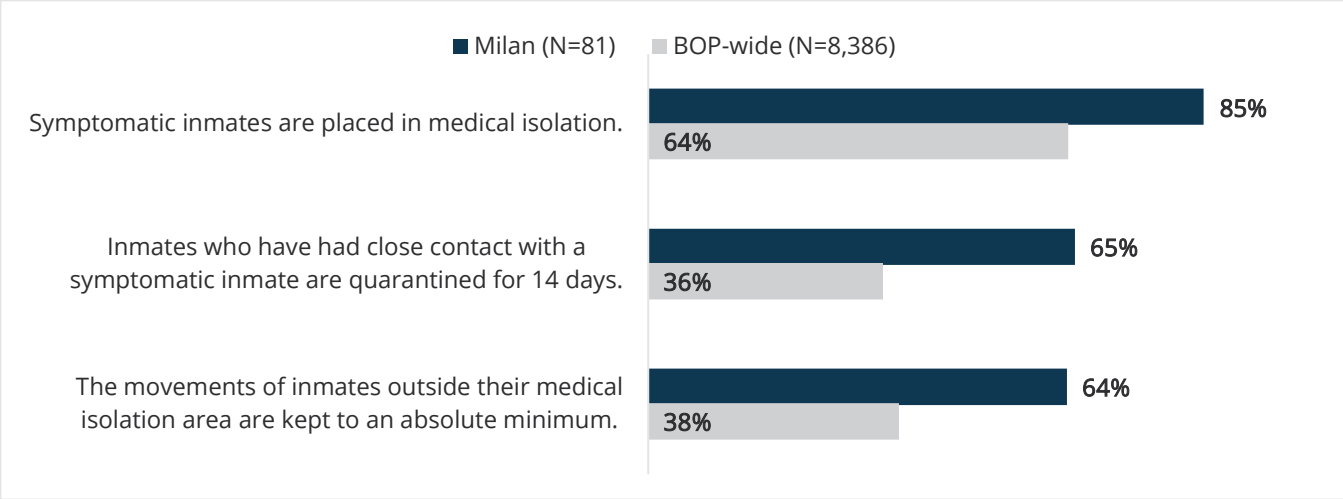
Note: Thirty-five percent of respondents chose "I don't know." The remaining chose categories amounting to less than 19 percent each.

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 4 Responses)

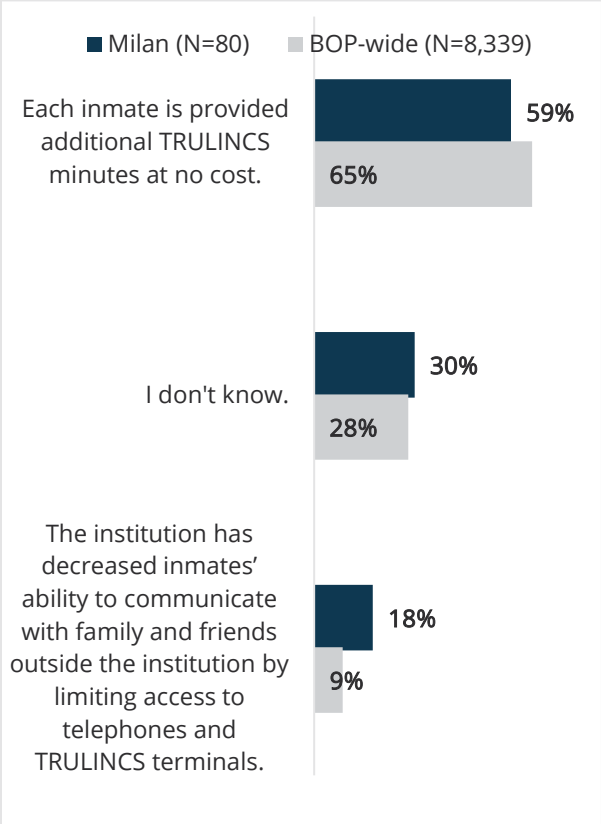


[63] Although BOP policy does not require the screening of every inmate, the BOP's Phase Five Action Plan, issued on March 31, 2020, emphasized the importance of practices for identifying symptomatic inmates as early as possible. In addition to the required intake screening and exit screening, the action 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.

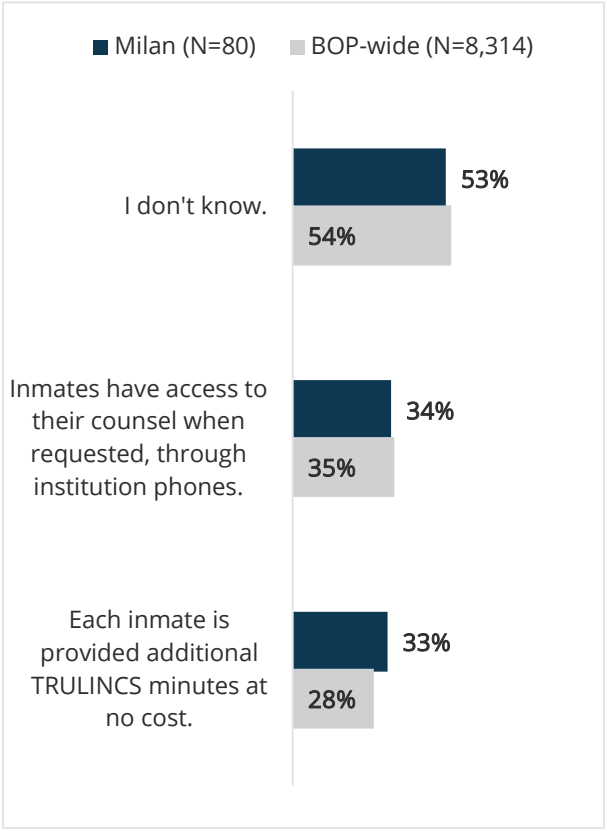
Please identify which, if any, of the following measures your institution is currently employing to manage inmates with COVID-19 symptoms. (Top 3 Responses)



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.[64] (Top 3 Responses)



Please identify which, if any, of the following strategies your institution is currently employing to facilitate inmates' ability to communicate with legal counsel.[65] (Top 3 Responses)



[64] 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). 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.

[65] 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

January

31

The BOP Issued Action Plan Phase One:

- Identified the potential risk of exposure within BOP facilities and informed recipients about risk factors, symptoms to look for, and preventive measures
- Recommended screening all new inmate arrivals to the BOP for COVID-19 risk factors and symptoms using a provided screening questionnaire
- Recommended use of PPE for those in close contact with individuals who are suspected of being infected or individuals who have been diagnosed with COVID-19

February

29

The BOP Issued Updated Guidance for COVID-19 to BOP Medical Staff:

- Recommended screening staff with potential risk factors and all new inmate arrivals using a screening questionnaire
- Recommended conducting fit testing for N95 respirators, disseminating information about proper PPE use, and establishing baseline supplies of PPE
- Recommended establishing communication with local public health authorities, identifying possible quarantine areas, and alerting visitors that people with illnesses will not be allowed to visit

March

9 The BOP issued screening and leave guidance for staff.

11 The World Health Organization declared COVID-19 a pandemic.

13

The BOP Issued Action Plan Phase Two:

- Suspended internal inmate movements for 30 days (exceptions for medical treatment and other exigencies) and legal visits (exceptions on a case-by-case basis), social visits, and volunteer visits
- Canceled staff travel and training
- Instructed institutions to assess inventories of food, medicine, cleaning supplies, and sanitation supplies
- Required screening of staff (by self-reporting and temperature checks) "in areas with sustained community transmission" and all new BOP inmates and quarantining inmates where appropriate (those with exposure risk factors or symptoms)
- Required Wardens to modify operations to maximize social distancing, such as staggering meal and recreation times, for 30 days

The BOP issued a memorandum to Chief Executive Officers outlining necessary inmate mental health treatment and services during social distancing.

18

The BOP Issued an Update to Action Plan Phase Two:

- Stated that additional accommodations could be made for staff in high risk categories

The BOP Issued Action Plan Phase Three:

- Provided guidance for non-institutional locations that perform administrative services

19 The first two BOP staff were presumed positive for COVID-19.

20 The BOP issued guidance reprioritizing outside medical and dental trips.

21 The first BOP inmate tested positive for COVID-19.

23 The CDC issued Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities.

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

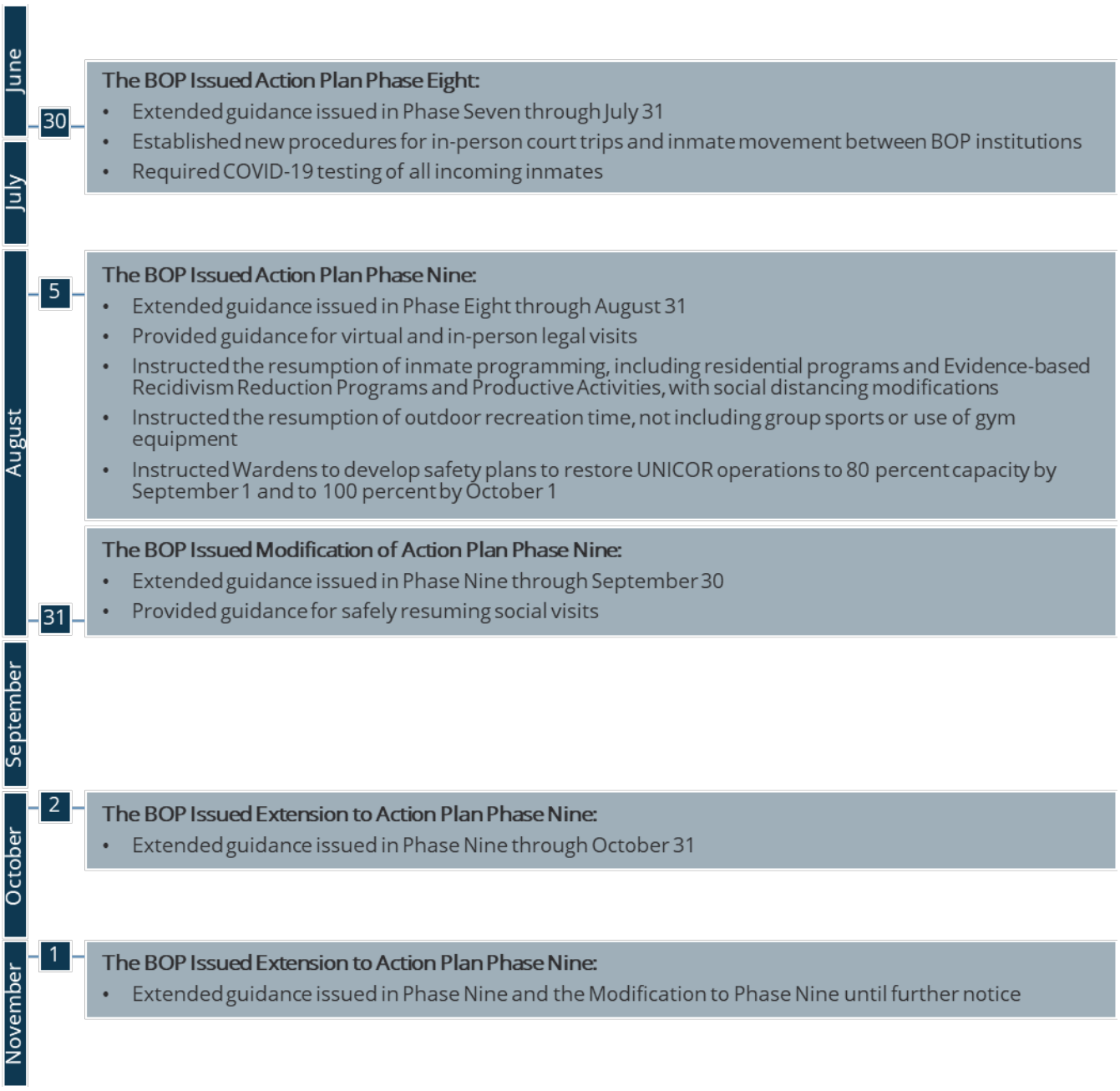
The BOP expanded COVID-19 testing to include asymptomatic inmates following the acquisition of rapid ribonucleic acid testing equipment at select BOP facilities.

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

FCI MILAN'S SECOND WAVE OF COVID-19 CASES, DECEMBER 2020

In early December, around the time the OIG submitted a draft of this report to the BOP for review, FCI Milan experienced a second wave of COVID-19 infection. This wave of infection primarily affected the FDC. According to the FCI Milan Warden, an FDC inmate tested positive in early December. After contact tracing, FCI Milan conducted mass testing of FDC inmates. By December 13, Milan reported 87 active inmate cases, all at the FDC. Also, as of that date Milan had 17 active staff cases.[66] According to the Warden, staff assigned to both the FCI and FDC were among those active cases. The Warden further explained that, as of December 17, one inmate was being treated at an outside hospital but most inmates who tested positive during the second wave were asymptomatic.

In response to the recent outbreak, the Warden placed the FDC in lockdown. Unlike the FCI, where it is inherently difficult to separate inmates due to the large number of inmates residing in open-bay housing units, it is easier to separate inmates at the FDC because inmates there are housed in two-man cells. Under lockdown operations at the FDC, inmates are confined to their cells for all but 20 minutes a day. During that 20 minutes, inmates are released to use the shower, computers, and telephones. Inmate recreation and programming is unavailable. If inmates need to speak with their attorney, they can request a legal call or visit. As of December 17, all legal visits are being conducted remotely through video conferencing equipment.

The Warden told us that, as of December 17, Milan continued to have sufficient space to medically isolate COVID-19 positive inmates and quarantine potentially exposed inmates. Additionally, to decrease cross-contamination between the FCI and the FDC, he stated that Milan staff were assigned to only one of the two facilities. Further, he stated that Milan is adequately staffed to address the outbreak.

[66] As stated in the report, as of January 17, 2021, the BOP reported 16 active staff cases and 35 active inmate cases.

THE BOP'S RESPONSE TO THE DRAFT REPORT

U.S. Department of Justice

Federal Bureau of Prisons

Office of the Director *Washington, DC 20534*

January 8, 2021

MEMORANDUM FOR RENÉ ROCQUE LEE
ACTING ASSISTANT INSPECTOR GENERAL
EVALUATION AND INSPECTIONS

FROM: Gene Beasley
Deputy Director

SUBJECT: Response to the Office of Inspector General's (OIG) Draft Audit Report: Remote Inspection of Federal Correctional Institution Milan During the COVID-19 Pandemic (A-2020-006-I)

The Bureau of Prisons (BOP) appreciates the opportunity to provide a response to the Office of the Inspector General's above referenced report. The BOP would like to address the following areas in the draft report.

Draft Report: Page ii, 1st bullet under the heading "Summary of Inspection Results", "In early April, Milan's Basic Prisoner Transportation (BPT) staff escorted a number of inmates with COVID-19 symptoms to the local hospital without wearing appropriate personal protective equipment (PPE) because Milan's correctional and Health Services staff did not recognize the inmates' symptoms as potentially being COVID-19 related. According to a Milan official, 24 BPT staff subsequently contracted COVID-19 and were placed on sick leave."

BOP's Response: According to CDC guidance in early April, symptoms that required PPE was limited to fever (above 100.4 degrees), cough, and shortness of breath. If an inmate displayed at least one of these symptoms, proper PPE was given to relevant staff members transporting inmates to the hospital. There was an instance when an inmate was within normal limits during a Respiratory Assessment. He displayed symptoms such as headache and GI issues, which were not identified as COVID-19 symptoms in early April. He was transported to the hospital as a routine

transport, but subsequently tested positive for COVID-19. Additionally, the 24 BPT staff members who contracted COVID-19 were not all COVID-19 positive at the same time. There was no evidence of contracting the virus from the hospital since proper PPE was provided at the hospital for all staff handling positive inmates.

Draft Report: Page ii, 2nd bullet under the heading "Summary of Inspection Results", "FCI Milan complied with the CDC's April 3 guidance recommending that face coverings be worn in public settings by making surgical masks available to staff on April 4 and distributing surgical masks to all inmates between April 4 and April 6. However, by the time the CDC issued its guidance, COVID-19 was already spreading throughout the institution."

BOP's Response: FCI Milan has complied with CDC's guidance, requiring face coverings be worn by staff and inmates when social distancing is not feasible and, for inmates, in common areas outside of the cell.

Draft Report: Page ii, 3rd bullet under the heading "Summary of Inspection Results", "By early May, 75 percent of Milan's medical staff had contracted COVID-19, creating serious staffing shortages in Milan's Health Services Department. According to Milan's Chief Psychologist, the depletion of medical staff was the most significant and dangerous challenge to Milan's COVID-19 response. Additionally, staffing shortages generally due to the COVID-19 were a consistent challenge for Milan and made it difficult for the institution to restrict staff movement within the institution to prevent the spread of the virus."

BOP's Response: Although there was a significant staffing shortage at FCI Milan due to COVID-19, specifically the Medical Department, it should be noted that a total of 44 staff members from the North Central Regional Office (NCRO) were deployed to FCI Milan for continuity of operations. This included eight Registered Nurses, one Assistant Health Services Administrator, one Nurse Practitioner, one Physician's Assistant, and one Medical Technician to assist in daily Medical operations. Additionally, the remaining TDY staff assisted in providing coverage at the hospital, coverage in vacant shifts at the institution, and operation of the Command Center to provide proper communication to NCRO on needs of the institution's COVID-19 response.

Draft Report: Page 6, fourth paragraph, "In order to further alleviate staffing shortages, Milan requested TDY staff from other BOP institutions to assist it with medical care and other operations such as inmate transport. The Warden told us that Milan received its first TDY staffer, a medical technician, on April 7 and, as of May 7, the BOP deployed 54 TDY staff, including 13 medical and 18 BPT staff, to the institution. According to BOP data that we received, the 13 medical staff arrived between April 7 and April 23 and the 8 TDY BPT staff arrived between April 11 and April 16. Milan's Warden told us that the TDY BPT staff were assigned to the hospital and did not work any other posts. According to Milan's Clinical Director, TDY staff were instrumental to FCI Milan's ability to manage the outbreak because the institution's staff was not sufficient to handle the demands of COVID-19. Milan's Nurse Practitioner remarked that TDY staff had "rescued the institution." We noted that Milan began to demobilize its TDY staff in May 2020."

BOP Response: While the above paragraph is accurate, it is chronologically out of place. As indicated in the report, 54 TDY staff began arriving on April 7, including Health Services staff and BPT staff. The TDY staff members arrived prior to the April 11 waiver to the escort policy so that only one staff member would be required to sit with any hospitalized inmate who was on a ventilator which is explained in the second paragraph. In addition, TDY staff were presumably coming on board at FCI Milan prior to the correctional services shift changes from 8 hours to 12 hours during the outbreak which is stated in the third paragraph.

Draft Report: Page 23, last paragraph "For example, as of April 12, approximately 62 minimum and low security Milan inmates had 6 months or less remaining in their sentence. Under the law, upon completion of the inmates' sentence, the BOP was obligated to release them from prison. . . Moreover, nearly all of those 62 inmates would have been eligible for immediate home confinement consideration under BOP guidance and existing law."

BOP Response: While OIG's discussion with the Assistant Director for Program Review was informative, the reasons listed by that individual were not inclusive of all reasons which may make transfer to the community inappropriate. Absent a case-by-case review of the circumstances of each individual decision, BOP believes that OIG cannot fairly assert that FCI Milan did not properly leverage its ability to refer inmates to home confinement under the CARES Act.

OIG ANALYSIS OF THE BOP'S RESPONSE

The OIG provided a draft of this report to the BOP for its comment. The BOP's response is included in Appendix 5 of this report. Below is the OIG's analysis of the BOP's response.

Highlights of the BOP's Response

The BOP raised five issues in its response to this report. First, the BOP acknowledged that there was an instance in early April 2020 in which an inmate who ultimately tested positive for COVID-19 was not identified as being COVID-19 symptomatic before being transferred to the hospital. The BOP also stated that this inmate did not exhibit the symptoms (fever, cough, and shortness of breath), identified by the CDC at that time as requiring PPE. Additionally, the BOP added that there is no evidence of BPT staff members contracting COVID-19 from the hospital, that staff members tested positive for COVID-19 at different times, and that proper PPE was provided at the hospital for staff handling COVID-19 positive inmates. Second, the BOP stated that FCI Milan complied with the CDC's guidance that face coverings be worn by staff and inmates when social distancing is not feasible and, for inmates, in common areas outside their cells. Third, the BOP stated that 44 staff members from the North Central Regional Office, including 8 Registered Nurses, 1 Physician's Assistant, and 1 Medical Technician, were deployed to Milan for continuity of operations and to assist in daily medical operations. Fourth, the BOP stated that our discussion of efforts to alleviate staff shortages is presented chronologically out of order of the actions taken by Milan officials. Fifth, the BOP stated that, absent a case-by-case review of the circumstances of each individual home confinement decision, the BOP believes that the OIG cannot fairly assert that FCI Milan did not properly leverage its ability to refer inmates to home confinement under the CARES Act.

OIG Analysis

In its response to our report, the BOP acknowledged that in early April BPT staff did not wear appropriate PPE when they escorted to the local hospital an inmate who displayed symptoms not identified as being COVID-19 related at that time, but who later tested positive for COVID-19. As stated in our report, a Milan Lieutenant told us that it was only after several inmates tested positive for COVID-19 at the hospital that Milan staff realized that the BPT staff who escorted these inmates should have been wearing the PPE required for close contact with COVID-19 positive or suspected persons. Additionally, as stated in the report, according to Milan's Health Services Administrator, in March and early April medical staff were more likely to attribute symptoms like shortness of breath or chest pains to noncontagious causes, such as allergies or asthma, rather than to COVID-19. A second Milan Lieutenant stated that 24 BPT staff contracted COVID-19 and that several of these BPT staff attributed their infection to going to the hospital without proper PPE. We neither state nor imply in our report that the 24 BPT staff who contracted COVID-19 tested positive at the same time, but we do note that one of the Milan Lieutenants told

us that 24 BPT staff contracted COVID-19 and were on sick leave as of approximately mid- to late April.

We also acknowledge that BPT staff may have contracted the virus in other ways. However, based on the information that we collected during the course of our inspection and that the BOP provided in its response to the draft report, we concluded that Milan's BPT staff escorted at least one, and possibly more, inmates with COVID-19 symptoms to the local hospital without wearing appropriate PPE because at the beginning of the outbreak Milan's correctional and Health Services staff did not recognize certain symptoms as potentially being COVID-19 related. We believe that these circumstances increased those BPT staff members' risk of contracting COVID-19 and potentially contributed to the spread of COVID-19 at Milan. Accordingly, we made minor edits to the draft report before publication to emphasize these points.

With regard to FCI Milan's compliance with CDC face covering guidance, we acknowledge in our report that Milan complied with the CDC's April 3 guidance recommending that face coverings be worn in public settings by making surgical masks available to staff on April 4 and distributing surgical masks to all inmates between April 4 and April 6. Based on evidence collected during our inspection, it is also accurate that COVID-19 had begun to spread in the institution before the distribution of face coverings.

With regard to TDY staff, our report acknowledges that, to mitigate staffing challenges, Milan requested TDY staff and received its first TDY staff member, a Medical Technician, on April 7. Further, we state that in total the BOP deployed 54 TDY staff, including 13 medical and 18 BPT staff, to the institution. We also state that the BOP took other steps to mitigate staffing challenges, including seeking a waiver, on April 11, to limit the number of BPT staff required to supervise an intubated inmate, as well as increasing shift hours of correctional staff from 8 hours to 12 hours during the outbreak. In its response to our report, the BOP stated that our description of these events was chronologically out of order because we describe the April 11 waiver first, then describe the lengthening of correctional staff shifts, and finally describe the transfer of TDY staff. According to documentation provided by Milan, however, we concluded that these efforts and their implementation occurred simultaneously.

For example, it is accurate that the first medical TDY staff member arrived at the institution on April 7, prior to the April 11 waiver request. However, prior to April 11, only nine TDY staff (three of whom were medical staff) had arrived at the institution. Medical TDY staff continued to arrive at the institution, on a rolling basis, until April 22. Further, documentation provided by Milan indicates that correctional staff shifts were first extended in the isolation units and SHU on April 8 and throughout the institution on April 12.

With regard to the transfer of inmates to home confinement, we recognize that we did not perform a case-by-case review for suitability for transfer to home confinement of those inmates who were potentially eligible and that BOP must consider public safety when making these risk-

based decisions regarding inmate transfer to home confinement. Nonetheless, we note that under existing law, as well as the Attorney General's guidance, the BOP had been granted expanded authorities to "immediately maximize appropriate transfers to home confinement of all appropriate inmates" at prisons "where COVID-19 is materially affecting operations." In addition, on April 3 the Attorney General told the BOP Director 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." Delays in transferring those inmates determined by Milan to be eligible for home confinement, as well as the limited number of those inmates actually transferred, indicates that the BOP did not fully leverage its existing or expanded authorities under the CARES Act and the Attorney General's memoranda to promptly transfer FCI Milan inmates to home confinement.