



Department of Justice

STATEMENT OF
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DIRECTOR
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BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

FOR A HEARING ON
“OVERSIGHT OF THE FEDERAL BUREAU OF PRISONS”

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Director, Federal Bureau of Prisons
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Good morning Chairman Durbin, Ranking Member Grassley, and Members of the Committee. You have asked me to come before you today to discuss the Bureau of Prisons' (Bureau's) COVID-19 pandemic response, mission, and operations. It is a privilege to speak today on behalf of the Bureau's over 37,000 staff – corrections professionals who support the agency's critical law enforcement mission. I am committed to ensuring that Bureau staff are guided by our core values of respect, integrity, courage, and correctional excellence.

I was honored to be selected to lead the Bureau and to work alongside the finest corrections professionals in the world. I have spent 29 years in the Bureau following my service in the military, starting as a Correctional Officer, moving up through the ranks of Correctional Services to become a Warden, Regional Director, Assistant Director, and now Director. I was appointed to serve as the Bureau's eleventh Director on February 25, 2020, approximately four weeks before the Bureau's first inmate COVID-19 positive case.

As an agency, and throughout the ranks of its dedicated staff, the Bureau continuously works to ensure the safety of staff, inmates, and surrounding communities; improve the efficiency and effectiveness of our operations; and set new standards in the field of corrections. As we accomplish these goals, we are specifically focused on several priority areas:

- Increasing staffing at our correctional institutions nationwide;
- Implementing and maximizing the use of First Step Act (FSA) authorities to incentivize participation in programming designed to reduce recidivism;
- Strengthening, expanding, and assessing the effectiveness of inmate programs and activities; and
- Responding to and mitigating the risk of COVID-19 infection among inmates, staff, and detainees.

It was a little over a year ago when the Bureau of Prisons took swift and effective action in response to COVID-19, the newly declared global pandemic. Initial challenges presented by the novel coronavirus were addressed by our effective mitigation efforts, ongoing lessons learned, and, more recently, deployment of a vaccination strategy developed in partnership with the Federal Government's COVID Vaccine and Therapeutics Operation, we were able to flatten the curve at hotspots and in institutions nationwide. Since March of last year, we have transferred approximately 24,000 inmates to home confinement, with almost 7,000 transferred directly under the CARES Act, a 250% increase in home confinement placements since the beginning of the pandemic. While the year was marked by challenge and loss, working closely with the Centers for Disease Control and Prevention (CDC) contributed to the extraordinary steps taken to help keep staff, inmates, and our communities safe. Our aggressive vaccination strategy put the Bureau on firm footing to actively and carefully plan for normalizing operations. At this point, all Bureau staff have been offered one of the COVID-19 vaccines, and by April 19 all inmates will be eligible for a vaccine; by mid-May, we anticipate that all inmates will have been provided the opportunity to be vaccinated.

As we have throughout the pandemic, we will continue to engage all operational components to incorporate lessons learned, and despite the modifications undertaken, we continue to find innovative

ways to continue to provide inmate programming to assist them with reentry. I also want to thank each of you for your continued support in providing resources needed to help us manage the pandemic.

COVID-19 Pandemic Planning

Pandemic preparedness is an important aspect of normal operational readiness and planning in the Bureau. The Bureau's management of COVID-19 began with the activation of its existing pandemic plan based on a well-established history of managing and responding to various types of communicable disease outbreaks. We used our pandemic plan as a springboard for our COVID response planning beginning in January of 2020, when our medical leadership began consulting with relevant experts, including the CDC, the U.S. Public Health Service, the Office of Personnel Management (OPM), and the Office of the Vice President. The Bureau issued guidance on COVID-19 to all Clinical Directors and other relevant Health Services staff, six weeks ahead of the declaration of the COVID-19 pandemic and implemented modified operations to mitigate potential transmission of the virus.

The Bureau, drawing on its history of collaboration with the CDC regarding correctional medicine, engaged with the CDC to assist in developing guidance specific to the unique nature of correctional environments. The CDC then published their *Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities* on March 23, 2020; the subsequent update on July 14, 2020, was also issued with Bureau input. We have continued this strong collaboration throughout the pandemic and have invited the CDC and public health officials into our facilities to evaluate our work. They have praised our planning and implementation in the wake of a vexing virus.

In an effort to be transparent about our plans, operations, and statistics, the Bureau has published one of the most detailed and thorough COVID pandemic resource areas across all of government on our public website at www.bop.gov/coronavirus. As a further commitment to transparency, the Bureau updates the statistics on this site daily.

Personal Protective Equipment and Other Protective Supplies (PPE)

The Bureau has a longstanding practice of maintaining a supply of Personal Protective Equipment (PPE) and other emergency-related equipment. With the onset of the pandemic, the Bureau had approximately 34 million pieces of PPE on hand. To maintain an adequate supply, we proactively pursued available markets and use of emergency purchasing authorities to acquire and maintain a robust stockpile of PPE. Each institution maintains a detailed inventory of PPE which is also monitored by our Emergency Operations Center in headquarters, to include N95 respirators, surgical masks, cloth face coverings, goggles/face shields, gloves, gowns, hand sanitizer, and cleaning supplies. In addition, each of our six regions maintains a regional stockpile, where items can be shipped in one day to an institution that needs additional PPE.

Initial CDC guidance indicated that face coverings were not recommended. As the science evolved as to how the disease is transmitted, the CDC changed their guidance to recommend face coverings. Within 24 hours of that change, we had provided face coverings to most of our staff and inmates. Within 72 hours, all of our inmates and staff were provided face coverings. To further augment our supplies, 15 Federal Prison Industries (FPI) factories were converted to PPE production for cloth face coverings, gowns, face shields, and hand sanitizer, allowing us to be more self-sustaining

in production areas rather than burdening the public supply chain. Throughout the pandemic, all institutions have had ample PPE, cleaning products, disinfectant, and soap available.

Institution Operations

Inmate Movement

On March 13, 2020, the Bureau implemented a decisive and comprehensive action plan to protect the health of the inmates in our custody, the staff, and the public, including significantly limiting movement in and out of our federal prisons. On average, during the peak of the pandemic, the Bureau maintained a 98% decrease in movement compared to the prior year. There was some limited inmate movement required, including for forensic studies, writs, Interstate Agreements on Detainers, necessary medical and mental health treatment, and transfer to Residential Reentry Centers (RRCs) or home confinement. Some new admissions to the Bureau from the United States Marshals Service (USMS) continued, as legally required. Individuals in the community continue to commit crimes, arrests continue to be made, federal courts continue to adjudicate and sentence offenders, and thus detainees and sentenced inmates continue to enter our system. We are obligated to take these individuals from the courts and cannot control whom the courts place into our system. Working closely with the Department of Justice (Department) and the USMS, we attempted to slow the entrance of some of these new admissions until additional testing capability was acquired.

Screening, Quarantine, and Visitation

With the March 13, 2020 guidance, we implemented enhanced screening of staff and inmates and social distancing procedures to the greatest extent appropriate within the prison environment. Prisons are not designed for social distancing. Nonetheless, we modified our operations to minimize co-mingling and group gatherings. We suspended social visiting, tours, and the admission of volunteers to decrease the flow of individuals from the community into the prison, particularly at the height of the pandemic. Understanding the importance of visitation to the inmate population, we significantly increased telephone minutes for the inmates from 300 to 500 minutes on March 13, 2020, and later, on April 8, 2020, in accordance with the CARES Act, we made telephone calls free for the inmate population. We also made video-visiting, which we have available at our female facilities, free of charge. The impact of this program is clear—telephone minute usage increased by nearly 50% the next day. This program remains in place today.

On March 26, 2020, we implemented enhanced daily monitoring and established quarantine and medical isolation procedures for inmates. Quarantine units were established for new intakes to an institution, those identified as post-exposure to COVID-19, and for all inmates prior to transfer or release from an institution. On March 31, 2020, enhanced modified operations were introduced to further limit movement within the institution such as inmates eating meals in their rooms or cells, or in small groups within housing units, and limiting programmatic offerings to individualized or small-group activities. Despite movement limitations, all critical services have continued. Chaplains and psychologists and medical staff visit inmates in their housing areas when inmates cannot leave that space. On April 7, 2020, to maintain the safety of inmates leaving our facilities and the public, we instituted requirements for all inmates due to be released from the Bureau or transferred to a Residential Reentry Center (RRC) or Home Confinement to be placed on 14-day quarantine prior to their anticipated release or transfer.

Testing

As in communities across the country, Bureau testing protocols have evolved throughout the course of the COVID-19 pandemic based on testing resource availability and guidance provided by the CDC. By June 2020, the Bureau had deployed 250 Abbott ID NOW testing systems, and adequate testing supplies for their use were procured. Protocols were developed so that institutions can test all new inmate intakes to an institution; all inmates with symptoms of COVID-19; inmates suspected of exposure to a COVID case; and any inmate prior to release or transfer from an institution.

For testing of staff, institutions worked with their community health centers and public health entities to locate community testing resources. For those staff unable to locate or utilize community resources, we contracted with a national lab service to provide staff testing. For many months, we have had abundant testing supplies and with that availability, we have been able to institute a full test-in/test-out and 14-day quarantine protocol for any necessary inmate movement. Corresponding with the increase in testing supplies, and recognizing that our Minimum and Low security facilities were more adversely affected by COVID-19 due in large part to their open dormitory style housing units, the Bureau temporarily reduced the target population levels at these types of facilities to allow for more social distancing.

Home Confinement

The Bureau also employed a critical tool in the wake of the pandemic by efficiently screening the inmate population for inmates appropriate for transfer to a Residential Reentry Center (RRC) or Home Confinement. On March 26, 2020 and April 3, 2020, Attorney General Barr issued memoranda to the Bureau directing us to maximize the use of Home Confinement for vulnerable inmates, particularly at institutions that were markedly affected by COVID-19. The CARES Act, signed into law on March 27, 2020, further expanded our ability to place inmates on Home Confinement by lifting the statutory limitations contained in Title 18 U.S.C. § 3624(c)(2) during the course of the pandemic. I am pleased to report that since March 26, 2020, the Bureau has transferred nearly 24,000 inmates to Home Confinement, with almost 7,000 transferred directly pursuant to the authority granted by the CARES Act. Review of medically vulnerable inmates for potential placement in home confinement remains ongoing and will continue for the duration of the pandemic.

While we are always dedicated to the protection of our inmates' health and safety, we must also consider public safety and the risk that an inmate would pose in the community when considering transfer to home confinement. Similarly, we cannot transfer inmates who do not have safe housing for themselves or housing with appropriate safeguards to home confinement. Thus, public safety factors must be considered, and these decisions are made using sound correctional judgement and our many years of experience overseeing such transfers.

Vaccination

As vaccines became available, in close coordination with the CDC and the Federal Government's COVID Vaccine and Therapeutics Operation (formerly known as Operation Warp Speed), the Bureau pursued an aggressive strategy to administer the vaccine in all institutions. On January 28, 2021, the Bureau was presented a certificate of achievement recognizing the agency for leading all jurisdictions and Federal entities in its rate of vaccination utilization, having the highest percentage of vaccines administered per doses allocated across all of the United States. At that time, COVID-19 vaccines had been delivered to staff and inmates at more than half of our correctional facilities across the country. To date, all Bureau staff have been offered the vaccine and by mid-May,

all inmates will have been offered the opportunity to be vaccinated.

The Bureau is committed to making the vaccine available to all staff and inmates who wish to receive it as quickly as possible; all personnel are eligible to receive a vaccination and all inmates will be eligible as of April 19. Recently, we achieved a milestone in the distribution and administration of COVID-19 vaccines, exceeding 100,000 total doses administered to staff and inmates. Increased allocations of the vaccine to the Bureau have allowed us to vaccinate staff and inmates much more quickly than initial estimates had suggested.

In addition to vaccinations within the agency, the Bureau has also assisted with administering COVID-19 vaccinations to other DOJ agency personnel. We worked with DOJ leadership in planning two vaccination clinics, one in Miami and one in New York, for vaccination of DOJ personnel. Vaccinated personnel included members of the DEA, FBI, and other law enforcement components of the DOJ. For administration of the Janssen vaccine, a small clinical team was sent for one week to each site. Through these clinics, more than 1,100 law enforcement personnel were vaccinated.

Current Status

The Bureau manages the health and treatment of approximately 140,000 inmates in Bureau facilities and RRCs. As of April 6, 2021, the Bureau had 406 positive COVID-19 inmate cases and 47,227 inmates recovered in our federal prisons, while there were 51 positive cases in our RRCs and 55 positive cases in home confinement. With respect to staff, there were 1,243 positive cases and 5,532 recovered cases. Sadly, there have been 4 staff deaths and 230 inmate deaths from COVID-19. The vast majority of our inmates who test positive are asymptomatic or only mildly ill. The number of hospitalized inmates – those who are significantly ill – is much smaller. The number of hospitalized inmates is on a significant downward trajectory, suggesting that our efforts to minimize new cases are becoming more effective.

Moving Forward

COVID-19 numbers have dropped significantly across nearly all institutions even as inmate movement has resumed, and despite communities re-opening. We are taking steps to normalize operations in stages as safety and security permit, including inmate movement, food service, and ramping up programming in all facilities. All of these efforts will have a positive impact on staff, inmates, and Bureau operations. And while it has been an extraordinary year with many challenges, we continue to look forward and advance our priorities.

Staffing

A key priority moving forward is fully staffing our institutions. We have launched a new hiring initiative with a goal to fill 100% of our authorized positions at all of our institutions nationwide. We are also assessing our staffing guidelines and updating the way we calculate bed space and institution capacity to optimize efficient and effective operations at our facilities across the agency. Our review will modernize our staffing plans to maximize use of authorized positions with flexibility based on security level, number of staff, physical layout of facilities, and care level.

In the last calendar year, we have hired over 3,800 staff and are continuing a full-court press for staffing up. In the past 8 weeks, we have hired almost 500 new staff. We are utilizing several recruitment incentives, including one for our own staff, to help bring great candidates on board. It is impressive to see our staff step up and be a part of this important effort. In addition, a 5% retention

incentive was offered to all staff eligible to retire in 2019 to encourage experienced staff to remain with the agency past their eligibility date to help maintain our staffing levels.

To attempt to address our medical staffing challenges, the Bureau recently expanded the coverage of its existing Title 38 special pay authority to include not only psychiatrists, but all employed physicians and dentists. Title 38 pay authority permits the payment of salaries that significantly exceed the Title 5 pay cap and permits us to compete with other federal agencies with medical personnel, as well as private sector salaries in certain locations.

The Bureau's hiring initiative, incentives, and innovative approaches for monitoring institution bed capacity will provide clarity and transparency and have a significant impact on Bureau planning and staffing efforts moving forward.

First Step Act

Despite the pandemic, the Bureau is on track to meet the requirements of the First Step Act (FSA). While the global pandemic certainly impacted the delivery of FSA programs in institutions, critical services such as mental health care, crisis intervention, and religious services have continued unabated throughout the pandemic. As we have learned more about virus mitigation strategies and begun the process of vaccinating staff and inmates, we have been able to resume much of our programming. As of April 1, 2021, over 49,000 inmates were enrolled in Evidence-Based Recidivism Reduction (EBRR) Programs and Productive Activities (PA). With respect to inmate eligibility for FSA Time Credit, of approximately 124,000 inmates reviewed for eligibility, approximately 50% are eligible.

The Bureau offers approximately 80 EBRR and PA programs to meet the individual needs of each inmate. The most robust of our programs are Cognitive Behavioral Therapy (CBT) interventions addressing mental health and substance use disorders, anger management, and criminal cognitions. Literacy programs range from basic adult education through high school equivalency to post-secondary college courses. There are also approximately 200 Career Technical Education programs widely available, and reentry-focused programs, such as parenting, offered at all sites. Because the agency has such a large menu of programs covering a variety of need areas, the Bureau has put forth considerable effort to ensure adequate capacity in our existing programs, and has been able to give access to more inmates by hiring staff into the positions authorized by Congress under FSA.

We have also worked toward program fidelity, standardizing service delivery so that every program comports with the evidence that supports its use. We identified gaps in services for women and were able to enhance our offerings. We now offer more than 20 programs designed specifically for women in addition to our gender-neutral offerings, and we created new institution-based positions to deliver these important programs. We also offer specialized programming for veterans or persons living with disabilities. Other innovations are underway to enhance planning and programs such as Life Skills Laboratories, to teach basic skills to inmates with the greatest needs; providing STEM career technical education for female offenders; and modernizing the inmate education platform to include the use of tablets to make more programs accessible. We are working to fund partnerships with external research organizations so that we can show the valuable effect our programs have on the lives of inmates and their communities.

Staffing is a key component to successful implementation of the FSA. We have the ability to develop and implement curriculum, but require staff to deliver it. Staff positions allotted under the FSA have already been utilized to hire credentialed human service professionals and expand capacity

in women's programs, drug treatment, and vocational training. We are committed to maximizing the use of FSA funds for position allotments to ensure all interested and eligible inmates are able to benefit from our many programs.

Strengthening Management of Staff and Resources

Finally, a key priority area that we are squarely focused on is our work with the Government Accountability Office (GAO) related to its audits of agency operations. In an effort to accelerate this work, I established a cross-agency Task Force to work towards resolving all open GAO recommendations in a timely manner. The Task Force's mission also includes assessing current business practices that have caused the Bureau to experience challenges in responding to and preparing for external audits and reviews; making suggestions to improve our process for responding to external audits; and making recommendations to leadership regarding strategic management approaches.

We are also engaging external organizations to assist us in assessing our operations across a range of areas to further these goals. The Bureau is seeking external resources to, among other tasks, assist in developing and implementing a reliable method for calculating staffing levels and assist with analyzing data to help identify and address the causes and potential impacts of staffing challenges on staff and inmates. We are also pursuing outside organizations to assist in aggregating and analyzing data to assess FSA implementation goals. We will be looking at developing a stronger data analytics effort, and we will intensify monitoring and evaluation of programs and spending.

Conclusion

Chairman Durbin, Ranking Member Grassley, and Members of the Committee, I am honored to speak on behalf of the Bureau, its staff in our 122 institutions, and our administrative offices nationwide. Our mission is extremely challenging, but critical to the safety and security of the public, our staff, and the inmates in our facilities. I thank you for the opportunity to speak with you today, and for your support as we move forward successfully in these critical priority areas.

Chairman Durbin, Ranking Member Grassley, and Members of the Committee, this concludes my formal statement.