



DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

PANDEMIC RESPONSE REPORT

21-053

MARCH 2021

Remote Inspection of Metropolitan Correctional Center Chicago

EVALUATION AND INSPECTIONS DIVISION

INTRODUCTION



OIG COVID-19 Inspection Efforts

In response to the coronavirus disease 2019 (COVID-19) pandemic, the U.S. Department of Justice (Department, DOJ) Office of the Inspector General (OIG) initiated a series of remote inspections of Federal Bureau of Prisons (BOP) facilities, including BOP-managed institutions, contract prisons, and Residential Reentry Centers (RRC). In total, these facilities house approximately 138,267 federal inmates. The OIG inspections sought to determine whether these institutions were complying with guidance related to the pandemic, including Centers for Disease Control and Prevention (CDC) guidelines, DOJ policy and guidance, and BOP policy. While the OIG was unable to meet with staff or inmates as part of these remote inspections, the OIG incorporated staff, inmate, and other stakeholder input into each inspection. The OIG issued a survey to over 40,000 staff working at facilities housing BOP inmates. The OIG also established a COVID-19 specific hotline, through which we received complaints from inmates, staff, and other parties.

[DOJ COVID-19 Complaints](#)

[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. According to BOP data, as of March 1, 2021, 47,922 inmates and 6,500 BOP staff in BOP-managed institutions and community-based facilities had tested positive for COVID-19.¹ In those institutions where widespread inmate testing has been conducted, the percentage of inmates testing positive has been substantial. During our fieldwork, Metropolitan Correctional Center (MCC) Chicago began conducting widespread inmate testing for COVID-19. As of May 8, 2020, MCC Chicago inmates testing positive for COVID-19 approximated 18 percent (110 of 608) of the institution’s population. As of February 28, 2021, there were six active inmate COVID-19 cases in the institution.

Between April 23 and May 1, 2020, the OIG conducted a remote inspection of MCC Chicago to understand how the COVID-19 pandemic affected the institution and to assess the steps MCC Chicago officials took to prepare for, prevent, and manage COVID-19 transmission within its facilities (see [Appendix 1](#) for the scope and methodology of the inspection). Our focus in inspecting MCC Chicago was to determine whether its policies and practices complied with BOP directives intended to control the transmission of COVID-19.² We conducted this inspection through telephone interviews with MCC Chicago officials; review of documents related to the BOP’s and MCC Chicago’s management of the COVID-19 pandemic; incorporation of MCC Chicago specific results from a BOP-wide employee survey regarding COVID-19 issues that the OIG conducted in April, and data from the OIG’s Office of Data Analytics (ODA). We also considered one staff complaint, eight inmate complaints, one complaint from members of the public, and one complaint submitted from the Federal Defenders Program to the OIG

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

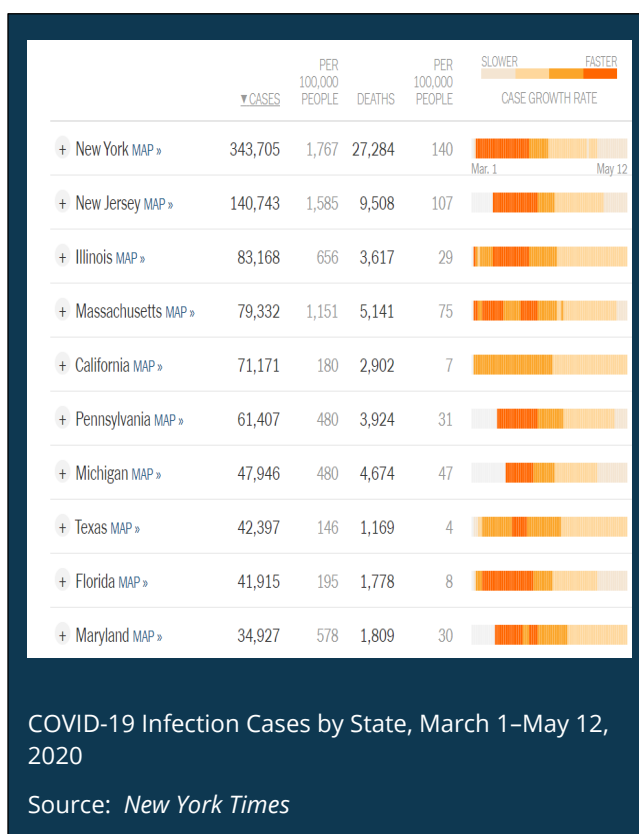
² Starting in January 2020, the BOP began issuing to its institutions policy directives detailing requirements for managing a range of activities intended to control the transmission of COVID-19 (see [Appendix 3](#) for a timeline of the BOP’s guidance to

Hotline between March 31 and July 15, 2020, expressing concern about one or more of the following topics: quarantine and social distancing, sanitation, personal protective equipment (PPE), COVID-19 testing and screening, and compassionate release.³ (See [Appendix 1](#) for a summary of the complaints and [Appendix 2](#) for a summary of survey results from MCC Chicago respondents). We also spoke to attorneys from the Federal Defenders Program regarding the concerns they reported about MCC Chicago’s management of COVID-19, including access to counsel during this time.

Summary of Inspection Results

We found that, as of May 8, 2020, a significant number of MCC Chicago inmates (18 percent, or 110 out of 608) had tested positive for COVID-19. We also found that MCC Chicago complied with CDC guidance and BOP policy directives for social distancing and quarantine and that it had adequate resources for sanitation.

We further found that the institution’s high-rise architecture, with a combination of open dormitory units and surrounding units of cells for housing two to four inmates, created challenges for social distancing and separating inmates with confirmed or suspected COVID-19. In addition, MCC Chicago is located in a densely populated urban area in a state that at the time of our inspection had the third highest number of COVID-19 cases in the United States.⁴ Additionally, because MCC Chicago houses predominantly arrestees and pretrial detainees, there is a constant introduction of new inmates from the community or transferred from local correctional and detention facilities. These factors created particular challenges for controlling



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 MCC Chicago’s adherence to these BOP directives.

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 facility during the period of our review.

⁴ As of May 11, 2020, the Illinois Department of Public Health reported that there were 30,921 COVID-19 cases identified in the city of Chicago and 21,705 positive COVID-19 cases in Cook County, the area surrounding the city of Chicago.

COVID-19 transmission at MCC Chicago. Among the other issues we identified during our inspection were the following:

- Of MCC Chicago staff who responded to our survey, 69 percent (36 of 52 respondents) identified additional staff to cover posts as an immediate need, compared to 39 percent across BOP-managed institutions; 73 percent (38 of 52 respondents) reported needing more space to quarantine inmates, compared to 23 percent across BOP-managed institutions; and 44 percent (23 of 52 respondents) reported wanting more frequent screenings of inmates throughout the day, compared to 24 percent across BOP-managed institutions.
- MCC Chicago made efforts to control COVID-19 transmission resulting from the lack of barriers between the two adjacent open dormitory units and the rest of the institution by sealing off and creating separations between these units with plexiglass barriers.
- A lack of mass, rapid testing created significant challenges for MCC Chicago in controlling the early spread of COVID-19 at the institution, particularly in the two open dormitory units. Several inmates in those two units became symptomatic for COVID-19 in April 2020 and were medically isolated, but the absence of mass testing during this time prevented MCC Chicago officials from identifying and medically isolating COVID-19 positive asymptomatic inmates in the same units. When mass testing later became available, a significant number of asymptomatic inmates in those two units tested positive for COVID-19.
- MCC Chicago purchased personal hygiene supplies for staff and inmates and implemented enhanced cleaning earlier than the BOP required.
- Initially, the institution received only 24 rapid test kits, which delayed its ability to begin testing asymptomatic inmates for 8 days, until it received an additional 312 kits. This delay in testing prevented timely separation of infected inmates, thereby increasing the likelihood of transmission.
- MCC Chicago's use of home confinement in response to the spread of COVID-19, as a mechanism to reduce either the at-risk inmate population or the overall prison population and facilitate social distancing, was limited. As of August, MCC Chicago transferred only two inmates to home confinement under Coronavirus Aid, Relief, and Economic Security Act (CARES Act) authorities.

COVID-19 at MCC Chicago

As of May 7, 2020, MCC Chicago housed approximately 608 high, medium, low, and minimum security male (589) and female (19) inmates in downtown Chicago, Illinois. Some of MCC Chicago's inmates arrived at the institution directly upon arrest; others were transferred by the U.S. Marshals Service to MCC Chicago from county facilities that house federal detainees. As an administrative security facility, MCC Chicago houses inmates at all security levels, including unsentenced pretrial detainees and sentenced inmates. The OIG's ODA estimates that, on

average between April and June, 27 percent of MCC Chicago's inmates had been sentenced. MCC Chicago had approximately 200 federal staff members.

In March, MCC Chicago began preparing to handle inmates suspected or confirmed as having COVID-19. The first date that MCC Chicago identified an inmate with COVID-19 symptoms was April 3. COVID-19 was confirmed through a positive test result received on April 9. In the meantime, a different inmate became the first confirmed COVID-19 case at MCC Chicago on April 8, when he was identified as symptomatic, tested, and confirmed positive on the same day.⁵ As of May 8, 110 of MCC Chicago's inmates were positive for COVID-19. As of February 28, 2021, the BOP reported that the number of active inmate COVID-19 cases at MCC Chicago was 6 and the number of active staff cases was 39.

MCC Chicago COVID-19 Data

Inmate Population as of February 28, 2021^a



567

Active Inmate Cases as of February 28, 2021^b



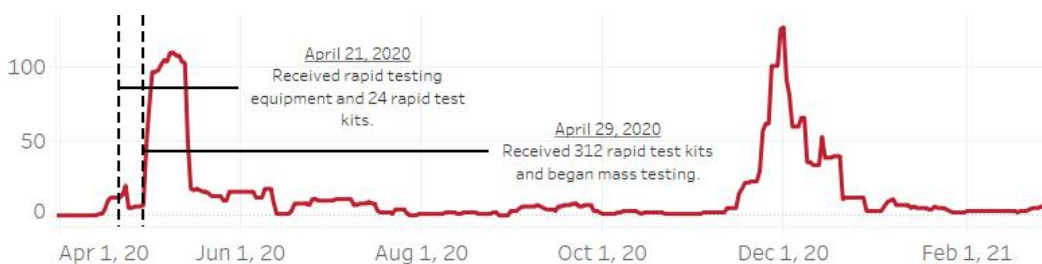
6

Inmate COVID-19 Deaths as of February 28, 2021



0

Active Inmate COVID-19 Cases Over Time, April 9, 2020–February 28, 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 February 21, 2021



198

Active Staff Cases as of February 28, 2021



39

Staff COVID-19 Deaths as of February 28, 2021



0

Active Staff COVID-19 Cases Over Time, April 9, 2020–February 28, 2021



Data Sources: BOP, National Finance Center

⁵ MCC Chicago officials told us that they received a limited number of rapid test kits from a local hospital before they received such kits through the BOP and that they used these kits for some early cases.

Total Confirmed Cook County COVID-19 Cases Over Time,
April 9, 2020–February 28, 2021



^a Total confirmed cases are cumulative positive COVID-19 cases.

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

TABLE OF CONTENTS

INSPECTION RESULTS	2
Social Distancing and Quarantine Measures	2
Inmate Screening	6
COVID-19 Staff Screening Procedures	7
COVID-19 Testing.....	8
Medical Response and Capacity	9
Staffing and Leave Flexibilities.....	9
PPE and Cloth Face Coverings	10
Sanitation Supplies and Cleaning.....	11
Conditions of Confinement, Visitation and Commissary.....	12
Use of Home Confinement and Compassionate Release Authorities	14
APPENDIX 1: SCOPE AND METHODOLOGY OF THE INSPECTION	24
APPENDIX 2: OIG COVID-19 SURVEY RESULTS FOR MCC CHICAGO.....	25
APPENDIX 3: TIMELINE OF BOP GUIDANCE.....	31
APPENDIX 4: THE BOP’S RESPONSE TO THE DRAFT REPORT.....	34

INSPECTION RESULTS

Social Distancing and Quarantine Measures

We found that implementing effective social distancing measures throughout MCC Chicago was one of the biggest challenges that officials faced in controlling the transmission of COVID-19 at the institution.⁶ Further, while we found that MCC Chicago officials took steps to increase social distancing, in one significant instance that we identified, their measures were not completed until several inmates had been confirmed as being COVID-19 positive. Nonetheless, we found that MCC Chicago complied with BOP social distancing and quarantine related directives.

On March 13, 2020, the BOP directed Wardens to immediately “implement modified operations to maximize social distancing in [BOP] facilities” to the extent practicable.⁷ To maximize social distancing, MCC Chicago modified operations to restrict inmate movements. On March 16, MCC Chicago imposed a modified lockdown, with one unit at a time allowed to move within the facility. Inmates were advised that restrictions would be placed on visitation, recreation, programming, telephone/email access, and showers to prevent the spread of the virus. Inmates were provided this information and regular updates through the Trust Fund Limited Inmate Communication System (TRULINCS) and by their Unit Team.⁸ Additionally, MCC Chicago expedited the planned transfer of 19 inmates to other BOP institutions to provide additional bed space for quarantining and sought to transfer an additional 12 inmates to other BOP institutions. Further, on April 1, MCC Chicago augmented the restrictions that were already in place and implemented a 1-week full lockdown before returning to the modified operation status.

MCC Chicago also established space to isolate inmates who had COVID-19 symptoms or who had tested COVID-19 positive as part of the effort to control COVID-19 transmission. Documentation shows that as early as March 12 MCC Chicago officials established a unit in housing Unit 6 to medically isolate inmates experiencing flu-like symptoms or testing positive for COVID-19 (even if they were asymptomatic). Unit 6 was first used for this purpose on April 3, when MCC Chicago identified and isolated an inmate with COVID-19 symptoms. MCC Chicago staff also initially

⁶ Social distancing, also called “physical distancing,” means keeping at least 6 feet between people and avoiding group gatherings. In a correctional setting, the CDC recommended implementing a host of strategies to increase the physical space between inmates (ideally 6 feet between all individuals, regardless of symptoms), noting that not all strategies will be feasible in all facilities and that strategies will need to be tailored to individual spaces within the facility and the needs of the population and staff.

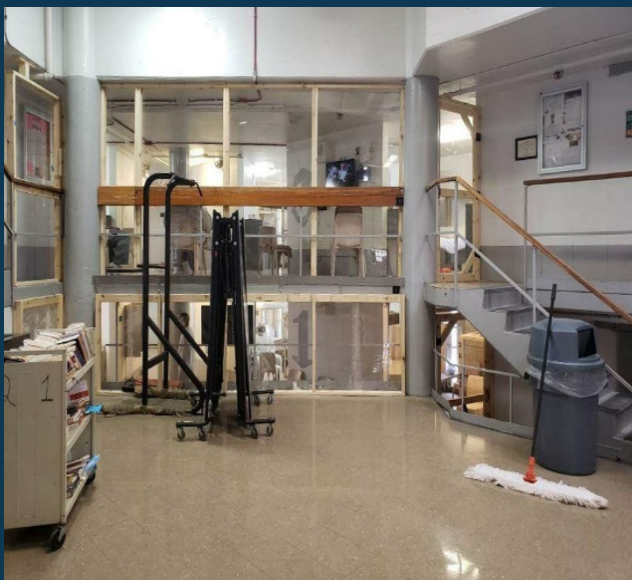
See CDC, “Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities,” March 23, 2020 (updated February 19, 2021), www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html (accessed March 18, 2021).

⁷ See BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Phase Two Action Plan, March 13, 2020, 3, and memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Phase Six Action Plan, April 13, 2020, 3.

⁸ TRULINCS is an electronic messaging system through which inmates in BOP-managed institutions may exchange email with preapproved individuals and institution staff.

designated one range of the Special Housing Unit (SHU) to quarantine new inmates for 14 days so that they could be observed for symptoms of COVID-19 before being placed in a regular housing unit. When MCC Chicago began having additional suspected COVID-19 positive inmates, officials began using this range of the SHU to medically isolate inmates who either had symptoms of or had tested positive for COVID-19. MCC Chicago officials told us that the SHU was used for this purpose until April 21, at which point different housing units were used for medical isolation and quarantine.

MCC Chicago officials told us that one of their biggest challenges in implementing the social distancing requirement that inmates remain 6 feet apart was in the two open dormitory units where inmate beds are 3–4 feet apart with no barriers between. To address this issue, on April 13 institution staff began a 2-week process to construct floor-to-ceiling plexiglass containment walls to separate the open dormitory units from the surrounding housing units and to create sub-sections within the open units to separate groups of inmates.⁹ MCC Chicago officials told us that they decided to undertake this construction effort before they identified (on April 3) the first COVID-19 symptomatic inmate in one of these units. As shown in the photographs below, the newly constructed walls separated housing units on different floors that previously had been open to each other and created separate spaces within the units.



MCC Chicago staff constructed social barriers in the open dormitories to aid appropriate social distancing between inmates.

Source: BOP, with OIG enhancement

⁹ CDC guidance for detention centers and correctional institutions advised creating 6 feet of space between individuals. In addition, to allow thorough cleaning and disinfection of areas with suspected and confirmed cases of COVID-19, the CDC guidance also advised closing off areas used by infected individuals. CDC, "Interim Guidance."

However, before the plexiglass containment walls were in place, and when there was still little separation among the inmates in the open dormitory units, COVID-19 had already started circulating through the units. Specifically, on April 3, an inmate from one of the open dormitory units exhibited COVID-19 symptoms, and on April 9 the inmate was confirmed to have COVID-19. By April 13, 10 additional inmates from these units were symptomatic for COVID-19. In each instance, MCC Chicago transferred the symptomatic inmates to the medical isolation units it had established in March. However, this was also before MCC Chicago had the ability to mass test inmates for COVID-19 and before the plexiglass barriers were fully constructed. Therefore, while MCC Chicago could readily identify and transfer symptomatic inmates to medical isolation units, it was unable to control transmission by identifying and isolating asymptomatic, COVID-19 positive inmates in these open dormitory units. We discuss the importance of mass testing below.

MCC Chicago officials did restrict staff and inmate movement in and out of the two open dormitory units. Staff movement was restricted so that only certain staff who worked in the open dormitory units entered the units and, when they did, they wore full PPE. New inmates were not allowed into the units, and no inmates were allowed to leave (other than to take showers) unless they were symptomatic or tested positive for COVID-19, in which case they were moved to medical isolation in a different part of the institution.

At the time the first inmates in the open dormitory units became symptomatic, MCC Chicago did not have the ability to conduct mass, rapid testing for COVID-19. When mass testing became available, MCC Chicago applied it to these open dormitory units first. For example, documentation we reviewed showed that, between April 29, which was the first date that MCC Chicago had enough rapid test kits to mass test inmates, and May 14, the institution conducted testing on 6 separate days. MCC Chicago officials explained that this allowed them to identify and medically isolate asymptomatic COVID-19 positive inmates to control COVID-19 transmission. A medical official on temporary duty at MCC Chicago in April told us that mass testing was critical in controlling the transmission of COVID-19 in the open dormitory units where the inmates are in such close proximity to each other. She noted that the results of the mass testing identified a significant number of asymptomatic inmates who tested positive for COVID-19. Information the MCC Chicago staff provided to the OIG indicated that during April and May the number of inmates in the open dormitory units who were asymptomatic and tested positive for COVID-19 was significantly greater than the number of inmates who were symptomatic. Later in this report, we further discuss MCC Chicago's use of rapid COVID-19 testing.

In March, through a series of guidance documents, the BOP established requirements for institutions to separate from the general prison population both inmates with confirmed or suspected COVID-19 and those who were known to have been exposed to COVID-19.¹⁰ Although

¹⁰ BOP, memorandum for All Chief Executive Officers, March 13, 2020. BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Phase Two Action Plan Update One, March 18, 2020. BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Phase Four Action Plan, March 26, 2020.

we found that MCC Chicago officials complied with these requirements, complaints from several sources and survey results indicated concerns about quarantine and medical isolation at the institution. We received one inmate complaint about the use of the SHU for medical isolation, specifically that it was like a punishment because commissary was unavailable and conditions were unsanitary. The Federal Defenders also mentioned the inmates' concern that being housed in the SHU felt like a punishment, noting that use of the SHU for medical isolation may have made inmates less likely to report COVID-19 symptoms if they knew it would result in them being placed in the SHU. MCC Chicago officials agreed with this concern, telling us that using the SHU for medical isolation delayed and made it more difficult for medical staff to identify symptomatic inmates because inmates were reluctant to report symptoms, knowing that it would result in them being moved to the SHU. MCC Chicago officials also acknowledged that inmates do not like being placed in the SHU because it carries a negative stigma and activities are even more limited than they are in other housing units (for example, there is no access to television). However, the officials explained that using the SHU for medical isolation was necessary during the early stages of the pandemic, before they identified and set up another unit that would be more suitable.

We also received three inmate complaints about quarantine procedures. The complaints alleged that quarantine procedures were inconsistent and living conditions in the institution were lacking due to an absence of social distancing that would result in adequate separation between inmates who were or were not COVID-19 positive to keep inmates safe. An MCC Chicago official described the limited space available at MCC Chicago for quarantining and medically isolating inmates. She told us that she attributed these concerns expressed in the complaints to the fact that MCC Chicago used the SHU for quarantine and medical isolation. The concerns could also have come from the fact that the institution used different spaces for quarantine during different phases of its management of the pandemic, which may have been interpreted as the institution having inconsistent procedures. We learned that MCC Chicago officials did use different spaces for quarantine and medical isolation as the need for these areas and the availability of space changed over time.

Similarly, during interviews and in our survey, staff expressed concerns about the adequacy of quarantine space. Specifically, 73 percent (38 of 52) of MCC Chicago staff who responded to our survey reported that more quarantine space was an immediate need to help the institution continue to treat inmates who had tested positive for COVID-19 and keep non-COVID-19 positive inmates safe. Our survey results were collected between April 21 and April 29, when the number of COVID-19 confirmed and suspected cases was increasing rapidly. We believe that the sudden rise in cases may have caused staff to be reasonably concerned that there would not be enough space to control transmission by separating inmates with different COVID-19 statuses. An MCC Chicago official told us that she believed staff might have reported this concern at that time because they were unaware of leadership's plan to create additional units within the institution for medical isolation and quarantining of inmates. Leadership implemented its plan specifically by designating a two-tiered unit for medical isolation and quarantine, resulting in greater capacity for both purposes.

We also found that more space became available in the institution because the total inmate population decreased over time. Specifically, between April 12 and June 14 MCC Chicago's inmate population decreased from 640 to 576. According to MCC Chicago officials, the institution's inmate capacity is 700. During that period of time, the BOP was limiting inmate transfers across different BOP regions; however, MCC Chicago records showed that, to create additional bed space, it was able to transfer 19 sentenced holdover inmates who had been designated to institutions within the region earlier than planned.¹¹ On April 10, MCC Chicago sought to transfer 12 additional inmates who were designated to institutions outside the North Central Region; but its request for these transfers was denied by the BOP's Central Office due to the BOP limiting the movement of inmates among institutions.

Inmate Screening

We found that MCC Chicago followed BOP guidance and began screening inmates for COVID-19 symptoms as directed. On January 31, 2020, the BOP's Health Services Division issued a memorandum to all BOP institutions informing them of possible COVID-19 symptoms, including fever, cough, headaches, and diarrhea, and recommended screening newly arriving inmates for COVID-19 symptoms.¹² On March 13, a BOP memorandum directed institutions to screen new inmates for COVID-19 symptoms. On that same day, MCC Chicago implemented screening measures for all new inmates as a standard practice. About a week later, on March 23, MCC Chicago trained all nonmedical staff on temperature screening and triaging COVID-19 symptoms to ensure there were enough personnel to accommodate the greater number of inmate and staff screenings required (we discuss the additional staff screening requirements below).

On March 26, BOP guidance required newly arriving asymptomatic inmates to be quarantined for 14 days or until medically cleared by staff.¹³ Documentation we reviewed shows that, by this time, MCC Chicago staff had already been screening newly arriving inmates for symptoms and quarantining them for 14 days. Further, during March, MCC Chicago began temperature checking and screening all inmates for COVID-19 symptoms each day. Through these screenings, in April, MCC Chicago first identified inmates with COVID-19 symptoms and transferred seven of them to the hospital for testing and treatment.

¹¹ Holdover inmates are those who are sentenced and held at a facility temporarily while awaiting transfer to the facility to which they are designated to complete their sentence. To determine what, if any, additional steps MCC Chicago took to manage its inmate population to allow for greater social distancing, we asked MCC Chicago officials whether they had coordinated with the U.S. Marshals Service or the U.S. Attorney's Office to reduce the number of new inmates brought to MCC Chicago. MCC Chicago officials told us that they are required to accept all inmates assigned to the institution.

¹² BOP, memorandum for All Clinical Directors, Health Services Administrators, Quality Improvement/Infection Prevention Coordinators, Guidance on 2019 Novel Coronavirus Infection for Screening and Management, January 31, 2020, 2.

¹³ On March 26, the BOP implemented Phase Four of its Coronavirus Action Plan, which required asymptomatic inmates entering a facility to be quarantined for at least 14 days or until cleared by medical staff.

MCC Chicago established procedures for handling male and female inmates identified as being symptomatic or who had to be isolated due to exposure to a positive COVID-19 inmate. If a male inmate had symptoms, he was removed from his housing unit and placed in a medically isolated cell on Unit 6. Male inmates who tested positive, whether symptomatic or not, were moved to and required to remain in medical isolation for 14 days or until medically cleared.¹⁴ After that period, male inmates were moved to a step-down unit for 72 hours to ensure they no longer posed a transmission risk. According to MCC Chicago staff, because there was only one housing unit designated to house the 19 female inmates, symptomatic female inmates remained on that unit but were placed in a cell by themselves. Symptomatic female inmates remained medically isolated on Unit 12 for 14 days and were then transitioned to a step-down status, for an additional 72 hours or until medically cleared, to ensure they too no longer posed a transmission risk. According to MCC Chicago's Clinical Director, inmates in medical isolation, quarantine, and the step-down unit were temperature checked twice each day. However, MCC Chicago staff who responded to our survey (44 percent, 23 of 52 respondents) reported wanting more frequent screenings of inmates throughout the day compared to 24 percent BOP-wide.

COVID-19 Staff Screening Procedures

On February 29, the BOP directed institutions to screen staff with potential COVID-19 risk factors, including staff members who had been in close contact with individuals diagnosed with COVID-19 or staff who had traveled within the previous 14 days through or from locations identified by the CDC as having increasing epidemiological risk.¹⁵ On March 13, the BOP issued additional guidance regarding the screening of staff to mitigate the spread of COVID-19. We found that on March 13 MCC Chicago staff followed the BOP's guidance to conduct staff screenings, including self-reporting and temperature checks, in response to COVID-19.¹⁶ We learned that MCC Chicago staff were screened daily upon entering the facility. In addition, MCC Chicago records revealed that the institution prohibited seven staff members from entering the facility for 24 hours because they reported during screening to having taken over-the-counter medications to alleviate possible COVID-19 symptoms. In response to our survey of staff, 33 percent (17 of 52) of MCC Chicago

¹⁴ According to the CDC, medical 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 symptomatic and awaiting test results, or (3) have COVID-19 symptoms from people who are not infected. 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 individuals in a single cell with solid walls and a solid door that closes. If symptoms develop during the 14-day period, the person should be placed in medical isolation and evaluated for COVID-19. See CDC, "Interim Guidance."

¹⁵ BOP, memorandum for All Clinical Directors, Health Services Administrators, Quality Improvement/Infection Prevention Coordinators, Guidance Update for Coronavirus Disease 2019 (COVID-19), February 29, 2020, 2.

¹⁶ BOP, memorandum for All Chief Executive Officers, March 13, 2020, 2.

respondents reported wanting more frequent staff screenings and temperature checks of staff throughout the day.

COVID-19 Testing

We found that MCC Chicago tested inmates for COVID-19 in accordance with BOP directives. On March 13, 2020, the BOP issued guidance for institutions to test symptomatic inmates for COVID-19 consistent with local health authority protocols.¹⁷ During interviews, MCC Chicago's Clinical Director told us that the institution did not experience any difficulties with transferring symptomatic inmates to the local hospital for testing and treatment before the institution had its own test kits. MCC Chicago provided documentation showing that its Health Services Department established working relationships with the local hospital through a third-party contract and with a commercial laboratory that allowed the institution to conduct 32 COVID-19 tests on symptomatic inmates in April. However, we also received complaints from two inmates who said they were symptomatic early on in the pandemic, in March, and were not tested promptly. MCC Chicago officials denied that there was ever a time when symptomatic inmates were not tested.

In early April, MCC Chicago received a limited number of standard laboratory test kits and began testing symptomatic inmates, confirming its first COVID-19 positive inmate on April 8. MCC Chicago officials told us that on April 21 they received a rapid test machine, along with 24 rapid test kits.¹⁸ One week later, on April 28, MCC Chicago received an additional 312 rapid test kits. As discussed above, receiving enough rapid test kits to conduct mass testing played an important role in MCC Chicago's ability to control the transmission of COVID-19 within the institution. On April 29, the day after receiving the 312 kits, MCC Chicago began mass testing asymptomatic inmates and its Health Services staff reported that 33 inmates had tested positive and 7 inmates had been hospitalized due to the severity of their symptoms.¹⁹ As of May 8, 110 of MCC Chicago's inmates had tested positive for COVID-19. Receiving only 24 rapid test kits initially delayed mass testing of asymptomatic inmates, which may have hampered the institution's ability to control the spread of COVID-19.

At the time of our inspection, neither BOP nor CDC guidance required institutions to test staff for COVID-19. As of April 29, MCC Chicago officials told us that, since the beginning of the pandemic, staff who required COVID-19 testing had been sent to the hospital and none had reported any delays in obtaining a test or its results. One staff member who tested positive for COVID-19 in April told us that he received test results in less than 2 hours and that the hospital testing facility

¹⁷ BOP, memorandum for All Chief Executive Officers, March 13, 2020, 3.

¹⁸ 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.

¹⁹ At the time of our inspection, CDC guidelines did not prioritize testing asymptomatic inmates.

contacted him daily after he was cleared to return to work. As of December 13, BOP data showed that 277 MCC Chicago inmates and 64 staff members had tested positive for COVID-19.

Medical Response and Capacity

According to MCC Chicago's Warden, the institution did not experience any long-term medical staff shortages that affected the institution's pandemic response.²⁰ Specifically, between March and April 2020, three of the institution's medical staff positions were vacant; but these vacancies were filled with temporary duty medical staff from other institutions within 1 day of MCC Chicago's requests to the BOP's regional leadership.²¹ During this time, several Health Services personnel were out on COVID-related leave and their positions were supplemented by additional temporary duty staff. Even though MCC Chicago quickly received help from regional leadership when needed, its Clinical Director expressed concerns about being able to find additional temporary duty staff in the future if more staff were out sick due to COVID-19.

Staffing and Leave Flexibilities

A substantial percentage of MCC Chicago staff who responded to our survey (69 percent, 36 of 52 respondents) identified additional staff to cover posts as an immediate need. We identified two factors that may have contributed to this result. First, as of April 21, 2020, there were seven Correctional Officer vacancies in the Correctional Services Division and MCC Chicago began taking steps to fill them at the end of April. As of June 16, MCC Chicago had three vacant Correctional Officer positions. Second, the institution had approximately 48 staff members (about 25 percent of its total staff complement) on leave at varying times for COVID-19 related reasons during March and April. These staff members were primarily in the Correctional Services Division. The Warden addressed this problem by instituting 12-hour shifts (6 a.m.–6 p.m. and 6 p.m.–6 a.m.) for Correctional Services.

Forty-eight percent of MCC Chicago staff who responded to our survey (25 of 52 respondents) also commented that they would like to have greater flexibilities in the use of administrative leave. Based on our review of records, on March 18 staff received guidance from MCC Chicago's Human Resource Management Division stating that staff registering an oral temperature of 100.4 degrees Fahrenheit or greater when screened at the institution would not be allowed to enter the

²⁰ BOP officials assign each inmate a care level based on the inmate's individual medical needs. Care levels range from Care Level 1 for the healthiest inmates to Care Level 4 for inmates with the most serious medical conditions. The BOP also assigns each institution a care level from 1 to 4, based on the institution's level of medical staffing and resources. The goal of the care level system is to match inmate medical needs with institutions that can meet those needs. MCC Chicago is a Care Level 2 institution, and its population includes inmates with chronic care needs. A Care Level 2 institution is capable of treating inmates with conditions requiring clinical contact every 3 months.

²¹ As of May 7, all three of these positions had been filled and there were no vacancies in MCC Chicago's Health Services Department, which accounts for 17 medical positions.

institution and would be placed on sick leave without being given the option of using another form of leave. By contrast, staff members who did not come to work because either they or a family member was experiencing COVID-19 symptoms were given the option to use annual or advanced leave, compensatory time, credit hours, or leave without pay to care for themselves or a family member in quarantine due to COVID-19.²² This may explain why survey respondents commented that they wanted greater flexibilities in the use of administrative leave.

PPE and Cloth Face Coverings

We found that MCC Chicago officials complied with initial and subsequent BOP directives implementing the CDC's guidelines regarding the use of PPE in correctional settings and, according to inventory records, MCC Chicago, as of April 27, 2020, had an adequate supply of cloth and surgical masks and N95 respirators.²³

Between March 13 and April 6, the BOP issued seven policy directives and guidance documents intended to help its institutions implement CDC guidance that was evolving to address changing circumstances presented by the spread of COVID-19. On March 13, the BOP issued initial guidance mandating that employees screening staff for COVID-19 wear an N95 respirator. Five days later, on March 18, the BOP modified the requirement, directing all employees performing staff screenings to "have appropriate PPE," defined as a "surgical mask, face shield/goggles, gloves and a gown."²⁴ On April 6, in response to revised CDC guidance on April 5 advising face coverings for all correctional staff and inmates, 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."²⁵

To implement the BOP's directives, between March 14 and 17 MCC Chicago began fit testing all staff and inmate work detailees for N95 respirators. According to MCC Chicago email records, as of March 19 all staff involved in COVID-19 screening were required to wear full PPE and inmates were notified of this new policy. In late April, staff received additional training regarding the use of

²² On April 17, further guidance authorized paid sick leave. Employees were eligible for an additional 2 weeks of paid sick leave from April 1 through December 31, 2020. U.S. Department of Labor, "[Family First Coronavirus Response Act: Employer Paid Leave Requirements](https://www.dol.gov/agencies/whd/pandemic/ffcr-a-employer-paid-leave)," www.dol.gov/agencies/whd/pandemic/ffcr-a-employer-paid-leave (accessed March 18, 2021).

²³ 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.

²⁴ See BOP, memorandum for All Chief Executive Officers, March 18, 2020, 3.

²⁵ BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Update–Use of Face Masks, April 6, 2020, 3. For more information, see CDC, "[Guidance for Wearing Masks](https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html)," April 3, 2020 (updated February 18, 2021), www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html (accessed March 18, 2021).

N95 respirators and self-contained breathing apparatus masks. MCC Chicago documentation shows that, as of April 28, 95.6 percent of MCC Chicago's staff had been fit tested and trained on the use of N95 respirators and about half had also been trained in the use of M120 and self-contained breathing apparatus masks. Staff were not allowed in the housing units until they had been fit tested for and were wearing an N95 respirator.

On March 16, MCC Chicago received and began disseminating surgical masks and staff began to receive a new mask each morning when they entered the facility.²⁶ On April 13, the institution issued each staff member three cloth masks and told them that they could request additional cloth masks at any time while at work. MCC Chicago staff told us that, after the cloth masks were issued, surgical masks were issued at any time upon request. According to our survey results, 73 percent (38 of 52 respondents) of MCC Chicago staff identified more PPE as an immediate need.

The number of surgical and cloth masks that MCC Chicago issued to inmates was generally similar to the number issued to staff. Specifically, inmates received two surgical masks per week until the institution issued three UNICOR-manufactured cloth masks to inmates.²⁷ MCC Chicago staff we interviewed told us that some inmates wore their face mask under their nose and staff frequently had to remind them to wear it properly.

Sanitation Supplies and Cleaning

Based on inventory records and interviews with MCC Chicago staff, we found that the institution had a surplus of hygiene, cleaning, and sanitation supplies, which it had begun procuring in January 2020. As early as March 13, the Warden announced in an email to staff the availability of additional hand sanitizer stations for staff and new cleaning procedures for high-traffic areas. Beginning on March 14, inmate and staff sanitation and disinfection details were trained and deployed throughout the institution even though BOP guidance did not require it. While on detail, both inmates and staff wore N95 respirators and full PPE and used chemical sprayers to clean the facility 3 times a day. On March 19, MCC Chicago received a shipment of bleach and germicidal products. During town halls, the Warden advised inmates to clean their areas daily, regularly wipe down their units, contain and control trash, and dispose of any nuisance contraband. Nonetheless, we received complaints from inmates about the sanitation of the telephones. Specifically, they stated that the telephones were not being properly sanitized because inmates were not permitted enough time to clean them between uses. This was a concern for them because inmates in quarantine or those who previously had COVID-19 were allowed to use the

²⁶ On April 6, MCC Chicago sent an email to all staff stating that cloth masks were to be distributed to all staff and be used by staff and inmates when social distancing was not possible. The cloth mask was also to be used to prevent the spread of COVID-19 through asymptomatic inmates.

²⁷ 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.

telephones. However, an MCC Chicago official told us that inmates on work detail sanitized the phones and computer devices before and after each use.

In our survey, MCC Chicago staff respondents rated MCC Chicago an average of 4.27, on a 5-point scale, in response to a question about whether staff were provided a sufficient supply of hand sanitizer. This rating was substantially higher than the average of 3.18 given by staff at institutions BOP-wide. In response to a question about whether toilets, sinks, and showers were regularly cleaned and sanitized, MCC Chicago staff respondents rated MCC Chicago an average of 4.10 points, compared to the BOP-wide average of 3.95.

Although not required by BOP guidance, we found that MCC Chicago proactively modified inmate laundry operations to prevent COVID-19 transmission, with all modifications communicated to inmates during town halls and through TRULINCS. For example, jumpsuits and other items of clothing, cloth masks, and bedding were washed separately. The institution also instituted a weekly laundry schedule for inmate bedding instead of laundering inmate bedding monthly, and MCC Chicago provided separate laundry instructions to inmates in medical isolation, quarantine, and step-down units. Though not required by BOP guidance, MCC Chicago directed inmates in these areas to place their items in water soluble bags to minimize contact between staff and potentially contaminated laundry.²⁸

Conditions of Confinement, Visitation and Commissary

Showers, Telephone/Email Access, and Access to Counsel

On March 13, 2020, the BOP directed Wardens to immediately “implement modified operations to maximize social distancing in [BOP] facilities” to the extent practicable. The BOP subsequently extended modified operations, in some form, several times and, on November 1, extended them until further notice.²⁹ The March 13 guidance directed institutions to suspend in-person social

²⁸ The CDC issued guidance on the handling of laundry in correctional institutions and detention centers, advising, if permissible, to consider the use of washable or disposable bag liners to minimize the spread of COVID-19. CDC, “Interim Guidance.”

²⁹ On March 31, the BOP enacted a “14-day nationwide action to minimize movement to decrease the spread” of COVID-19 in its Phase Five Action Plan, which became effective 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 that “the BOP’s actions are based on health concerns, not inmate destructive behavior.” See [Appendix 3](#) for a timeline of the BOP’s guidance to its institutions.

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

and legal visits for 30 days, though it permitted institutions to accommodate case-by-case requests for in-person legal visits. MCC Chicago officials told us that, in lieu of in-person visits, inmates were able to contact legal representatives using one of the eight iPads donated to the institution by the U.S. District Court in the Northern District of Illinois in response to the COVID-19 pandemic. MCC Chicago officials told us that they also advised inmates to contact their Unit Team if they had an imminent court deadline that required the use of the law library.

Based on email records and documentation we reviewed, the OIG found that MCC Chicago complied with the BOP's March 2020 directives regarding social distancing and modified operations related to inmates' use of showers and telephone and email access. Records revealed that on March 16 staff advised inmates of the new restrictions during town halls and through TRULINCS. Specifically, we learned that on March 16 MCC Chicago began modified operations by placing all units on lockdown and then increased restrictions on April 1, limiting inmates' use of showers to showering by unit on Mondays, Wednesdays, and Fridays. Each day, after all units had completed their showers, the showers were disinfected and secured. For 1 week starting on April 15, inmates were further restricted to one shower a week.

Our fieldwork identified concerns from different sources about the limitations that MCC Chicago officials placed on the frequency of inmate showers. The Clinical Director told us that he did not agree with restricting showers to only 1 day a week because, similar to hand washing, allowing inmates to keep themselves clean by taking showers could help control transmission of COVID-19. We also received two inmate complaints about the limitations on showers, including one stating that not allowing inmates on cleaning and sanitizing work details to take showers may have caused an inmate to contract COVID-19. However, MCC Chicago officials told us that the shower restrictions did not apply to inmates on work details and that these inmates were allowed to shower at the end of each day. In the OIG survey, MCC Chicago staff were asked whether inmates had ample opportunities to shower 3 times per week and 55 MCC Chicago staff respondents rated inmate shower access at a 2.96, compared to the 4.27 rating from staff BOP-wide, based on a 5-point scale.

In addition to restricting shower access, telephone/email access for inmates was limited to Tuesday and Thursday. We were told that, to ease frustrations and account for restricted telephone access, the number of minutes per inmate was increased from 300 to 500 per month.

Visitation and Commissary

While in modified operations, which were implemented on March 16, 2020, and restricted inmate movement to only one housing unit at a time, MCC Chicago took several steps to allow inmates continued commissary access in a way that maximized social distancing in accordance with the

tested for COVID-19 on arrival at an institution; and inmate movement between BOP institutions. On November 1, the BOP extended Phase Nine Action Plan and its Modification until further notice.

BOP's March 2020 guidance. Specifically, meals and limited commissary were delivered to housing units, one unit at a time, each day.

As noted above, on April 1 MCC Chicago began a health-related full lockdown and, as a result, the institution further restricted commissary privileges for 14 days to comply with BOP Shelter in Place directives. As of April 2, MCC Chicago required inmates to complete a commissary request in advance through their Unit Team for any commissary items. Once inmates completed and submitted their requests, the items were delivered to their unit later in the week. Only inmate workers involved with cleaning, commissary, laundry, and food service were allowed outside of their units.

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 sentenced inmates from prison to home confinement.³⁰ In an April 3 memorandum, the then 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.”³¹ The BOP assigned to its Central Office the responsibility for developing guidance implementing the Attorney General's directives and initially identifying sentenced inmates who would be considered for possible transfer to home confinement.

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

During the period from April 3 to May 4, the BOP Central Office sent MCC Chicago four rosters identifying a total of six sentenced inmates who were potentially eligible for transfer to home

³⁰ Home confinement, also known as home detention, is a custody option whereby inmates serve a portion of their sentence at home while being monitored.

³¹ 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 March 18, 2021), 1.

confinement. MCC Chicago staff reviewed the inmates on the rosters to determine whether each inmate met the criteria for home confinement and had a viable home release plan. This review process, coupled with the 14-day prerelease quarantine period the BOP required to ensure that inmates placed into a community did not have COVID-19, resulted in at least 3 to 4 weeks between the time the Central Office identified an inmate for transfer consideration to the date the inmate was actually transferred to home confinement. By mid-June, MCC Chicago had transferred two inmates to home confinement in accordance with CARES Act authorities and BOP guidance. Accordingly, we found that MCC Chicago's use of home confinement in response to the spread of COVID-19, as a mechanism to reduce either the at-risk inmate population or the overall prison population and facilitate social distancing, was limited.³²

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."³³ 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.³⁴ The Attorney General's memorandum identified a "non-exhaustive" list of factors that the BOP should consider in determining whether to transfer an inmate to home confinement. Those factors included:

- the age and vulnerability of the inmate to COVID-19, based on CDC guidelines;
- the security level of the institution where the inmate was currently housed, with priority given to those in minimum and low security facilities;
- the inmate's disciplinary history, with inmates who engaged in violent or gang-related activity in prison, or who incurred a BOP violation during the prior 12 months, not receiving priority treatment;

³² During this time, MCC Chicago created space in the institution by transferring an additional 16 inmates to home confinement or to a Residential Reentry Center (RRC); but these transfers were not due to the CARES Act.

³³ 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 March 3, 2021).

³⁴ 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 inmate's Prisoner Assessment Tool Targeting Estimated Risk and Needs (PATTERN) score, with inmates exceeding a minimum score not receiving priority treatment;³⁵
- 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]."³⁶ The following week, on April 3, the Attorney General issued a memorandum that found, as provided for in the CARES Act, "that emergency conditions are materially affecting the functioning of the [BOP]."³⁷ As a result of that finding, the BOP Director was authorized by the CARES Act to increase the amount of time that inmates could be placed in home confinement. The memorandum instructed the BOP to "immediately maximize appropriate transfers to home confinement of all appropriate inmates" at those prisons "where COVID-19 is materially affecting operations." In assessing inmates for transfer to home confinement, the memorandum stated that the BOP should be "guided by the factors in my March 26 Memorandum, understanding, though, that inmates with a suitable confinement plan will generally be appropriate candidates for home confinement rather than continued detention at institutions in which COVID-19 is materially affecting their operations."

In response to the Attorney General's memoranda, the BOP issued three memoranda, on April 3, April 22, and May 8, 2020. The BOP's April 3 memorandum provided institutions with "sample rosters...to aid in the identification of inmates who may be eligible for home confinement" and

³⁵ 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 March 18, 2021).

³⁶ Pub. L. No. 116-136.

³⁷ Barr, memorandum for Director of Bureau of Prisons, April 3, 2020.

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].”³⁸ As mentioned above, among the discretionary factors were an inmate’s vulnerability to COVID-19 and age, based on CDC guidelines, which included people with underlying medical conditions and, during our inspection, included people age 65 years and older and people of all ages with underlying medical conditions.³⁹ 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.⁴⁰ 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 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 3 memorandum continued to provide that pregnant inmates should be considered for placement in home confinement or an available community program. Finally, the BOP’s memorandum allowed a Warden to seek approval from the BOP Central Office to transfer to home confinement an inmate who did not meet the memorandum’s criteria if the Warden determined that transfer was necessary “due to [COVID-19] risk factors, or as a population management strategy during the pandemic.” We note, however, that the April 22 memorandum did not specifically address the instruction in the Attorney General’s April 3 memorandum that the BOP “immediately maximize

³⁸ The criteria in the BOP’s Elderly Offender Home Confinement Program generally mirror those found in § 603 of the FIRST STEP Act, 18 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.

³⁹ CDC guidelines 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 guidelines also identified people who are immunocompromised as being at risk. The guidelines 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 and older were more at risk for serious illness, it later modified this guidance to state that risk steadily increases with age. CDC, “[People at Increased Risk](#),” June 25, 2020 (updated March 15, 2021), www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-increased-risk.html (accessed March 18, 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 Problems](#)” (updated March 15, 2021), www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html (accessed March 18, 2021).

⁴⁰ The BOP’s April 22 memorandum rescinded its April 3 memorandum.

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.⁴¹ 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 MCC Chicago Inmates Potentially Eligible for Home Confinement Consideration Based on BOP Guidance and Available Authorities

The above-referenced policies and guidelines applied to sentenced inmates who qualified for home confinement placement, which as of April 12 accounted for 152 of the MCC Chicago inmate population.⁴² The vast majority of MCC Chicago’s inmates were awaiting trial or sentencing and therefore were not eligible for transfer to home confinement under the above-identified authorities. As a general matter, inmates awaiting trial or sentencing were under court-ordered bail restrictions that prevented them from being transferred to home confinement, which inmates could seek to modify by petitioning the court.

In order to independently assess the number of MCC Chicago inmates potentially eligible for transfer to home confinement applying the authorities described above and 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 sentenced MCC Chicago inmates in a minimum or low security facility as potentially eligible for home confinement, whereas the BOP considered certain additional public safety factors that may have limited the eligibility of some of those inmates for home confinement consideration. Separately, in estimating the number of inmates who were eligible for transfer to home confinement under

⁴¹ The BOP’s May 8 memorandum rescinded its April 22 memorandum.

⁴² Generally, sentenced inmates can be considered for home confinement placement. However, inmates serving a current sentence who have new charges filed against them, including those inmates undergoing a competency study or sentenced inmates who are being held for another agency (e.g., the U.S. Marshals Service or Immigration and Customs Enforcement), are not eligible for placement in home confinement.

18 U.S.C. § 3624(c)(2) prior to enactment of the CARES Act, the ODA included only those inmates in minimum or low security facilities with a remaining sentence of 6 months or less, although the statute applies to all inmates regardless of the security level of the institution where they are incarcerated but limits placement into home confinement to no more than 10 percent of the inmate's sentence.⁴³ Further, in determining the number of inmates who were at high risk of 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.⁴⁴

Because this use of home confinement authorities applied to sentenced inmates, only certain sentenced inmates were eligible for home confinement, as noted above. Based on the available data, the ODA estimated that, as of April 12, 38 of MCC Chicago's 152 sentenced inmates were potentially eligible for home confinement consideration placement and had met the criteria for consideration under existing authorities and BOP guidance.⁴⁵ By comparison, the BOP Central Office included six inmates in four rosters provided to MCC Chicago for home confinement consideration between April 3 and May 4.⁴⁶ The table below details the ODA's estimated number of MCC Chicago inmates eligible for transfer by available authority or BOP guidance factor.

⁴³ 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."

⁴⁴ Moreover, according to the BOP 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.

⁴⁵ 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.

⁴⁶ 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 MCC Chicago 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 MCC Chicago Inmates Potentially 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	16	0	1	21

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

MCC Chicago's Use of Home Confinement

To facilitate institutions' implementation of the Attorney General's directives, the BOP Central Office created and disseminated to institutions a series of rosters applying the factors identified in the criteria from the BOP memoranda. MCC Chicago received from the BOP Central Office four different rosters containing a total of six sentenced inmates potentially eligible for home confinement. The institution determined that four of the six sentenced inmates were ineligible for home confinement for the following reasons: two had not served at least 50 percent of their sentence; one had a history of violence; and the remaining inmate was already scheduled to be

released. MCC Chicago officials told us that by June 23, 2020, two inmates approved for home confinement under the CARES Act had been transferred to home confinement.⁴⁷

As of August 10, MCC Chicago reported that it had reviewed an additional 76 inmates to assess their eligibility for home confinement under the CARES Act authorities but determined that none of them were eligible for the following reasons:⁴⁸

- inmate had an above-minimum PATTERN Score (25);
- inmate had not served 50 percent of his or her sentence (24);
- inmate had a history of violence (10);
- inmate had a public safety factor of being a non-U.S. citizen or non-U.S. national (4);⁴⁹
- inmate had a high severity level incident report within the prior 12 months (3);⁵⁰
- inmate had a lodged detainer (3);⁵¹
- inmate had a sex offense conviction (1); and
- inmate had a combination of 2 or more elements noted above (6).

We found that MCC Chicago's use of home confinement in response to the COVID-19 pandemic, as a mechanism to reduce either the at-risk inmate population or the overall prison population and facilitate social distancing, was limited. The OIG recognizes and appreciates the importance of the public safety considerations associated with the potential release of BOP inmates and the challenges that BOP officials face in determining whether to transfer an inmate to home confinement. These are difficult, risk-based decisions. However, the BOP was 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

⁴⁷ MCC Chicago officials told us that one of the inmates tested positive for COVID-19 in May and had to wait to be cleared by MCC Chicago's Health Services Department for the June release date.

⁴⁸ MCC Chicago records revealed that four of the six sentenced inmates who were ineligible for home confinement or RRC placement were included in the total number of inmates reviewed at the institution.

⁴⁹ According to MCC Chicago, an inmate's alien status is a public safety factor that disqualifies him or her from eligibility for home confinement or RRC placement.

⁵⁰ MCC Chicago officials told us that three inmates were disqualified from home confinement consideration because they committed institutional misconduct within the prior 12 months. Specifically, two of these inmates abused their telephone privileges to circumvent MCC Chicago officials monitoring the frequency of telephone use, content of the calls, and the number called in furtherance of criminal activity. The remaining inmate was involved in a hostile physical encounter with a staff member.

⁵¹ A lodged detainer is a request filed by a law enforcement agency with the institution in which a prisoner is incarcerated, asking the institution either to hold the prisoner for the agency or to notify the agency when release of the prisoner is imminent.

“where COVID-19 is materially affecting operations.” MCC Chicago had a significant outbreak of COVID-19, during which, at one point, 18 percent of its inmates had contracted COVID-19. Yet, as of June 23 the institution had approved only two inmates for transfer to home confinement under CARES Act authorities. Further, 7 of the 16 inmates who as of April 12 were identified by the OIG’s ODA as potentially eligible for home confinement and had 6 months or less remaining on their sentence were still at MCC Chicago as of June 14. Under the law, upon completion of an inmate’s sentence, the BOP is obligated to release the inmate from prison. Therefore, nearly all of these 16 inmates would have been eligible for immediate home confinement under BOP guidance and existing law.

Compassionate Release

Another means by which inmates can be moved from prison to home is through a reduction to their sentence pursuant to the compassionate release statute, 18 U.S.C. § 3582(c)(1)(A)(i).⁵² Under the statute, either the BOP or an inmate may request that a federal judge reduce the inmate’s sentence for “extraordinary and compelling reasons,” such as age, terminal illness, other physical or medical conditions, or family circumstances. An inmate must first submit a compassionate release request to the BOP; but the inmate is permitted to file a motion directly with the court if the BOP denies the petition, or 30 days after the inmate files the petition with the BOP, whichever occurs first.

We were told that the BOP prioritized using the home confinement authorities described above to respond to the COVID-19 pandemic because those authorities allow the BOP to approve inmates for release whereas compassionate release requires the approval of a federal judge. Officials in the BOP’s Office of General Counsel told us that the COVID-19 pandemic has not changed the BOP’s eligibility requirements for compassionate release. Additionally, the Department has taken the position, in legal guidance when responding to compassionate release motions filed by inmates with courts, that the risk of COVID-19 by itself is not an “extraordinary and compelling” circumstance that should result in the grant of a compassionate release request.⁵³ Thus, COVID-19 would not cause the BOP to support a petition for compassionate release that it would not have supported otherwise. MCC Chicago officials told us that as of October 30 they had

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

⁵³ 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. Apr. 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. Jul. 28, 2020).

received 10 requests for compassionate release and, of these requests, one was pending review.⁵⁴ As of May 4, while the inmate's request was pending review by the institution, the court granted the request for compassionate release. However, this inmate was released to the custody of U.S. Immigration and Customs Enforcement due to immigration status. Separately, as of July 21, the courts granted one MCC Chicago inmate compassionate release after the inmate's request was denied by the institution.

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.

⁵⁴ See BOP Program Statement 5050.50. The OIG's 2013 report also examined whether the compassionate release program provided cost savings or other benefits to the BOP. The report found that the program's poor management and inconsistent implementation likely resulted in eligible inmates not being considered for release and in terminally ill inmates dying before their petitions were decided. DOJ OIG, *Compassionate Release Program*.

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. Our inspection of MCC Chicago encompassed an OIG survey issued to all BOP staff, as well as data analysis, telephone interviews with institution staff, and policy and document review.

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. Institution staff represented 9,932 of the 10,735 responses (93 percent).

We conducted a group interview with the MCC Chicago Warden, Associate Warden for Programs, Associate Warden for Operations, Senior Consolidated Legal Center Attorney, and Health Services Administrator. We conducted one-on-one telephone interviews with the Clinical Director, Unit Manager, and Lieutenant. We also conducted a group telephone interview with attorneys from the Federal Defenders Program in Chicago and reviewed 11 complaints from MCC Chicago inmates, staff, and the public that were submitted through our hotline between March 31 and July 15. Each complaint covered multiple topics and concerns, including quarantine, sanitation, PPE, social distancing, testing, access to legal counsel, and compassionate release. The inspection team did not substantiate or assess the validity of the complaints received through the OIG Hotline.

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 capacity; 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.

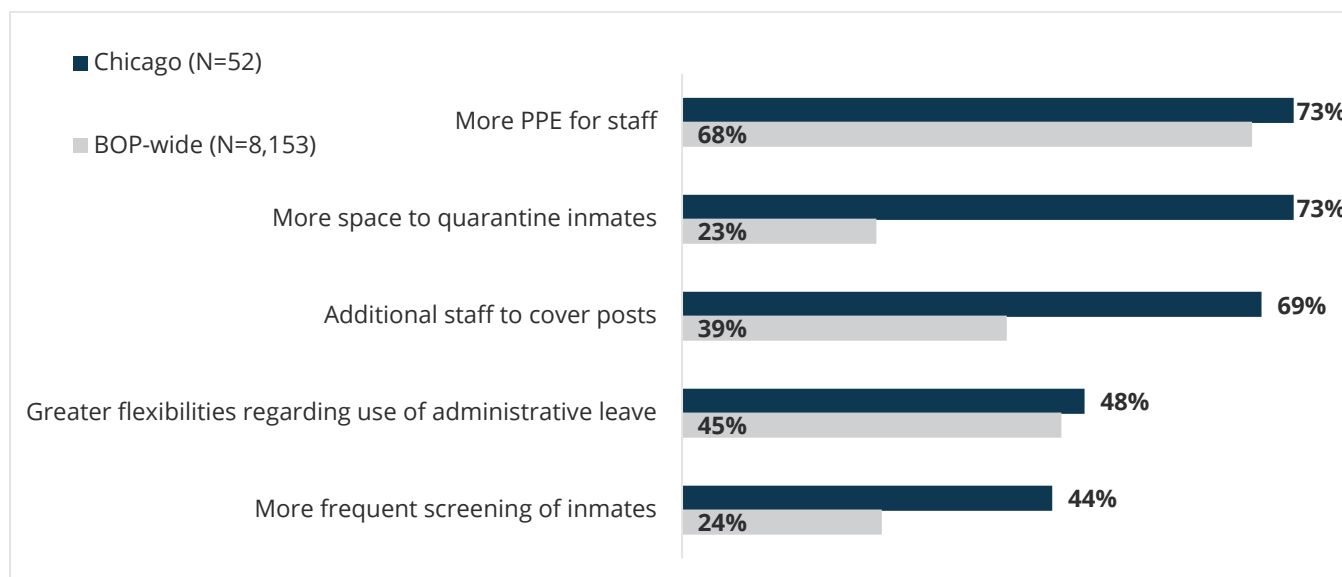
We reviewed CDC guidelines and BOP-wide and MCC Chicago guidance documents, protocols, and procedures, as well as the MCC Chicago Activity Log, which documents the institution's actions related to training, hygiene and sanitation, crisis support information, media statements, staff COVID-19 status, PPE guidance, supply and PPE inventory, and communications to inmates. The log was created on March 13, 2020, and MCC Chicago provided the OIG with the log covering through April 6, 2020.

The photographs included in the report were taken by MCC Chicago officials at the initiation of the institution's self-directed timeline and provided to the OIG during the inspection.

OIG COVID-19 SURVEY RESULTS FOR MCC CHICAGO

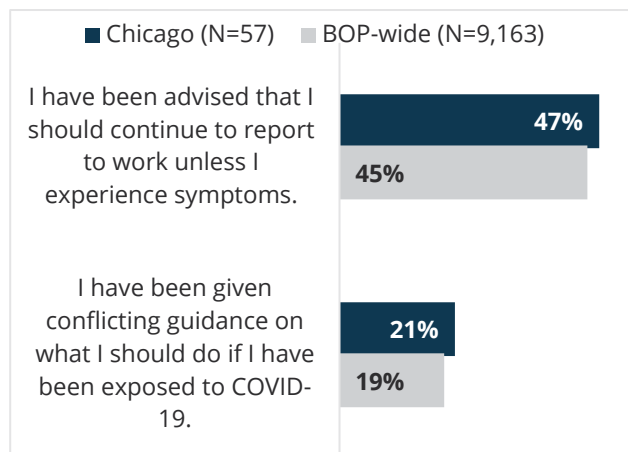
Open Period	Invitations Sent to BOP Institution Staff	Overall Responses ⁵⁵	Chicago Responses
April 21–29, 2020	38,651	10,735 (of 38,651)	62 (of 199)
Chicago Responses: Departments–60 (of 62 responses): Correctional Services: 42% Health Services: 13% Correctional Programs: 7% All Other Departments: 38%			

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



⁵⁵ 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.

	Chicago Rating	BOP-wide Rating
The guidance was timely.	3.09	3.18
The guidance was clear.	2.93	2.97
The guidance was comprehensive.	2.92	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)

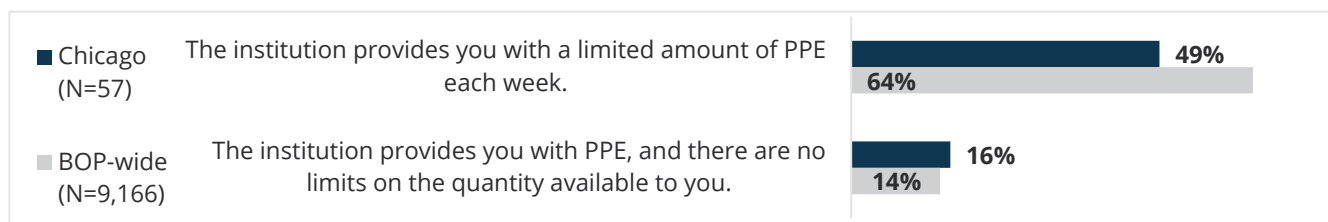
Respondents rated each item on a 5-point scale, with "strongly disagree" worth 1 point and "strongly agree" worth 5 points. "Don't know" responses are excluded.

	Chicago Rating (N=55)	BOP-wide Rating (N=8,978)
Three Practices Rated Highest:		
Staff are provided a sufficient supply of hand sanitizer.	4.27	3.18
Toilets, sinks, and showers are regularly cleaned and sanitized.	4.10	3.95
Staff are given sufficient information about COVID-19 symptoms and preventive actions (hand washing, wearing masks).	4.05	4.09
Three Practices Rated Lowest:		
Inmates at high risk for contracting COVID-19 are afforded adequate protections (e.g., accommodations for dining, programming, and recreation).	3.15	3.51
Inmates have ample opportunity to shower at least three times a week.	2.96	4.27
Staff are provided a sufficient supply of masks.	2.89	3.13

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)

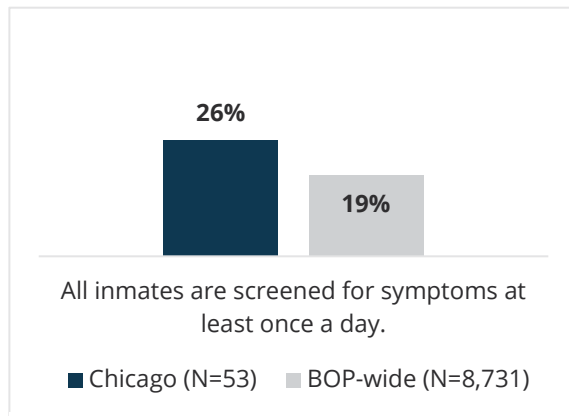
	Chicago Percent of Respondents (N=51)	BOP-wide Percent of Respondents (N=8,435)
The amount of time that inmates are required to remain in their housing units each day has been increased.	59%	59%
The number of inmates participating in a program or activity at one time has been reduced.	37%	42%
Daily schedules 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).	31%	44%
Alternative activities for in-person programs have been introduced.	22%	20%
Post orders or other instructions about conducting rounds have been revised to increase the amount of space between staff and inmates.	16%	7%

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)



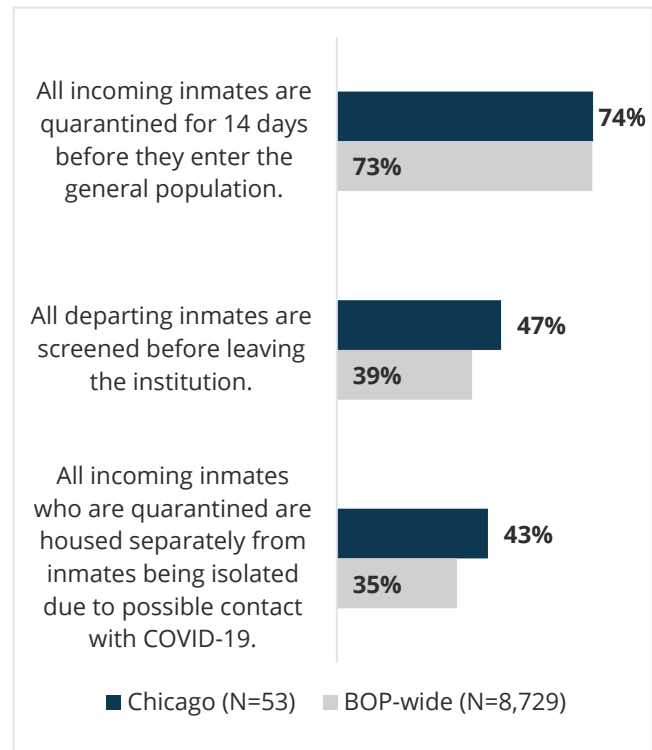
Note: Eighteen percent of Chicago respondents answered "Other" and raised concerns about the range of PPE products available or their fit.

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?⁵⁶ (Top Response)



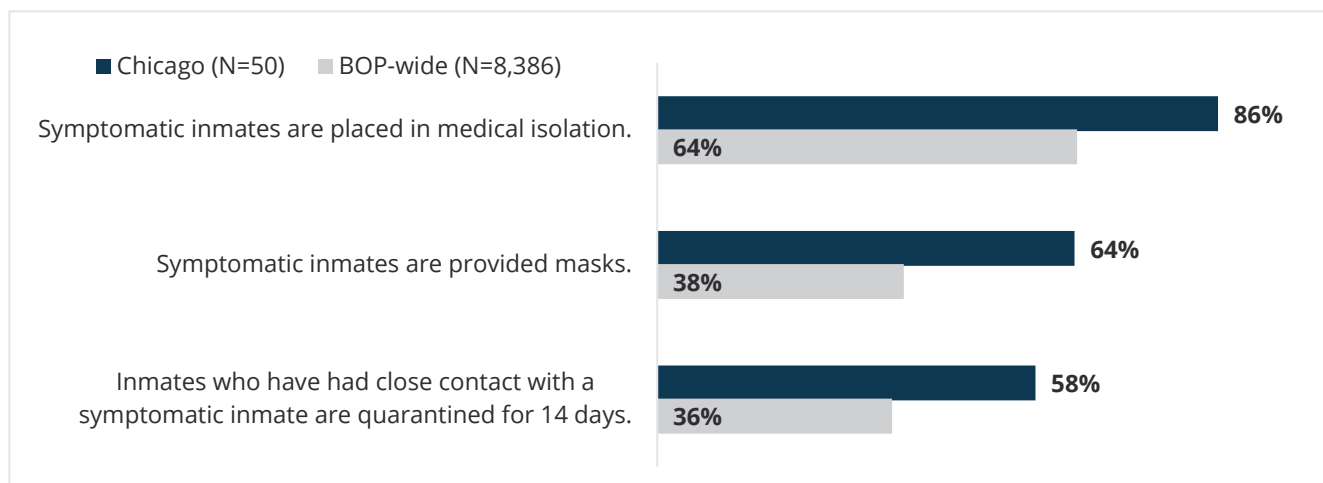
Note: Thirty-four percent of respondents chose "I don't know." The remaining chose categories amounting to less than 11 percent each.

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 3 Responses)

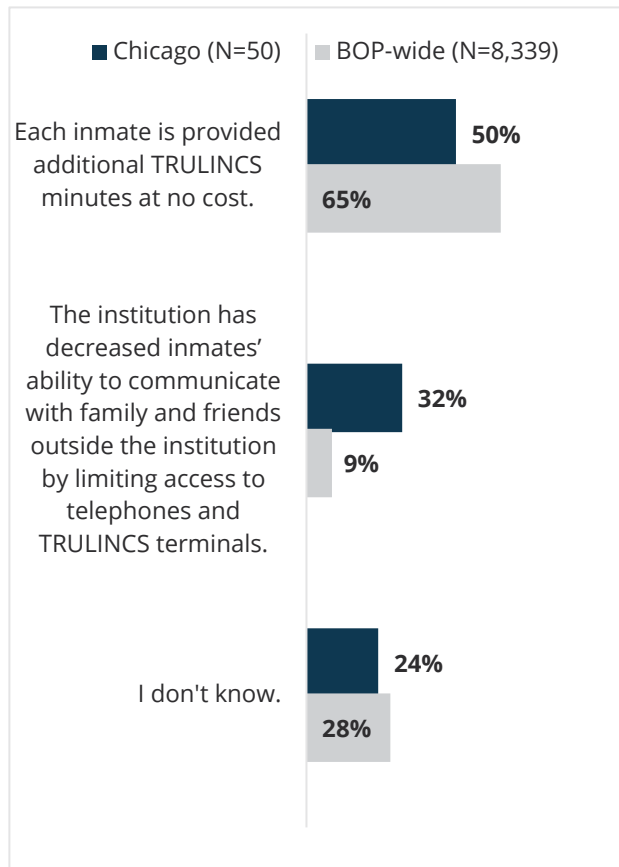


⁵⁶ Although BOP policy does not require the screening of every inmate, the BOP's Phase Five Action Plan, issued on March 31, 2020, emphasized the importance of practices for identifying symptomatic inmates as early as possible. In addition to the required intake screening and exit screening, the action 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.

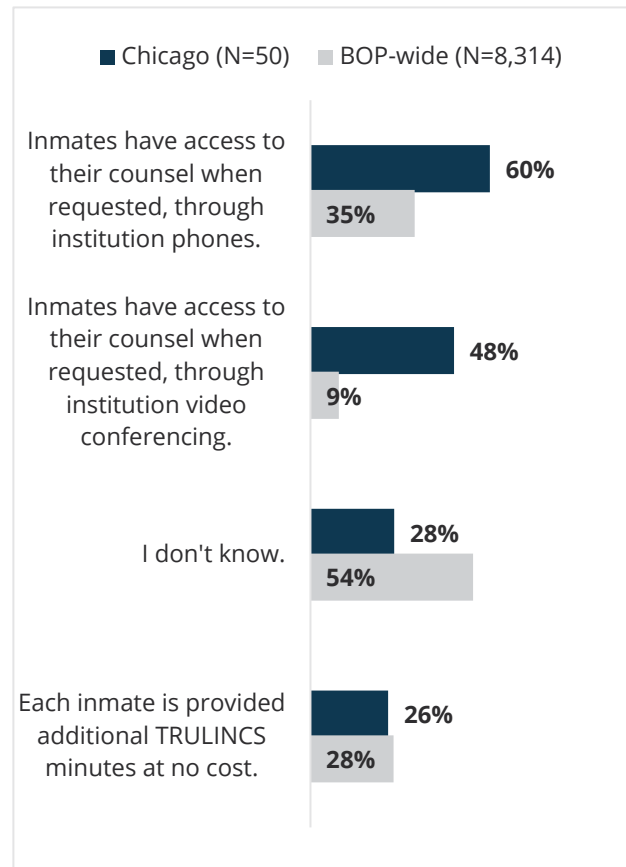
Please identify which, if any, of the following measures your institution is currently employing to manage inmates with COVID-19 symptoms. (Top 3 Responses)



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.⁵⁷ (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.⁵⁸ (Top 4 Responses)



⁵⁷ 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.

⁵⁸ 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	<p>The BOP Issued Action Plan Phase One:</p> <ul style="list-style-type: none"> 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	<p>The BOP Issued Updated Guidance for COVID-19 to BOP Medical Staff:</p> <ul style="list-style-type: none"> 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	<p>The BOP Issued Action Plan Phase Two:</p> <ul style="list-style-type: none"> 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	<p>The BOP Issued an Update to Action Plan Phase Two:</p> <ul style="list-style-type: none"> Stated that additional accommodations could be made for staff in high risk categories
		<p>The BOP Issued Action Plan Phase Three:</p> <ul style="list-style-type: none"> 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	<p>The BOP Issued Action Plan Phase Four:</p> <ul style="list-style-type: none"> 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	<p>The BOP Issued an Update to Action Plan Phase Four:</p> <ul style="list-style-type: none"> Required inmates transferring within the BOP, in addition to new inmates, to be screened upon arrival
	31	<p>The BOP Issued Action Plan Phase Five:</p> <ul style="list-style-type: none"> 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	<p>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.</p>
		<p>The CDC issued new guidance recommending the use of cloth face coverings in addition to social distancing.</p>
	6	<p>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.</p>
	7	<p>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.</p>
	13	<p>The BOP Issued Action Plan Phase Six:</p> <ul style="list-style-type: none"> Extended guidance issued in Phase Five through May 18
	24	<p>The BOP expanded COVID-19 testing to include asymptomatic inmates following the acquisition of rapid ribonucleic acid testing equipment at select BOP facilities.</p>
May	18	<p>The BOP Issued Action Plan Phase Seven:</p> <ul style="list-style-type: none"> Extended guidance issued in Phase Six through June 30

June		
July	30	The BOP Issued Action Plan Phase Eight: <ul style="list-style-type: none"> Extended guidance issued in Phase Seven through July 31 Established new procedures for in-person court trips and inmate movement between BOP institutions Required COVID-19 testing of all incoming inmates
August	5	The BOP Issued Action Plan Phase Nine: <ul style="list-style-type: none"> Extended guidance issued in Phase Eight through August 31 Provided guidance for virtual and in-person legal visits Instructed the resumption of inmate programming, including residential programs and Evidence-based Recidivism Reduction Programs and Productive Activities, with social distancing modifications Instructed the resumption of outdoor recreation time, not including group sports or use of gym equipment Instructed Wardens to develop safety plans to restore UNICOR operations to 80 percent capacity by September 1 and to 100 percent by October 1
September	31	The BOP Issued Modification of Action Plan Phase Nine: <ul style="list-style-type: none"> Extended guidance issued in Phase Nine through September 30 Provided guidance for safely resuming social visits
October	2	The BOP Issued Extension to Action Plan Phase Nine: <ul style="list-style-type: none"> Extended guidance issued in Phase Nine through October 31
November	1	The BOP Issued Extension to Action Plan Phase Nine: <ul style="list-style-type: none"> Extended guidance issued in Phase Nine and the Modification to Phase Nine until further notice

Source: OIG analysis of documents provided by the BOP

THE BOP'S RESPONSE TO THE DRAFT REPORT




U.S. Department of Justice
Federal Bureau of Prisons
Central Office

Office of the Deputy Director

Washington, DC 20534

March 10, 2021

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

FROM:  Gene Beasley, Deputy Director
Bureau of Prisons

SUBJECT: Response to the Office of Inspector General's (OIG)
Draft Audit Report: Remote Inspection of
Metropolitan Correctional Center Chicago
(A-2020-006-J)

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 v, 1st bullet under the heading "Summary of Inspection Results", "Of MCC Chicago staff who responded to our survey, 69 percent (36 of 52 respondents) identified additional staff to cover posts as an immediate need, compared to 39 percent across BOP-managed institutions; 73 percent (38 of 52 respondents) reported needing more space to quarantine inmates, compared to 23 percent across BOP-managed institutions; and 44 percent (23 of 52 respondents) reported wanting more frequent screenings of inmates throughout the day, compared to 24 percent across BOP-managed institutions."

BOP's Response: At the onset of the COVID-19 pandemic, MCC Chicago utilized temporary duty (TDY) staff from institutions within the region to assist in the Financial Management, Correctional Services, and Health Services Departments. In addition, custodial shifts changed from 8-hour shifts to 12-hour shifts to ensure adequate coverage was maintained.

MCC Chicago is a 26-story, 180,000 square foot administrative facility. The shortage of unencumbered space throughout the facility limits the available space needed to quarantine and isolate inmates. In anticipation of increasing COVID-19 related cases, MCC Chicago utilized several housing units to quarantine and isolate inmates.

Eligible inmates were also identified for intra-regional transfers to decrease the overall inmate population.

MCC Chicago complied with all issued CDC and BOP COVID-19 guidelines, COVID-19 Screening and Testing, Inmate Isolation and Quarantine guidance and Infection Prevention and Control Measures as it relates to the daily screening of symptoms of inmates.

Draft Report: Page v, 3rd bullet under the heading "Summary of Inspection Results", "A lack of mass, rapid testing creating significant challenges for MCC Chicago in controlling the early spread of COVID-19 at the institution, particularly in the two open dormitory units. Several inmates in those two units became symptomatic for COVID-19 in April 2020 and were medically isolated, but the absence of mass testing during this time prevented MCC Chicago officials from identifying and medically isolating COVID-19 positive asymptomatic inmates in the same units. When mass testing later became available, a significant number of asymptomatic inmates in those two units tested positive for COVID-19."

BOP's Response: MCC Chicago adhered to the required equipment and resource(s) allocation guidance as determined by the BOP's Health Services Division. Upon receipt of mandated applicable supplies, the institution began mass testing. As a result of more testing, more positive cases were identified and isolated accordingly.

Draft Report: Page v, 5th bullet under the heading "Summary of Inspection Results", "Initially, the institution received only 24 rapid test kits, which delayed its ability to begin testing asymptomatic inmates for 8 days, until it received an additional 312 kits. This delay in testing prevented timely separation of infected inmates, thereby increasing the likelihood of transmission."

BOP's Response: MCC Chicago was one of the first institutions to receive the Abbott Rapid ID NOW COVID-19 test machines on April 20, 2020, which came with 24 test kits. Test machines were distributed according to the agency's directives; however, through an existing Health Services contract with a local lab and hospital, 32 tests were administered and processed until the receipt of the additional 312 kits from the agency.

Draft Report: Page v, 6th bullet under the heading "Summary of Inspection Results", "MCC Chicago's use of home confinement in response to the spread of COVID-19, as a mechanism to reduce either the at-risk inmate population or the overall prison population and facilitate social distancing, was limited. As of August, MCC Chicago transferred only two inmates to home confinement under Coronavirus Aid, Relief, and Economic Security Act (CARES Act) authorities."

BOP's Response: MCC Chicago followed the BOP's home confinement guidance and reviewed all applicable inmates in accordance with the agency's mandatory screening criteria. During the remote inspection period, MCC Chicago received four rosters on which six inmates were identified as eligible to be reviewed for potential home confinement placement. Of those inmates, three did not meet the criteria, one inmate released within weeks of receipt of the roster, and two inmates were ultimately provided Residential Reentry Center (halfway house) placements. While this number may be significantly smaller in comparison to other inspected institutions, MCC Chicago houses a large number of pretrial individuals and inmates who are awaiting sentencing and designation. Both of these groups are ineligible for home confinement consideration.