



Department of Justice

STATEMENT OF

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BEFORE THE

**COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON COMMERCE, JUSTICE, SCIENCE,
AND RELATED AGENCIES
U.S. HOUSE OF REPRESENTATIVES**

FOR A HEARING ON

**“COVID OUTBREAKS AND MANAGEMENT CHALLENGES:
EVALUATING THE FEDERAL BUREAU OF PRISONS’ PANDEMIC
RESPONSE AND THE WAY FORWARD”**

**PRESENTED
MARCH 18, 2021**

Statement of Michael D. Carvajal
Director, Federal Bureau of Prisons
Before the Committee on Appropriations
Subcommittee on Commerce, Justice, Science and Related Agencies
U.S. House of Representatives
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Good morning, Chairman Cartwright, Ranking Member Aderholt and other distinguished Members of the Subcommittee. 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 the values of respect, integrity, courage, and correctional excellence, and that we carry out our mission with the highest competencies as we serve our stakeholders: inmates, the public, and not to be forgotten, the crime victims whose voices are often unheard.

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.

It is impossible for me to consider our operations without first acknowledging the impact COVID-19 has had on our already challenging law enforcement mission, and the diligent work of the Bureau's professionals in response to the pandemic. In the past year, I have seen the Bureau's professionals work tirelessly and with dedication toward their mission to protect the health and safety of inmates, fellow staff, and the public. I am keenly aware of the personal sacrifices these law enforcement officers make in fulfilling our important role in public safety. The great work they do every day goes largely unseen by the general public. Yet this inherently dangerous work helps keep our communities safe.

Additionally, I would also like to take this opportunity to thank the Subcommittee for your continued support of our agency. In particular, for the current budget year, we appreciate your role in the efforts to provide the Bureau with the additional resources needed to maintain its mission, while working with the additional challenges the pandemic creates. The Fiscal Year (FY) 2021 Enacted Budget for the Bureau is \$7.708 billion for Salaries and Expenses (S&E) and \$127 million for Buildings and Facilities (B&F). In addition, \$300 million in supplemental funding was provided specifically to help combat the COVID-19 pandemic within federal prisons. This was in addition to the \$100 million in supplemental funding provided to the Bureau for COVID mitigation efforts through the CARES Act. These resources allow us to continue to provide robust and effective programming, while diligently implementing the First Step Act (FSA). In FY 2020, \$75 million was secured to fulfill FSA initiatives and for FY 2021 \$409.5 million is to be utilized to carry on with associated initiatives. Taken together, this level of funding will allow the Bureau to continue with its highest priorities:

- Ensuring the safety of staff, inmates, and surrounding communities;

- Increasing on-board staffing at our correctional institutions nationwide;
- Effectively responding to COVID-19 related issues;
- Maximizing the use of First Step Act (FSA) enhancements to include inmate reentry programs such as education and drug treatment in order to reduce recidivism; and
- Maintaining existing institutions in an adequate state of repair.

The COVID-19 pandemic that is impacting our entire country, and indeed the world, has had a significant impact on our operations. The Bureau's response to and management of COVID has received a great deal of Congressional, media, and stakeholder interest and scrutiny. I appreciate the opportunity to discuss in person all that the Bureau has done, and continues to do, to reduce risks and mitigate the impacts of the pandemic, and to keep our staff, inmates, and communities safe.

COVID-19 PANDEMIC PLANNING

The Bureau has a sound pandemic plan in place and a well-established history of managing and responding to various types of communicable disease outbreaks. We used this pandemic plan as a springboard for our COVID response planning beginning in January, when our medical leadership began consulting with relevant experts, including the Centers for Disease Control and Prevention (CDC), the U.S. Public Health Service, the Office of Personnel Management (OPM), and the Office of the Vice President. We leveraged and implemented guidance from these experts and used it to develop protocols for screening inmates and staff with potential COVID exposure risk factors. 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. To be transparent about our plans, operations, and statistics, the Bureau has published one of the most detailed and thorough COVID pandemic resource areas in the federal 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.

The Bureau has also provided on an ongoing basis detailed information following CDC guidance on COVID-19 to inmates and staff on symptoms, transmission, preventative measures, and importance of reporting any potential symptoms to Health Services staff. We have an internal web-based system for monitoring infectious diseases and outbreaks, which leverages data from Bureau operational systems and facilitates the flow of information to health care and correctional professionals system-wide. In all of our guidance – just as in guidance in your communities - practicing good hygiene is stressed, as basic hygiene practices can be very effective in reducing the spread of germs. In addition, all institutions have ample Personal Protective Equipment (PPE), cleaning products, disinfectant, and soap available.

In response to the pandemic, the Bureau has taken, and will continue to take, aggressive steps to protect the safety and security of all staff and inmates, as well as members of the public. Using the Incident Command System (ICS) framework, the Bureau developed, implemented, and updated an incident action plan that addresses our modified institution operations, Continuity of Operations Program, information technology readiness, supply management, inmate movement, inmate visitation, and official staff travel, as well as other

important aspects of our operations. Despite the modifications we have already undertaken, we continue to find innovative ways to continue to provide inmate programming to assist them with reentry.

PERSONAL PROTECTIVE EQUIPMENT

Initially, the Bureau was facing the same personal protective equipment (PPE) supply chain challenges as the rest of the country. We had ample amounts of PPE in our inventories, but we were concerned we would not be able to obtain additional needed supplies going forward as existing inventories dwindled. However, through scouring of available markets and use of emergency purchasing authorities, the Bureau was able to acquire 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 drop shipped in one day to an institution that needs additional PPE.

Initial CDC guidance was 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. The Bureau, similar to the private sector, recognized the prolonged nature of this epidemic early on and is prepared to address COVID in the long term.

INSTITUTION OPERATIONS

On March 13, 2020, in response to an increasing number of people with COVID-19 positive infections in various communities, the Bureau implemented a decisive and comprehensive action plan to protect the health of the inmates in our custody, the staff, and the public, to the greatest extent possible, consistent with sound medical and corrections principles. This plan included significantly limiting movement in and out of our federal prisons. Almost all internal inmate — or Bureau-controlled — movement was suspended. There was some very limited inmate movement that was required, including movements for forensic studies, writs, Interstate Agreements on Detainers, necessary medical and mental health treatment, and transfer to RRCs or home confinement. Some new admissions to the Bureau from the United States Marshals Service (USMS) continued, as legally required. While we received criticism for the limited continued movement, some movement is necessary because the criminal justice system has not stopped processing criminal cases during the pandemic. 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 who 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.

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 the extent we could 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 minutes use increased by nearly 50% the next day. This program is expected to continue over the course of the declared emergency.

On March 26, 2020, over one year ago and early in the pandemic, we implemented enhanced daily monitoring, to include the cessation of movement for any inmate who screened positive for COVID-19, and established quarantine and medical isolation procedures for inmates. On March 31, 2020, enhanced modified operations were introduced to further limit movement within the institution such as 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, and Chaplains and Psychologists 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 releasing from the Bureau or transferring to a Residential Reentry Center (RRC) or Home Confinement to be placed on 14-day quarantine prior to their anticipated release or transfer.

The Bureau recognized early on that COVID-19 testing for the inmate population was critical, but as was the case for the country as a whole, testing supplies were initially very limited. Working closely with the Department, the Bureau was able to obtain testing resources for all of our prisons and established a national contract with outside laboratories for COVID-19 testing. We have for many months had abundant testing supplies and with that availability, we have instituted a 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 set temporary target population level caps at these types of facilities to allow for more social distancing.

To monitor compliance with our rigorous pandemic action plans and policies, beginning in early August, 2020, the Bureau began sending unannounced COVID Compliance Review Teams (CCRT) to institutions. The teams assess plan compliance, monitor responses, and develop further mitigation strategies. Where needed, corrective actions and compliance plans are submitted, and follow-up reviews are in the process of being conducted. Based on this ongoing work, the Bureau continues to develop best practices to help prevent and slow the spread of COVID-19 within our facilities. The Department of Justice Office of Inspector General is also

conducting remote inspections of some of our facilities and the Government Accountability Office has initiated a virtual audit that includes review of our operations that includes our preparation and response to the pandemic.

Further, regardless of our diligent COVID-19 planning and protocol, other emergencies have and will continue to arise that require us to rapidly respond to address the evolving situations. For example, in the midst of the diligent work Bureau staff were undertaking nationwide to counter the pandemic, on April 13, 2020, Federal Correctional Institution (FCI) Estill, South Carolina, was struck by a tornado causing extensive damage to both the medium and minimum security institutions. Over the ensuing four days, we were able to safely and securely move 842 inmates, relocating them to a prison in Pennsylvania that had available capacity. Subsequently, three facilities sustained significant damage from Hurricane Laura.

Just recently, the Bureau – along with our staff and the residents of the South Central U.S. - faced the impact of unprecedented cold and snow. Pre-positioned generators allowed us to maintain heat and to continue to provide nutritious meals during rolling black-outs in the affected facilities. However, like many municipalities, the Bureau experienced burst pipes that temporarily affected water flow and was also impacted by municipalities that had to shut off their water supply. The Bureau had copious potable water supplies for the inmate population, and provided water for flushing and sanitation through alternate methods (e.g., water towers, water buffaloes, and water delivery). In fact, with respect to potable water and food, the Bureau was able to assist several municipalities with emergency delivery of supplies following a request from the Federal Emergency Management Agency. The Bureau has plans in place to deal with situations such as these, and despite the complexities that the COVID-19 pandemic adds to the implementation of those plans, these experiences underscore the Bureau's ongoing training and preparation to handle whatever the next challenge may be.

VACCINATION

The Bureau had a Health Services representative embedded in the Federal Government's COVID Vaccine and Therapeutics Operation, formerly known as Operation Warp Speed. As the vaccine became available, the CDC allocated to the Bureau both Pfizer and Moderna vaccine on a pro rata basis, with all vaccines and ancillary kits being provided free of charge. Vaccination prioritization was developed with the CDC. The Bureau is committed to making the vaccine available to all staff and inmates who wish to receive it as quickly as possible. When an institution receives an allocation of the vaccine, it is first offered to full-time staff at that location, given that staff - who come and go between the facility and the community - present a higher potential vector for COVID-19 transmission. Vaccinating staff protects fellow staff, inmates at the facility, and the community. Remaining doses at each location are then provided to inmates based on priority of need in accordance with CDC guidelines. All inoculated inmates and staff volunteered to receive the vaccine.

The Bureau of Prisons has achieved a milestone in the distribution and administration of the COVID-19 vaccine. On Friday, February 19, 2021, the Bureau exceeded 50,000 total doses administered. On January 28, 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, the COVID-19 vaccine had been delivered to staff and inmates at more than half of our correctional facilities across the country. The Bureau's success and efficiency in managing this vaccination initiative highlights the work the Agency continues to do to mitigate the spread of COVID-19 and to achieve its mission during this worldwide pandemic.

HOME CONFINEMENT

As the pandemic grew more widespread, the Bureau began aggressively screening the inmate population for inmates who were appropriate for transfer to an RRC or Home Confinement for service of the remainder of their sentences. Additionally, the Bureau authorized the use of inmate furloughs to move qualified offenders out of the facilities, to reduce populations, and to increase ability for inmates to socially distance.

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, BOP has transferred 22,539 inmates to Home Confinement, with almost 7,000 transferred directly pursuant to the CARES Act, and an additional 141 who are scheduled to transfer to Home Confinement in the coming weeks. These assessments remain ongoing and will continue for the duration of the pandemic.

It should go without saying that, 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 evaluating whether it is appropriate to transfer individuals to home confinement. Similarly, we cannot transfer inmates who do not have safe housing for themselves or housing with appropriate safeguards to home confinement. As home confinement is still, after all, a form of incarceration for persons convicted of crimes who are still serving a federal sentence, these public safety factors must be considered, and these decisions are made using sound correctional judgement and our many years of experience overseeing such transfers.

CURRENT STATUS

The Bureau currently has 771 inmate positive cases and 47,344 inmates recovered in our federal prisons, and 37 positive cases and 614 recovered cases in our RRCs. With respect to staff, there are currently 1,569 positive cases and 4,963 recovered cases. Sadly, there have been 4 staff deaths and 225 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 attempts to mitigate the transmission to new cases is becoming more effective. The Bureau manages the health and treatment of approximately 149,000 inmates in BOP facilities and RRCs.

STAFFING

Fully staffing our institutions – all of our institutions nationwide - is one of my primary goals, and I know you share that interest. Staffing up keeps everyone safer and helps us with our mission of inmate programming to meet their reentry and life-skill needs. As we staff up, our reliance on augmentation will drop markedly. Appropriate staffing levels are a critical to our mission and our effectiveness. Within the last several years, and particularly during the pandemic, the Bureau's population has dropped significantly such that the extensive crowding we faced a decade ago is no longer a problem. However, COVID-19 has created new challenges in effectively managing the inmate population safely and securely, thus staffing must remain in the forefront.

To that end, I have instituted a very aggressive hiring effort, to include the use of incentives targeted to local staffing needs and a marketing campaign with social media outreach. We are actively recruiting and hiring even during COVID. For example, in the last calendar year, we have hired almost 3,800 staff and are continuing a full court press for hiring and staffing up. Staffing is authorized at 100%, and each institution with appropriate incentives being offered to attract new qualified staff, and retain staff at those locations. Specific focus is directed at the filling of Correctional Officers throughout the country. 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 greatly 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. In addition, the agency entered into a contract with Accenture, to create a branding and marketing campaign, to increase our presence on social media, and to attract potential applicants to the agency. Finally, the agency also entered into a contract for additional staff to assist with the hiring process, to be able to meet the processing demands of the hiring surge. The hiring numbers are coming up, and I am confident we will get where we need to be as we continue to lead the nation in correctional excellence.

Of course, one of our primary hiring challenges is the location of many of our institutions. Locations in remote areas are not necessarily desirable for new hires or for transfers from other institutions – particularly our much needed Correctional Officers who are critical personnel for the safe and effective operation of a prison - and also create challenges in hiring positions such as physicians and psychologists. Additionally, the federal pay scale is not competitive with local salaries in certain areas of the country, and the high cost of living in some major metropolitan areas is a further impediment. The Bureau has managed our staffing challenges for many years by co-locating institutions; delayering management positions; closing four stand-alone minimum security prisons; and consolidating procurement, sentence

computation, inmate designation, human resources and other functions. Simultaneously, the agency has managed crowding in our prisons while also providing important reentry programs for the inmate population. We streamlined operations, improved program efficiencies, and reduced costs to function economically even as the programmatic workload has increased. However, even with streamlining efforts, insufficient institution staffing levels can seriously compromise the security of our federal prisons, endangering life and property.

CONCLUSION

Chairman Cartwright, Ranking Member Aderholt and Members of the Subcommittee, 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 we house. I thank the staff who, like first responders everywhere, are working long hours to prevent or mitigate the spread of COVID-19 in our facilities. The Bureau can be proud of this hard work, but we understand there is still more to do.

Chairman Cartwright, Ranking Member Aderholt and other distinguished Members of the Subcommittee, this concludes my formal statement.