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PANDEMIC RESPONSE REPORT

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Remote Inspection of Federal Correctional
Complex Butner

EVALUATION AND INSPECTIONS DIVISION

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INTRODUCTION



OIG COVID-19 Inspection Efforts

In response to the coronavirus disease 2019 (COVID-19) pandemic, the U.S. Department of Justice (Department, DOJ) Office of the Inspector General (OIG) initiated a series of remote inspections of Federal Bureau of Prisons (BOP) facilities, including BOP-managed institutions, contract prisons, and Residential Reentry Centers. In total, these facilities house approximately 152,000 federal inmates. The OIG inspections sought to determine whether these institutions were complying with guidance related to the pandemic, including Centers for Disease Control and Prevention (CDC) guidelines, DOJ policy and guidance, and BOP policy. While the OIG was unable to meet with staff or inmates as part of these remote inspections, the OIG incorporated staff, inmate, and other stakeholder input into each inspection. The OIG issued a survey to approximately 40,000 staff working at facilities housing BOP inmates. The OIG also established a COVID-19 specific hotline through which we received complaints from inmates, staff, and other parties.

[DOJ COVID-19 Complaint Whistleblower Rights and Protections](#)

The CDC has noted that the confined nature of correctional facilities, combined with their congregate environments, “heighten[s] the potential for COVID-19 to spread once introduced” into a facility.¹ According to BOP data, as of January 21, 2021, 44,806 inmates and 5,904 BOP staff in BOP-managed institutions and community-based facilities had tested positive for COVID-19.² In those institutions where widespread inmate testing has been undertaken, including at two of the five facilities at Federal Correctional Complex (FCC) Butner in Butner, North Carolina, the percentage of inmates testing positive has been substantial. For example, of all FCC Butner inmates tested for COVID-19, over 50 percent tested positive as of June 11, 2020.

Between May 6 and July 25, 2020, the OIG conducted a remote inspection of FCC Butner to understand how the COVID-19 pandemic affected the complex and to assess the steps Butner 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). As part of that effort, we considered whether Butner’s policies and practices complied with BOP directives implementing CDC guidance, as well as DOJ policy and guidance.³ We conducted the inspection through telephone interviews with FCC Butner and BOP officials; review of documents; assessment of inmate demographic data and staff and inmate COVID-19 case data by the OIG’s Office of Data Analytics (ODA); analysis of Butner-specific results from a BOP-wide employee survey regarding COVID-19 issues that the OIG conducted in late April (see [Appendix 2](#) for the

¹ CDC, “[Interim Guidance on Management of Coronavirus Disease 2019 \(COVID-19\) in Correctional and Detention Facilities](#),” March 23, 2020 (updated December 31, 2020), www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html (accessed January 21, 2021).

² This total does not include inmates who tested positive, recovered, and were released by the BOP.

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

(Cont’d.)

results of the survey); and consideration of complaints, including those from Butner inmates and staff, to the OIG Hotline.⁴

Summary of Inspection Results

The OIG's remote inspection found that, as of July 25, 2020, 1,020 Butner inmates had confirmed COVID-19 cases and 25 had died due to COVID-19. Also as of that date, 70 staff members had confirmed COVID-19 cases and 1 had died. As of January 17, 2021, 226 Butner inmates and 23 staff members had active COVID-19 cases and 2 additional inmates had died due to COVID-19. Further, we found that it was difficult for Butner to implement and enforce effective social distancing measures in three of its five facilities given the open layout of housing units in these facilities. Notwithstanding the inherent challenge of socially distancing inmates in open-layout housing units, we identified other issues that undermined Butner's ability to contain the spread of the disease at the complex. For example, we found that:

- FCC Butner was not complying with some of the BOP's quarantine guidance because of the high volume of COVID-19 cases and a lack of quarantine space.
- Butner did not quarantine inmates who tested negative for COVID-19, but who, after testing, were likely exposed to known COVID-19 positive inmates, which was inconsistent with BOP and CDC guidance.
- Although Butner's management took steps to reduce staff movements throughout its five facilities, Butner was not able to restrict staff movements to fully mitigate the risk of cross-contamination and spread of COVID-19 at three of its five facilities.
- While Butner had sufficient supplies of personal protective equipment (PPE) during our inspection, we found that staff were not changing N95 respirators when moving between units that had COVID-19 positive inmates and those that had COVID-19 negative inmates, which may have increased the risk of cross-contamination.
- Although Butner worked to comply with the Attorney General's guidance on home confinement, the composition of the inmate population and the need to adapt to rapidly changing guidance presented challenges to reducing the complex's population in a timely manner.

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

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 FCC Butner's adherence to these BOP directives.

⁴ The inspection team did not seek to assess the validity of these individual complaints as part of the remote inspection, but rather considered them as we assessed the overall situation at the complex during the period of our review.

COVID-19 at FCC Butner

At the time of our inspection, FCC Butner housed approximately 4,000 medium, low, minimum, and administrative security male inmates in four institutions with a total of five separate facilities spanning both Granville and Durham Counties, North Carolina: two medium security Federal Correctional Institutions (FCI I and FCI II); a Low Security Federal Correctional Institution (LSCI); a minimum security Satellite Camp (Camp), which is adjacent to and part of FCI I; and an administrative security Federal Medical Center (FMC).⁵ Approximately 1,200 FCC Butner staff members provide daily correctional, medical, and other services at the complex.⁶ Butner's unique inmate population includes elderly inmates receiving nursing care; inmates with serious or chronic medical problems that require specialized treatment, including radiation, chemotherapy, dialysis, and physical therapy; inmates needing orthopedic and other minor surgeries that can be performed at the FMC; and inmates receiving mental and behavioral health treatment and services, including inmates undergoing court-ordered forensic evaluations, incompetent or sexually dangerous inmates who are civilly committed by court order, and inmates participating in residential psychology programs such as the Mental Health Step Down Unit Program.⁷

Although FCC Butner was receiving fewer inmates than it normally would because of the BOP's restrictions on inmate transfers due to COVID-19, during our inspection the complex was continuing to receive new inmates as a result of court orders, sentencings, and medically necessary transfers. During the suspension of most internal inmate movements between March 13 and July 15, 2020, the complex received 36 inmates transferred from other BOP institutions to receive medical or mental healthcare.

As of July 25, 1,020 FCC Butner inmates, including 698 LSCI inmates, had confirmed COVID-19 cases. Additionally, 25 inmates had died of COVID-19 as of that date. Also, as of July 25, 70 staff members had confirmed COVID-19 cases and 1 had died. As can be seen in the charts below, the COVID-19 outbreak was most serious at Butner between June and mid-July and began to diminish in intensity thereafter; however, Butner began seeing new cases in late October and November in the FMC, and in January 2021 at the FCI II. As of January 17, 2021, according to BOP data, 226 inmates had active COVID-19 cases and 2 additional inmates had died as a result of COVID-19,

⁵ As with many BOP institutions, the inmate population at each FCC Butner institution exceeds the institution's rated inmate capacity.

⁶ 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 designates inmates to appropriate institutions based on several factors, including inmates' healthcare needs. Each BOP institution is classified with a care level based in part on available community healthcare resources. FMC Butner, as a Medical Care Level 4 institution, houses and cares for inmates with the most serious medical conditions. FCI I (including the Camp), FCI II, and the LSCI are all Medical Care Level 3 institutions.

⁷ The Mental Health Step Down Unit Program is a residential treatment program for inmates with serious mental illnesses who cannot function in a general population prison setting. The program's goal is to maximize the inmates' ability to function and minimize relapse and the need for inpatient hospitalization.

bringing to 27 the total number of Butner inmate deaths caused by COVID-19. Additionally, as of January 17, 2021, 23 staff members had active COVID-19 cases.

FCC Butner COVID-19 Data


Inmate Population as of January 17, 2021^a

 **3,599**

Active Inmate Cases as of January 17, 2021^b

 **226**

Inmate COVID-19 Deaths as of January 17, 2021

 **27**

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



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

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

Data Source: BOP

DOJ Federal Staff as of January 17, 2021

 **1,216**

Active Staff Cases as of January 17, 2021

 **23**

Staff COVID-19 Deaths as of January 17, 2021

 **1**

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



Data Source: National Finance Center

Total Confirmed Granville County COVID-19 Cases Over Time, March 30, 2020–January 17, 2021^c



^c Total confirmed cases are cumulative positive COVID-19 cases. As of January 17, 2021, Granville County, North Carolina, had 4,335 confirmed COVID-19 cases.

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

Total Confirmed Durham County COVID-19 Cases Over Time,
March 30, 2020–January 17, 2021^a



^a Total confirmed cases are cumulative positive COVID-19 cases. As of January 17, 2021, Durham County, North Carolina, had 17,626 confirmed COVID-19 cases.

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

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INSPECTION RESULTS

Social Distancing and Physical Layout Challenges

We found that while FCC Butner's FMC, LSCI, FCI I, and FCI II made efforts to implement inmate social distancing and limit group gatherings in accordance with BOP guidance, its Camp did not fully or promptly implement all restrictions on inmate movements.⁸ We also found that the open, dormitory-style layouts and communal bathrooms of the housing units in the LSCI, FCI I, and the Camp, which as of July 25, 2020, collectively housed nearly half (1,894 of 4,168) of FCC Butner's inmate population, significantly inhibited Butner's ability to socially distance inmates and therefore minimize the spread of COVID-19.⁹ We believe that these conditions contributed, in part, to over 1,000 inmates in these three facilities contracting COVID-19. Conversely, at the FMC and FCI II, where there were 11 confirmed inmate COVID-19 cases as of July 25, most inmates are confined in locked cells with solid doors.¹⁰

On March 13, the BOP advised institutions to suspend legal and social visitation and to maximize social distancing as much as practicable, which all Butner facilities implemented that day.¹¹ Specifically, the Camp adjusted food service so that inmates would collect their own carry-out meals from the dining hall and then return to their housing units to eat. However, we learned that the Camp did not take actions consistent with subsequent March 31 BOP guidance to further restrict inmate movements until it locked down its housing units on April 16, which was 1 day after the first Camp inmate tested positive for COVID-19 (on April 15) and 7 days after the first staff member tested positive (on April 9).¹² According to the Camp Warden's testimony and other

⁸ 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." Throughout this report, we use the term "social distancing," rather than "physical distancing," to correspond to the terminology of CDC, DOJ, and BOP guidelines.

⁹ LSCI and Camp inmates have beds in unenclosed cubicles in dormitory-style housing units. Although some FCI I inmates share rooms with solid doors, others have beds in open-bay, communal areas. Further, nearly all inmates at these facilities use communal bathrooms, which requires inmates to regularly move through housing units.

¹⁰ The FMC's work detail inmates are housed in a dormitory-style housing unit.

¹¹ BOP, memoranda for All Chief Executive Officers, Coronavirus (COVID-19) Phase Two Action Plan, March 13, 2020, 1, and Coronavirus (COVID-19) Phase Nine Action Plan, August 5, 2020, 1-3. On March 13, the BOP directed institutions to suspend all social visits and legal visits for 30 days, which was subsequently extended until October 31 and, on November 1, until further notice. The BOP guidance permitted institutions to accommodate case-by-case requests for legal visits. Further, the guidance stated that prisons should offer video conferencing as an alternative to in-person legal visits. BOP, memoranda for All Chief Executive Officers, March 13, 2020, 1; August 5, 2020, 1-3; Coronavirus (COVID-19) Extension to Phase Nine Action Plan, November 1, 2020.

¹² BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Phase Five Action Plan, March 31, 2020. The BOP enacted a "14-day nationwide action to minimize movement to decrease the spread" of COVID-19 in its Phase

(Cont'd.)

evidence, between April 1 and April 16 Camp inmates continued to freely move around the facility, go to recreation, and pick up their meals at the dining hall.

In a July 28 written statement provided subsequent to our interview with the Camp Warden, Butner officials acknowledged that “after the first positive inmate was identified at the camp on April 15...tighter controls [were] implemented.” The officials also said that, between March 13 and April 16, “inmates were restricted to their ranges and kept apart from inmates on other ranges to the best of our abilities.” We note that the Warden’s description of inmates moving freely around the facility conflicts, to some degree, with the Butner officials’ subsequent description of Camp inmate movements restricted “to the best of our abilities.” Notwithstanding this conflict, because over 75 percent of Camp inmates tested positive for the virus during facility-wide testing, we believe that the Camp’s physical layout and delays in tightening controls on inmate movements likely contributed to the spread of COVID-19 there.

As stated above, the other FCC Butner facilities implemented measures to limit the spread of COVID-19 and increase social distancing and reduce inmate group gatherings in a timely manner. According to an FCI II Associate Warden, in advance of the March 13 BOP guidance advising it to do so, on March 4 FCI II limited inmate movements and suspended visitation and all large group gatherings. These actions were in response to the identification and isolation of 29 FCI II inmates with an influenza-like illness. On March 13, FCC Butner expanded these limitations to the FMC, FCI I, and the LSCI in compliance with the guidance issued that day.

We also found that the FMC, FCI I, FCI II, and the LSCI proactively implemented additional measures in advance of the March 31 BOP guidance. Specifically:

- On March 20, according to the Complex Warden, the FMC began providing meals to inmates in their cells and housing units, rather than in the dining hall, and suspended inmates’ movements for education, chapel, and recreation.

Five Action Plan effective April 1 and extended it in Action Plans Seven and Eight, effective through July 31. The Phase Five Action Plan permitted movement only in small numbers. Inmates were permitted to attend essential work details and medical or mental healthcare appointments. Also, inmates had limited access to commissary, laundry, showers, telephones, and email. In announcing this action, the BOP noted, “the BOP’s actions are based on health concerns, not inmate destructive behavior.”

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

- On March 26, FCI II inmates began eating carryout meals in their housing units.
- Before March 27, with limited exceptions, such as providing chemotherapy to inmates, the FMC stopped the regular movements of inmates from FCI I, FCI II, the LSCI, and the Camp to the FMC for medical treatment. This was accomplished in part by transferring inmates with greater treatment needs to the FMC and by assigning certain medical staff from the FMC to the outlying facilities so inmates could continue treatments such as dialysis, wound care, and physical therapy at those facilities.
- On March 27, FCI I confined all inmates except food service workers to their housing units and began providing meals to inmates in their units.
- On March 27, the LSCI confined all inmates to their housing units, with some exceptions, and inmates began eating carryout meals in their housing units.

As of April 1, in accordance with the March 31 BOP guidance, the FMC, FCI I, FCI II, and the LSCI locked inmates in their cells, restricted inmates not in cells to their housing units or to the immediate vicinity of their cubicles or beds, canceled many inmate work details, provided meals to all inmates in their housing units or cells, and moved programming and services to the housing units. These inmates were permitted to leave their confined locations only for necessary medical treatment or essential work. FCC Butner also suspended all access to inmate computer systems, and provided only restricted access to the commissaries, for a week.

During the course of the pandemic, FCC Butner also made changes to the housing arrangements for certain inmates in work details to limit the spread of COVID-19. According to Butner officials, in April the FMC moved the inmates that it considered to be essential workers into a single housing unit, and in March and August, FCI II and the LSCI, respectively, moved inmates who were current and potential future UNICOR workers, to dedicated housing units.¹³

Although the BOP's March social distancing guidance remained in effect as of October 29, FCC Butner lifted or loosened some inmate movement restrictions in May. For example, FCI I, FCI II, LSCI, and Camp inmates were permitted recreation time to allow for enhanced cleaning of housing units and LSCI inmates' access to the television room was restored. The LSCI also did not reimpose any previous inmate movement restrictions following its COVID-19 outbreak in May. Even though FCC Butner attempted to continue to implement social distancing guidance, two Wardens told the OIG that inmates' compliance was difficult to enforce and other staff members told us that inmates who were not confined in cells continued to move freely around their housing units.

¹³ 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.

Isolation and Quarantine Procedures

Beginning on February 29, 2020, the BOP issued a succession of guidance addressing the separation of inmates with COVID-19, those who were suspected of being infected, or those who had been in close contact with either, from staff and the general inmate population. Initially, institutions were instructed to identify locations for isolation and quarantine of inmates, followed by directives to (1) isolate and test symptomatic inmates with exposure risk factors; (2) quarantine asymptomatic inmates with exposure risk factors; (3) quarantine incoming or exiting asymptomatic inmates for 14 days and isolate those who were symptomatic; and (4) quarantine all close contacts of a COVID-19 case, either suspected or confirmed.¹⁴ Inmates in medical isolation were to receive close medical observation, while inmates in quarantine were to be symptom screened and have temperature checks twice daily. All medically isolated inmates and certain quarantined inmates were to receive surgical masks to reduce the risk of COVID-19 transmission.

We found that, during March and April, FCC Butner was able to isolate and quarantine inmates consistent with BOP guidance. However, due to an outbreak in a quarantine area in April, two inmates who were quarantined in accordance with BOP and CDC protocols developed COVID-19 symptoms after being released to LSCI general population housing units. We believe that this development likely contributed to the spread of COVID-19 at the LSCI. Additionally, as COVID-19 spread throughout the LSCI and FCI I, these facilities were not able to quarantine all inmates meeting the criteria for quarantine, largely due to space availability issues. Reflecting the shortage of quarantine space, 43 percent of FCC Butner staff (154 of 356 respondents) reported via the OIG survey that more quarantine space was an immediate need of the complex. This is much greater than the 23 percent of all surveyed BOP staff who answered similarly. We also found that inmates who tested negative for COVID-19, but after testing were likely exposed to known COVID-19 positive inmates, were not quarantined as close contacts consistent with BOP and CDC guidance. Finally, we found that the open layout of the Camp complicated its efforts to successfully quarantine inmates before their release. As a result of these quarantine issues, which are discussed further below, FCC Butner was not able to fully mitigate the risk of further disease spread.

¹⁴ According to the CDC, isolation is used to separate people who are infected with the virus (those who are sick with COVID-19 and those who are asymptomatic) or have COVID-19 symptoms from people who are not infected. In a correctional setting, the CDC recommended using the term “medical isolation” to distinguish it from punitive action. See CDC, “Interim Guidance.”

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

COVID-19 Outbreak in the LSCI and the LSCI Quarantine Area

In late April, three inmates who had been released after being quarantined in the LSCI Special Housing Unit (SHU) for at least 14 days began exhibiting COVID-19 symptoms; ultimately, all three inmates tested positive for COVID-19 on or about April 29.¹⁵ At that time, BOP guidance did not recommend testing inmates before release from quarantine. Two of the inmates were released into the LSCI general population, and the other was released into the FCI I general population. The inmate released to FCI I reported COVID-19 symptoms within 12 hours of his release from the LSCI SHU. An FCI I medical staff member, believing that the inmate must have developed these symptoms while still in the LSCI SHU, informed the LSCI that quarantined inmates there may be positive for COVID-19. On that same day, April 29, 13 of the 17 quarantined LSCI SHU inmates tested positive for COVID-19. FCC Butner subsequently began testing all quarantined inmates for COVID-19 before releasing them from quarantine, in accordance with May 19 BOP guidance.¹⁶

Although we cannot determine the full extent to which the two inmates released from quarantine into the LSCI contributed to the spread of COVID-19 in that facility, the LSCI general population, which previously had no known COVID-19 cases, subsequently was found to have widespread inmate transmission in all of its housing units. As of July 25, the LSCI had the highest number of COVID-19 positive inmate cases at FCC Butner. Also, as of July 25, 698 LSCI inmates, approximately 64 percent of the LSCI population at that time, had tested positive. We discuss inmate testing in greater detail later in this report.

Lack of Space to Quarantine All Inmates Exposed to COVID-19 at FCI I and the LSCI

As of June, FCI I was medically isolating COVID-19 suspected or confirmed inmates but was not quarantining asymptomatic inmates who had been in close contact with these inmates. According to Butner officials, due to the layout of the facility and the prevalence of COVID-19, nearly all FCI I inmates had been in close contact with suspected or confirmed COVID-19 inmates and there was insufficient space at the facility to quarantine all exposed inmates. FCI I officials also added that potential security issues could have arisen from quarantining certain inmates together based on the diverse FCI I population.¹⁷ In response to our survey, only 39 percent of FCC Butner staff (138 of the 353 respondents) reported that inmates who had had close contact with a symptomatic inmate were quarantined for 14 days. Forty-three percent of Butner staff (154 of the

¹⁵ During our inspection, the LSCI SHU was used only for the quarantine and medical isolation of inmates. LSCI inmates requiring restricted or segregated housing due to disciplinary or other issues were placed in the FCI II SHU.

¹⁶ Before the May 19 BOP guidance, the BOP followed CDC guidance, which called only for the 14-day quarantine of asymptomatic inmates.

¹⁷ The FCI I population includes high security inmates, gang members, civilly committed sex offenders, and Mental Health Care Level 3 inmates. Mental Health Care Level 3 inmates require enhanced outpatient care (i.e., weekly mental health intervention) or residential mental healthcare (i.e., placement in a residential Psychology Treatment Program). For more information, see DOJ OIG, *Review of the Federal Bureau of Prisons' Use of Restrictive Housing for Inmates with Mental Illness*, Evaluation and Inspections (E&I) Report 17-05 (July 2017), www.oversight.gov/sites/default/files/oig-reports/e1705.pdf.

356 who answered a relevant question) also reported that more quarantine space was an immediate need of the complex, as compared to 23 percent of all BOP staff survey respondents.

Similarly, in May, the LSCI lacked sufficient space to quarantine all inmates leaving the institution and, therefore, some LSCI inmates sheltered in place in their housing units in the general population before their release rather than being placed in a separate quarantine unit.¹⁸ This outcome was inconsistent with April 7 BOP guidance requiring inmates to be placed in quarantine for 14 days prior to release.¹⁹ Although BOP policy would have permitted these inmates to be transferred to another Butner facility such as FCI II or the FMC to complete their quarantine, Butner management decided not to transfer these inmates due to concerns about spreading COVID-19 to those institutions that had not been as badly affected.²⁰

Failure to Quarantine Inmates Who Likely Had Been in Close Contact with Known COVID-19 Positive Inmates at the LSCI

Following a COVID-19 outbreak and LSCI-wide testing in early June, LSCI inmates were reassigned to housing units based on their test results. Specifically, asymptomatic COVID-19 positive inmates were medically isolated in five units, inmates who tested negative were housed in three other units, and symptomatic COVID-19 positive inmates were isolated in the LSCI SHU. To minimize inmate movements, the LSCI did not reassign and begin moving certain inmates until all results of the June 1–2 tests were available on June 9. However, some of the inmates who tested negative likely had close contact with asymptomatic COVID-19 positive inmates during the week between the testing and the unit transfers.²¹ Contrary to BOP guidance requiring the quarantine of inmates in close contact with suspected or confirmed COVID-19 cases, the LSCI did not manage

¹⁸ Some LSCI SHU quarantine cells were occupied by COVID-19 positive LSCI inmates because the medical isolation cells were full or inaccessible for certain inmates. Several COVID-19 positive inmates needed to be on the ground floor and/or in a cell's lower bunk bed, and all such medical isolation cells were occupied. Quarantine cells were all on the ground floor.

¹⁹ On April 7, the BOP required that inmates being released or transferred from a BOP facility into the community be placed in quarantine for 14 days prior to release. On May 20, the BOP created an exception to this requirement for institutions in which there were no active COVID-19 cases by permitting inmates to shelter in place for 14 days in lieu of quarantine. However, for institutions with active cases, the May 20 guidance required that inmates be placed in quarantine for 14 days prior to release. Since the LSCI had active COVID-19 cases in May, BOP guidance required LSCI inmates to be quarantined before their release. BOP, memorandum for All Chief Executive Officers, Inmate Quarantine Prior to Release/Transfer, April 7, 2020, and BOP, Quarantine Guidance: New Admits, Contacts of COVID-19, and Pending Release, May 20, 2020.

²⁰ On May 20, following CDC guidance, the BOP issued quarantine housing guidance that permitted inmates to be safely transferred to another facility with the capacity to quarantine. However, the BOP guidance provided that such transfers should be avoided due to the potential to introduce COVID-19 to another facility and should occur only if no other quarantine housing option exists. BOP, Quarantine Guidance.

²¹ After all test results were received, LSCI staff informed the inmates of their results before inmates moved to different housing units.

the three units housing COVID-19 negative inmates as quarantine areas.²² As a result, inmates in those housing units were not screened twice daily for symptoms, retested at the end of a quarantine period, or provided surgical masks to supplement cloth face coverings, as BOP guidance required. While the LSCI Warden acknowledged that as of mid-June the LSCI was not screening inmates in the COVID-19 negative housing units, and the LSCI officials we interviewed were not familiar with the BOP's guidance to quarantine close contacts, the Warden also added that LSCI staff were continually in the housing units and had enough experience to recognize COVID-19 symptoms. Butner's Quality Improvement Manager told us that, while conducting regular rounds, LSCI staff moved any symptomatic inmates to medical isolation. Multiple FCC Butner officials told us, however, that some inmates hid or masked their symptoms of influenza-like illnesses, including COVID-19, to avoid being moved to medical isolation areas.

Quarantine Efforts Undermined by the Camp's Physical Layout

In April, 28 of 52 Camp inmates tested positive for COVID-19 while quarantined together in a dormitory-style housing unit before their departure from the institution. FCC Butner medically isolated the COVID-19 positive inmates in the LSCI SHU, and the inmates who tested negative remained in the Camp quarantine unit. However, some of the inmates who tested negative became symptomatic and, each time this occurred, the symptomatic inmate was medically isolated and the inmates remaining in the unit had to begin their 14-day quarantine again. This significant COVID-19 outbreak in a Camp quarantine unit underscores the inherent challenges of social distancing in open housing units.

Impact of Staffing Challenges on Restricting Staff Movements

We found that due to staffing challenges FCC Butner was unable to fully comply with BOP guidance advising institutions with COVID-19 cases to limit staff movements to the areas to which they were assigned and to prevent staff from rotating posts, when possible.²³ Specifically, Butner was not able to limit correctional staff at the LSCI, FCI I, and the Camp to individual posts, which likely increased the spread of COVID-19 at those facilities. Further, in a written response to our draft report, the BOP told the OIG that restricting every Butner staff member to the same post continuously during the pandemic has been impossible due to the large number of 24-hour posts that must be filled at each institution; staff days off, including for annual and sick leave; absences

²² The BOP's May 20 guidance provided that "if an entire housing unit is under quarantine due to contact with a case from the same housing unit, the entire housing unit may need to be treated as a cohort and quarantine in place."

²³ BOP, memorandum for All Chief Executive Officers, March 31, 2020. In subsequent guidance, the BOP reinforced staff physical distancing by mandating that staff did not change post assignments unless to fill a vacant post and by permitting changes in shift hours provided the location remained the same. See BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Phase Six Action Plan, April 13, 2020. See also BOP, memorandum for All Mid-Atlantic Region Wardens, COVID-19 Guidance, April 16, 2020, which states: "To the highest degree possible, staff are to remain at their duty station within the institution and [not to] traverse to other areas. Correctional Officers are to remain on the same posts and not [be] rotated to other posts. For all staff, absolutely no cross over to other institutions at Complex institutions."

of COVID-19 positive staff; and temporary job modifications Butner made to protect the most vulnerable staff members from COVID-19 exposure.

FCC Butner normally allows all staff at the complex to work overtime at any facility. Additionally, staff members assigned to the Camp or FCI I routinely work at both facilities, as the facilities are managed together. While FCC Butner attempted to limit staff movements in response to BOP guidance, according to FCC Butner officials, COVID-19 related staff absences made it impossible to assign staff to only one facility.

FCC Butner officials told us that efforts were made to keep staff who routinely worked at both FCI I and the Camp at one facility or the other. For example, noncustodial staff filled custodial posts at FCI I to restrict custodial staff movements between the two facilities. However, due to staffing issues, including COVID-19 related absences, staff continued to move between FCI I and Camp facilities even after staff stopped moving among the four FCC Butner institutions.²⁴ This practice occurred early during the pandemic, when FCI I was experiencing an outbreak, and ended when temporary duty staff arrived on April 13. However, it resumed in late April, after the Camp experienced its own outbreak.²⁵

We also found that before temporary duty staff arrived, in addition to rotating posts between FCI I and the Camp, Correctional Officers from those facilities also filled correctional posts at the LSCI SHU to help monitor FCI I and Camp inmates medically isolated there. Because of this practice, Correctional Officers who came into contact with COVID-19 positive inmates in the LSCI SHU may have returned to FCI I and the Camp and come into contact with inmates who did not have COVID-19.

Additionally, LSCI correctional staff worked posts at which they were in contact with COVID-19 positive inmates, as well as posts at which they were in contact with COVID-19 negative inmates. The risks associated with these staff rotations were exacerbated by staff continuing to wear N95 respirators after exiting a medical isolation unit, an issue we discuss in more detail below.

COVID-19 Testing

On March 13, the BOP issued guidance instructing institutions that symptomatic inmates with exposure risk factors for COVID-19 should be tested consistent with local health authority protocols.²⁶ During our inspection, Butner conducted facility-wide testing at the LSCI and the

²⁴ As described in the [Introduction](#), the Camp facility is part of the FCI I institution. FCC Butner has three other institutions: FCI II, the FMC, and the LSCI.

²⁵ The World Health Organization declared COVID-19 a pandemic on March 11, 2020.

²⁶ BOP, memorandum for All Chief Executive Officers, March 13, 2020. On May 19, the BOP suggested prioritizing testing as high, intermediate, or low. High priority testing included asymptomatic inmates “with close or direct contact with a confirmed or suspect COVID-19 case,” “new to the BOP admissions/intakes,” “prior to release from quarantine,”

(Cont’d.)

Camp but did not conduct facility-wide testing at FCI I, the FMC, or FCI II. At the time of the COVID-19 outbreak at FCI I, Butner did not have the capability to test all FCI I inmates but it did conduct mass testing of inmates in the area of the facility that experienced an initial outbreak. Additionally, after our inspection concluded, Butner increased testing of inmates at the FMC and FCI II.²⁷

As of July 25, approximately 24 percent of FCC Butner’s inmate population, or 1,020 inmates, had tested positive for COVID-19. See Table 1 below for a breakdown of inmates who tested positive for COVID-19 at each Butner facility.

Table 1
Cumulative Total of FCC Butner COVID-19 Positive Inmates,
March 27–July 25, 2020

Facility	Total Inmates at the Facility as of July 25	Cumulative Total COVID-19 Positive Inmates, March 27–July 25 ^a
LSCI	1,097	698
Camp	181	216 ^b
FCI I	616	95
FMC	884	10
FCI II	1,390	1
Total	4,168	1,020

^a Some inmates who tested positive for COVID-19 are no longer incarcerated at FCC Butner.

^b The cumulative number of COVID-19 positive Camp inmates is larger than the static number of Camp inmates due to inmate movements in and out of the facility.

Source: BOP

Early during the spread of COVID-19 at FCC Butner, medical staff were sending COVID-19 test kits to an outside laboratory and the complex did not have the capability to conduct mass inmate testing. On April 17, 2020, the complex began processing test kits in house when it received a rapid test machine provided by the BOP. The receipt of this machine and compatible test kits

and “in open housing.” Intermediate priority testing included asymptomatic inmates “departing a BOP facility for home confinement, regional reentry center, or full term/good conduct release.” The low priority suggested testing of “all inmates at the institution without any known COVID-19 cases as part of an institution-wide surveillance program.” BOP, COVID-19 Testing: Indications for Testing of Inmates in the Federal Bureau of Prisons, May 19, 2020.

²⁷ As of January 17, 2021, 625 inmates at the FMC and 670 at FCI II had received at least 1 COVID-19 test. We also note that, as of January 17, 2021, 2,412 inmates at FCC Butner had received at least 1 completed COVID-19 test.

allowed Butner to expand testing at the complex.²⁸ Below, we provide an overview of COVID-19 testing milestones and events at Butner between March and June 2020:

- On March 24, Butner learned of its first COVID-19 positive staff member. The staff member had been exposed to the virus while traveling outside of North Carolina and then worked at the FMC without any symptoms for a few days before learning of the exposure.
- On or around March 27, Butner learned of its first positive COVID-19 test result of an inmate. This FCI I inmate did not self-report symptoms; after other inmates reported to staff that he was exhibiting flu-like symptoms, he was hospitalized and tested positive for COVID-19 at the hospital. The inmate, who had underlying health conditions, died in the hospital on April 11 and was Butner's first inmate death due to COVID-19.
- On March 31, the first FMC inmate tested positive for COVID-19.
- On April 15, the first Camp inmate tested positive for COVID-19.
- On April 24, the Camp began testing all 217 of its inmates for COVID-19. Of those inmates, 76 percent, or 166, tested positive.
- On April 29, the first two inmates in the LSCI general population tested positive for COVID-19.
- On June 1 and 2, the LSCI conducted mass testing of its 1,006 inmates.

During our inspection, Butner did not test staff for COVID-19; at no time between March and December 3, 2020, did BOP policy require institutions to test staff for COVID-19.²⁹ In June, the BOP Medical Director told us that staff are the primary vulnerability for introduction of COVID-19 into institutions and that testing staff could help mitigate the spread of the disease in institutions. However, he noted that the BOP cannot mandate staff COVID-19 testing as a condition of employment and the BOP's ability to test staff is limited by resources because testing all staff would be labor intensive. Therefore, in lieu of requiring testing, the BOP encourages the development of community partnerships through which staff can choose to be tested. The BOP's

²⁸ FCC Butner received two rapid test machines; it returned one so that the BOP could send it to another facility in need. 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, it takes approximately 15 minutes to process one specimen with a rapid test machine and a machine may not be loaded in bulk for consecutive running of tests. Additionally, BOP officials told us that commercial laboratory tests are generally more accurate than the rapid tests but it takes approximately 2 days to process commercial laboratory test results.

²⁹ The CDC recommended that correctional and detention facilities determine, in collaboration with state and local health officials, whether and how to implement testing strategies. The CDC further recommended that implementation of testing strategies "should be guided by what is feasible, practical, and acceptable, and should be tailored to the needs of each facility." The CDC recommended that correctional facilities consider broader testing of staff, beyond testing only close contacts of confirmed COVID-19 cases, when "contact tracing is not practicable, or if there is concern for widespread transmission following identification of new-onset COVID-19 infection among [inmates] or staff." See CDC, "[Interim Considerations for SARS-CoV-2 Testing in Correctional and Detention Facilities](https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/testing.html)," December 3, 2020, www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/testing.html (accessed January 21, 2021).

Phase Seven Action Plan, issued on May 18, encouraged Wardens to identify and publish possible testing sites in the community where interested staff may be tested. The Butner Complex Warden provided the OIG with evidence that he did so. In September, BOP officials informed the OIG that in July the BOP had awarded a contract with an outside provider to offer COVID-19 testing to federal staff. The contract, which ended September 30 and was followed by another contract awarded on October 1, was intended to supplement community testing resources, especially where those resources are limited.

According to the Butner Complex Warden, given the widespread availability of testing in the community surrounding Butner, there has not been a need to use the testing services made available by the contract. Therefore, if Butner staff wished to be tested for COVID-19, they could be tested by an outside healthcare service provider. As of January 17, 2021, 129 Butner staff members had reported testing positive for COVID-19 and 1 staff member had died.

COVID-19 Staff Screening Procedures

We found that FCC Butner followed BOP guidance on COVID-19 screening of staff members. On February 29, 2020, the BOP directed institutions to screen staff with potential COVID-19 risk factors, including those who had had close contact with individuals diagnosed with COVID-19 or those who had traveled within the previous 14 days through or from locations identified by the CDC as having increased epidemiological risk. On March 13, the BOP issued a further directive instructing all medical referral centers, which included Butner, to implement enhanced health screening of staff.³⁰

On March 4, FCC Butner's Complex Warden informed all staff of potential COVID-19 risk factors and instructed them to self-report if they had any risk factors. On March 13, Butner began screening all staff for COVID-19 symptoms.³¹ The screening process involved a temperature check and a series of questions that a Butner screener told us came from the CDC. Every staff member who cleared screening was given a colored wristband. A staff member who did not pass the screening was sent home. Staff members that experienced COVID-19 symptoms were told to get tested by an outside healthcare service provider in order to be cleared to return to work.

Personal Protective Equipment

Between January 31 and April 6, 2020, the BOP issued seven guidance memoranda intended to help its institutions implement evolving CDC guidance concerning the use of PPE and face coverings in various scenarios. We found that, although FCC Butner worked proactively to distribute masks and face coverings to staff and inmates, staff did not follow BOP guidance

³⁰ BOP, memorandum for All Chief Executive Officers, March 13, 2020.

³¹ Staff members who arrived at the complex before 9 a.m. were screened at the institutions to which they were assigned, and staff members who arrived later were screened at a drive-through screening outside the FMC.

pertaining to the removal of N95 respirators and some inmates in quarantine were not provided with surgical masks as required by BOP policy.³² As a result, staff and inmates at Butner may have been at an increased risk for exposure to COVID-19 due to cross-contamination. On February 29, the BOP provided institutions with an inmate screening tool that called for staff exiting the medical isolation units to remove face shields and masks they had used when interacting with COVID-19 positive inmates.³³ However, Health Services staff at the LSCI and Camp told us that not all staff working around symptomatic inmates in medical isolation units removed their N95 respirators before moving around the rest of the facility.³⁴

Specifically, we learned that, prior to mass testing at the LSCI, staff were wearing the same N95 respirators inside the LSCI SHU isolation unit as they wore in other housing units.³⁵ When we asked staff about these practices, they did not express concern about cross-contamination. We asked the doctor who serves as the Branch Chief of the Occupational and Employee Branch at the BOP Central Office about the appropriate use of N95 respirators. The doctor explained that BOP policy requires all staff to remove their N95 respirators upon exiting a medical isolation unit, properly store a respirator if it has a remaining useful life (five total uses), and put on another appropriate face covering depending on the part of the institution a staff member is entering. Further, CDC guidance distributed by the BOP calls for staff to remove N95 respirators upon exiting units and store them for future use, up to five total uses.

We also found that FCC Butner began to proactively distribute surgical masks to staff and some inmates at FCI I in advance of the CDC's April 3 and the BOP's April 6 recommendations to distribute face coverings.³⁶ On March 27, in response to Butner's first COVID-19 inmate case being identified at FCI I, Butner distributed surgical masks to inmates in the affected unit. The Warden for FCI I and the Camp told us that surgical masks were distributed throughout the remainder of FCI I over the next 2 days. On April 6, Butner distributed surgical masks to all remaining staff and

³² 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.

³³ This guidance has been reiterated and expanded upon in additional guidance documents. See BOP, Guidance for COVID-19 Personal Protective Equipment, March 18, 2020; CDC, "Interim Guidance"; and BOP, Guidance for COVID-19 Personal Protective Equipment, April 28, 2020.

³⁴ BOP guidance does not require staff who work in quarantine units housing asymptomatic inmates to wear N95 respirators. However, we learned that staff were wearing N95 respirators in these units and, similarly, were not always removing them prior to exiting these units.

³⁵ A nurse working at the Camp also told us that staff at that facility did not change N95 respirators when they traveled between isolation and other housing units. An Assistant Health Services Administrator at the Camp told us that gowns were being reused but not worn outside of isolation units.

³⁶ CDC, "[Considerations for Wearing Masks](#)," April 3, 2020 (updated December 18, 2020), www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html (accessed January 21, 2021), and BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Update–Use of Face Masks, April 6, 2020.

inmates across the complex. According to Butner, on April 9 UNICOR cloth face coverings became available and all FCC Butner inmates were issued three cloth masks for their personal use. According to several Butner staff we interviewed, inmates generally complied with mask requirements.

Despite FCC Butner's early actions to distribute masks to the inmate population, we found that inmates in quarantine at FCI I and the Camp were wearing cloth masks rather than surgical masks, even though May 22 BOP guidance stated that inmates quarantined as a cohort for close contact with a COVID-19 case should be required to wear a surgical mask. According to an Assistant Health Services Administrator (AHSA) at the LSCI, inmates in the LSCI SHU quarantine were wearing a surgical mask.

Notwithstanding issues related to N95 respirator and surgical mask use, FCC Butner staff attempted to comply with CDC guidance and BOP technical directives regarding the use of PPE. Specifically, FCC Butner procedures required staff to wear appropriate PPE when performing screening and temperature checks of staff, contractors, and other visitors upon arrival at the facility; transporting inmates to the hospital; and interacting with inmates who were quarantined or isolated.³⁷ A Clinical Director also told us that, despite initial challenges, nonmedical staff were generally wearing PPE correctly.

Staff at each of the FCC Butner facilities told us that they had access to sufficient supplies of PPE. For example, Clinical Directors at the FMC and Camp told us that those facilities had an adequate supply of PPE. Additionally, staff at FCI I told us that all staff had access to necessary PPE, that the facility had a large supply of PPE for staff, and that they were not aware of a time when they had to deny staff PPE due to a shortage. A Lieutenant at the LSCI also told us that he had no concerns about how often staff were replacing their PPE and that he had not had to refuse any staff member asking for an additional N95 respirator. Despite these statements and documentary evidence, 79 percent of FCC Butner staff (280 of 356 respondents) surveyed by the OIG stated that there was an immediate need for "more PPE for staff." This number is greater than the 68 percent of all survey respondents BOP-wide who reported "more PPE for staff" as an immediate need. We believe that the discrepancy between the survey results and interview responses regarding PPE may be related, in part, to the prevalence of COVID-19 at FCC Butner.

Medical Concerns Related to LSCI SHU Power Outages

Between June 23 and June 24, 2020, three power outages of less than 30 minutes each occurred in the LSCI SHU, which, as described above, housed isolated and quarantined inmates. As a result, some COVID-19 positive inmates' oxygen treatments were stopped temporarily and the LSCI SHU's

³⁷ BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Phase Two Action Plan Update Number One, March 18, 2020. Initially, on March 13, the BOP issued guidance that employees screening staff for COVID-19 wear an N95 respirator. For more information, see BOP, memorandum for All Chief Executive Officers, March 13, 2020.

temperature reached at least 80 degrees because of difficulty in restarting the air conditioning system. According to the AHSA at the LSCI, the temperature did not return to normal until late in the day on June 25 or on June 26. The AHSA said that FCC Butner decided not to move two medically fragile COVID-19 positive inmates from the LSCI SHU to elsewhere in the institution out of fear of spreading the disease. According to the FCC Butner Complex Clinical Director, the loss of power caused some inmates who had been receiving oxygen to feel panicky. However, ultimately, there were no negative health outcomes as a result of the electrical and cooling issues.³⁸

Sanitation and Hygiene

OIG survey data indicated that FCC Butner staff gave more favorable responses than staff at other BOP institutions to survey questions about personal hygiene supplies provided to staff. For example, of the Butner staff we surveyed, 83 percent reported that they agreed or strongly agreed that staff were provided with a sufficient supply of soap, compared to 76 percent of respondents among all BOP institutions. Sixty-one percent reported that they agreed or strongly agreed that staff were provided with a sufficient supply of hand sanitizer, compared to 52 percent of respondents among all BOP institutions. Further, 40 percent (142 of 356 respondents) wanted more personal hygiene supplies (soap, hand sanitizer) for staff, compared to 49 percent of respondents among all BOP institutions.

However, with respect to the availability of personal hygiene supplies for inmates, and of cleaning supplies generally, survey results for FCC Butner were less favorable than those for other BOP institutions. Thirty-five percent of the Butner staff we surveyed (124 of 356 respondents) wanted more personal hygiene supplies (soap, hand sanitizer) for inmates, compared to 30 percent of respondents among all BOP institutions, while 39 percent (139 of 356 respondents) wanted more cleaning supplies, compared to 34 percent of respondents among all BOP institutions. Further, we received multiple complaints from inmates regarding access to soap. We noted, however, that none of the 22 staff we interviewed, including 5 medical staff members and 5 nonsupervisory Correctional Officers, expressed concerns about the availability of cleaning or personal hygiene supplies and multiple staff members told the OIG that they believed that inmates had adequate access to showers and could purchase personal hygiene items at the commissary.

Inmate Communications, Access to Legal Counsel, and Commissary

We found that, while FCC Butner took steps such as suspending social visits and restricting inmate movements in accordance with the BOP's March 2020 guidance to modify operations to maximize social distancing, the complex also took steps to ensure that inmates had access to telephones,

³⁸ The OIG recently addressed a power outage and heating and cooling issue at another BOP institution, as well as the need for the BOP to take greater care in tracking and accommodating inmates' medical issues in the event of a power outage. DOJ OIG, *Review and Inspection of Metropolitan Detention Center Brooklyn Facilities Issues and Related Impacts on Inmates*, E&I Report 19-04 (September 2019), www.oversight.gov/sites/default/files/oig-reports/e1904.pdf.

TRULINCS terminals, legal counsel through means such as telephone and mail, and the commissary.³⁹ Butner officials told us that, beginning on June 11, hospitalized inmates participated in video conferencing (VTC) calls with family members. Butner staff facilitated the VTC calls under a BOP pilot program.

In its March 2020 guidance, the BOP suspended in-person legal visits but noted that case-by-case approval at the local level and confidential legal calls would be allowed to ensure inmates' access to legal counsel. FCC Butner staff told us that, at all times during the COVID-19 pandemic, inmates had access to legal counsel, at a minimum through the mail and telephone calls facilitated by staff. Butner reported that there was an upsurge across the complex in legal call requests from Federal Public Defenders and inmates' private attorneys and that staff facilitated the requested calls. Butner officials also told us that some inmates participated in VTC calls with their legal counsel. Specifically, the first such VTC call that occurred during the pandemic took place on March 23 between an FCI I inmate and his counsel. According to Butner, the earliest dates on record for inmate-counsel VTC calls at other Butner institutions were August 13 for the FMC, September 14 for FCI II, and October 28 for the LSCI.

On March 13, the BOP directed Wardens to immediately "implement modified operations to maximize social distancing in [BOP] facilities" to the extent practicable.⁴⁰ Under FCC Butner's modified operations, inmates generally had access to the commissary and staff delivered inmates' purchases to their housing units. For 1 week in April, however, inmates could purchase only stamps and over the counter medications from the commissary.

Our survey data indicates that FCC Butner staff were more likely than staff at other BOP institutions to report that the complex limited inmates' access to telephones and TRULINCS terminals. Of the Butner staff we surveyed, 17 percent (59 of 348 respondents) reported that the complex decreased inmates' ability to communicate with family and friends outside the institution by limiting access to telephones and TRULINCS terminals, compared to 9 percent of respondents among all BOP institutions, and only 50 percent (173 of 348 respondents) reported that inmates received additional TRULINCS minutes at no cost, compared to 65 percent of respondents among all BOP institutions.⁴¹ These survey responses may have reflected the fact that FCC Butner limited the length of each inmate telephone call and Butner facilities other than FCI I discontinued inmates' access to TRULINCS for 1 week in early April, approximately 2-3 weeks before we issued our survey. The suspension of TRULINCS access was done to prevent the spread of illness and to facilitate social distancing of the inmates.

³⁹ BOP, memorandum for All Chief Executive Officers, March 18, 2020. The Trust Fund Limited Inmate Computer System (TRULINCS) is a secure system used by inmates to initiate and track financial transactions, as well as to access pay-as-you-go services such as limited messaging (email).

⁴⁰ See BOP, memorandum for All Chief Executive Officers, March 13, 2020.

⁴¹ At the beginning of the pandemic, and pursuant to guidance from the BOP Central Office's Phase Two Action Plan issued March 13, inmates received an increase, from 300 to 500 minutes, of telephone time per month.

Use of Home Confinement and Compassionate Release Authorities

In response to the COVID-19 pandemic, the Attorney General authorized the BOP, consistent with pandemic-related legislation enacted in late March 2020, to reduce the federal prison population by transferring inmates from prison to home confinement.⁴² In an April 3 memorandum, the Attorney General also directed the BOP to “immediately maximize appropriate transfers to home confinement of all appropriate inmates” at those prisons “where COVID-19 is materially affecting operations.”⁴³ The BOP assigned to its Central Office the responsibility for developing guidance and initially identifying inmates who would be considered for possible transfer to home confinement.

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

During the period from April 3 to June 12, 2020, the BOP Central Office sent FCC Butner 5 rosters, identifying approximately 600 inmates in total who were potentially eligible for transfer to home confinement. Butner 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. Butner officials also reviewed cases of inmates not on the lists provided by the Central Office. These reviews included inmates who did not have sufficient time served at the time the rosters were issued but reached that point shortly after, medically compromised inmates, and elderly inmates over the age of 65 who had COVID-19 risk factors identified by the CDC. This review process, coupled with the 14-day prerelease quarantine period the BOP required to ensure that inmates released into a community did not have COVID-19, resulted in 2 to 3 weeks between the time the BOP identified an inmate for transfer consideration to the date the inmate was actually transferred to home confinement. As a result, we found that in April and early May Butner’s ability to use home confinement in response to the spread of COVID-19, as a mechanism to reduce either the at-risk inmate population or the overall prison population and facilitate social distancing, was limited. Although as of May 9 FCC Butner was enduring a full-blown outbreak with more than 240 inmates having contracted COVID-19, the BOP had used its enhanced authority to use home confinement to mitigate the spread of the virus in the cases of only 41 of Butner’s inmates. Further, three

⁴² Home confinement, also known as home detention, is a custody option whereby inmates serve a portion of their sentence at home while being monitored.

⁴³ William P. Barr, Attorney General, memorandum for Director of Bureau of Prisons, [Increasing Use of Home Confinement at Institutions Most Affected by COVID-19](https://www.justice.gov/file/1266661/download), April 3, 2020, www.justice.gov/file/1266661/download (accessed January 21, 2021).

inmates who were deemed eligible for transfer to home confinement died from COVID-19 while awaiting their transfer, one on April 28, one on June 3, and the third on July 3. As of July 6, Butner had referred a total of 87 inmates for transfer to home confinement pursuant to Coronavirus Aid, Relief, and Economic Security Act (CARES Act) authorities and 68 of those had left FCC Butner.

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.”⁴⁴ 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.⁴⁵ The Attorney General’s memorandum identified a “non-exhaustive” list of factors that the BOP should consider in determining whether to transfer an inmate to home confinement. Those factors included:

- the age and vulnerability of the inmate to COVID-19, based on CDC guidelines;
- the security level of the institution where the inmate was currently housed, with priority given to those in minimum and low security facilities;
- the inmate’s disciplinary history, with inmates who engaged in violent or gang-related activity in prison, or who incurred a BOP violation during the prior 12 months, not receiving priority treatment;
- the inmate’s Prisoner Assessment Tool Targeting Estimated Risk and Needs (PATTERN) score, with inmates exceeding a minimum score not receiving priority treatment;⁴⁶

⁴⁴ William P. Barr, Attorney General, memorandum for Director of Bureau of Prisons, Prioritization of Home Confinement as Appropriate in Response to COVID-19 Pandemic, March 26, 2020, www.justice.gov/file/1262731/download (accessed January 21, 2021).

⁴⁵ 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.

⁴⁶ 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

(Cont’d.)

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

The memorandum further required an assessment by the BOP Medical Director, or designee, of the inmate’s risk factors for severe COVID-19 illness, 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].”⁴⁷ The following week, on April 3, the Attorney General issued a memorandum entitled “Increasing Use of Home Confinement at Institutions Most Affected by COVID-19,” which found, as provided for in the CARES Act, “that emergency conditions are materially affecting the functioning of the [BOP].”⁴⁸ As a result of that finding, the BOP Director was authorized by the CARES Act to increase the amount of time that inmates could be placed in home confinement. The memorandum instructed the BOP to “immediately maximize appropriate transfers to home confinement of all appropriate inmates” at those prisons “where COVID-19 is materially affecting operations.” In assessing inmates for transfer to home confinement, the memorandum stated that the BOP should be “guided by the factors in my March 26 Memorandum, understanding, though, that inmates with a suitable confinement plan will generally be appropriate candidates for home confinement rather than continued detention at institutions in which COVID-19 is materially affecting their operations.”

In response to the Attorney General’s memoranda, the BOP issued three memoranda, on April 3, April 22, and May 8, 2020. The BOP’s April 3 memorandum provided institutions with “sample rosters...to aid in the identification of inmates who may be eligible for home confinement” and stated that eligible inmates “must be reviewed utilizing [the BOP’s] Elderly Offender Home Confinement Program criteria and the discretionary factors listed in the [Attorney General’s March 26 memorandum].”⁴⁹ 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

Needs Assessment System–Update (January 2020), nij.ojp.gov/sites/g/files/xyckuh171/files/media/document/the-first-step-act-of-2018-risk-and-needs-assessment-system-updated.pdf (accessed January 21, 2021).

⁴⁷ Pub. L. No. 116-136.

⁴⁸ Barr, memorandum for Director of Bureau of Prisons, April 3, 2020.

⁴⁹ The criteria in the BOP’s Elderly Offender Home Confinement Program generally mirror those found in § 603 of the FIRST STEP Act, 34 U.S.C. § 60541, and require an inmate to, among other things, be at least 60 years old, have served at least two-thirds of his or her prison sentence, and not have been convicted of a crime of violence or sex offense.

and people of all ages with underlying medical conditions.⁵⁰ 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.⁵¹ Specifically, the memorandum stated that the BOP was prioritizing for home confinement consideration those inmates who either (1) had served 50 percent or more for their sentence or (2) had 18 months or less remaining on their sentence and had served 25 percent or more. In assessing whether inmates who met the expanded prioritization criteria were candidates for home confinement, the memorandum continued to apply the criteria from the Attorney General’s March 26 memorandum. Additionally, the BOP’s April 22 memorandum continued to provide that pregnant inmates should be considered for placement in home confinement or an available community program. Finally, the BOP’s memorandum allowed a Warden to seek approval from the BOP Central Office to transfer to home confinement an inmate who did not meet the memorandum’s criteria if the Warden determined that transfer was necessary “due to [COVID-19] risk factors, or as a population management strategy during the pandemic.” We note, however, that the April 22 memorandum did not specifically address the instruction in the Attorney General’s April 3 memorandum that the BOP “immediately maximize appropriate transfers to home confinement” at those institutions “where COVID-19 is materially affecting operations” and “that inmates with a suitable confinement plan will generally be appropriate candidates for home confinement rather than continued detention at institutions in which COVID-19 is materially affecting their operations.”

The BOP’s third memorandum, issued May 8, was generally consistent with its April 22 memorandum, with one specific difference.⁵² The May 8 memorandum permitted inmates to be

⁵⁰ The CDC stated that people with chronic lung disease, moderate to severe asthma, serious heart conditions, severe obesity, diabetes, chronic kidney disease, and liver disease, particularly if not well controlled, are at high risk for severe illness from COVID-19. The CDC’s guideline also identified people who are immunocompromised as being at risk. The guideline stated that many conditions can cause a person to be immunocompromised, including cancer treatment, smoking, bone marrow or organ transplantation, immune deficiencies, poorly controlled HIV or AIDS, and prolonged use of corticosteroids and other immune weakening medications. While the CDC previously stated that individuals age 65 years 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](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fpeople-at-increased-risk.html),” updated January 4, 2021, www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fpeople-at-increased-risk.html (accessed January 21, 2021).

On November 2, the CDC updated its guidance to distinguish between individuals with certain conditions who are at an increased risk of severe illness and those who might be at an increased risk. CDC, “[People with Certain Medical Conditions](https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html),” updated December 29, 2020, www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html (accessed January 21, 2021).

⁵¹ The BOP’s April 22 memorandum rescinded its April 3 memorandum.

⁵² The BOP’s May 8 memorandum rescinded its April 22 memorandum.

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 Butner Inmates Potentially Eligible for Home Confinement Consideration Based on BOP Guidance and Available Authorities

In order to independently assess the number of FCC Butner inmates potentially eligible for transfer to home confinement applying the authorities described above and the BOP guidance criteria, the OIG's ODA used data from the BOP's inmate management system, SENTRY. This information did not allow the ODA to replicate every criterion used by the BOP to determine home confinement eligibility and, as a result, in some instances, the ODA used certain proxies. For example, in applying the public safety criteria in the BOP guidance, the ODA initially considered all minimum or low security Butner inmates as potentially eligible for home confinement, whereas the BOP considered certain additional public safety factors that may have limited the eligibility of some of those inmates for home confinement consideration. Separately, in estimating the number of inmates who were eligible for transfer to home confinement under 18 U.S.C. § 3624(c)(2) prior to enactment of the CARES Act, the ODA included only those inmates with a minimum or low security level with a remaining sentence of 6 months or less, although the statute applies to all inmates regardless of the security level of the institution where they are incarcerated but limits placement into home confinement to no more than 10 percent of an inmate's sentence.⁵³ Further, in determining the number of inmates who were at high risk of severe illness from COVID-19 and therefore were eligible for home confinement consideration under BOP guidance, the ODA included inmates age 65 or older only. Determinations about whether inmates' specific underlying medical conditions placed them in a high risk category or made them appropriate for transfer were made by the institution based on a case file review, which the OIG did not undertake in connection with our remote inspection.⁵⁴

As stated above, based on the available data, the ODA estimated that, as of April 12, 2020, approximately 1,070 of Butner's 1,829 minimum or low security inmates were potentially eligible for

⁵³ 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."

⁵⁴ Moreover, according to the BOP's Administrator of Reentry Services, different institutions may have different interpretations of how severe a medical condition deemed by the CDC as high risk must be for the inmate to be considered eligible for home confinement.

home confinement placement under existing authorities and BOP guidance.⁵⁵ By comparison, the BOP Central Office included approximately 600 inmates in the 5 rosters it provided to Butner for home confinement consideration between April 3 and June 12.⁵⁶ According to FCC Butner, these 600 inmates had a “minimum” PATTERN score and were therefore given priority consideration under the Attorney General’s March 26 memorandum. Table 2 below details the ODA’s estimated number of inmates eligible for transfer by available authority or BOP guidance factor.

Table 2

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

Authority	18 U.S.C. § 3624(c)(2) Prior to the CARES Act	FIRST STEP Act: Pilot Program for Elderly, Nonviolent Offenders	Post-CARES ACT and 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 less than 18 months remaining
Number of Inmates as of April 12, 2020	153	106	109	702

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 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

FCC Butner’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

⁵⁵ 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.

⁵⁶ 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 Butner 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.

the criteria from the BOP memoranda. FCC Butner received five different rosters from the Central Office between April 3 and June 12, 2020, and BOP officials stated that multiple rosters were provided because each successive BOP memorandum expanded the inmate eligibility criteria. The Central Office's rosters identified approximately 600 Butner inmates who were potentially eligible for transfer to home confinement.

As the criteria for home confinement changed over time, FCC Butner staff also reviewed other inmates throughout the complex who were not on the rosters. Butner officials told us that they reviewed inmates who did not have sufficient time served at the time the rosters were issued but reached that point shortly after, medically compromised inmates who were sent to Butner for medical studies, and elderly inmates over the age of 65 who had COVID-19 risk factors identified by the CDC.

According to data provided by FCC Butner, as of May 9, 41 inmates who had been referred for home confinement pursuant to CARES Act authorities had left the institution. As of July 6, the institution had reviewed a total of 763 inmates for referral to home confinement pursuant to the CARES Act and had referred a total of 87. As of that date, 68 of the 87 had left the institution, 16 were still at the institution pending a transfer to home confinement, and 3 had died while still in BOP custody.⁵⁷ When we asked an FCC Butner Case Manager why the majority of inmates were not referred for transfer, he explained that many Butner inmates had high recidivism risk scores or were sex offenders and therefore did not meet home confinement eligibility. He also noted that many inmates may not have had a viable release plan, which would also prevent their transfer to home confinement. Finally, he told us that, due to changes in the eligibility criteria, certain inmates Butner staff believed to be eligible for home confinement under initial guidance ultimately proved to be ineligible based on subsequent guidance. Inclusive of the inmates who were referred for transfer to home confinement and left the institution, as well as those inmates who were released for reasons unrelated to the BOP's COVID-19 response, such as full-term releases, good conduct time releases, compassionate releases, and transfers to the custody of a Residential Reentry Center, 464 inmates left FCC Butner between March 28 and June 26, 2020.

The OIG recognizes and appreciates the importance of the public safety considerations associated with the potential release of a BOP inmate and the challenges that BOP officials face in determining whether to transfer an inmate to home confinement. These are difficult, risk-based decisions. However, we also note that, in early April, at a time when FCC Butner was facing a growing COVID-19 outbreak, the BOP had been given authority to expand existing release criteria and the Attorney General had directed the BOP to "immediately maximize appropriate transfers to home confinement of all appropriate inmates" at prisons "where COVID-19 is materially affecting

⁵⁷ According to BOP data, one additional inmate was being considered for transfer to home confinement but escaped the institution prior to an official transfer from the institution. The escapee was subsequently apprehended and, on October 20, was convicted for violating 18 U.S.C. § 751(a), Escape from Custody. He was sentenced to an additional 18 months in prison.

operations.” Despite this admonition, the data does not reflect the BOP having taken immediate action at FCC Butner. For example, as of April 12, approximately 153 minimum and low security Butner inmates had 6 months or less remaining in their sentence. Under the law, upon completion of the inmates’ sentence, the BOP was obligated to release them from prison. Therefore, those inmates were going to be returning to their communities no later than early October, many likely much sooner. Moreover, nearly all of those 153 inmates would have been eligible for immediate home confinement consideration under BOP guidance and existing law.⁵⁸ Ultimately, we found that more than 78 percent (120 of 153) of inmates with less than 6 months remaining in their sentence still remained at FCC Butner as of May 9. By June 26, nearly 3 months since the first Butner inmate tested positive for COVID-19, 42 percent (65 of 153) of these inmates continued to reside at Butner despite impending release into the community and the institution’s widespread COVID-19 outbreak. As a result, we concluded that the BOP did not fully leverage its expanded authorities under the CARES Act and the Attorney General’s memoranda to promptly transfer FCC Butner inmates to home confinement.⁵⁹

Compassionate Release

Another means by which inmates can be moved from prison to home is through a reduction to their sentence pursuant to the compassionate release statute, 18 U.S.C. § 3582(c)(1)(A)(i).⁶⁰ Under the statute, either the BOP or an inmate may request that a federal judge reduce the inmate’s sentence for “extraordinary and compelling reasons,” such as age, terminal illness, other physical or medical conditions, or family circumstances. An inmate must first submit a compassionate release request to the BOP; but the inmate is permitted to file a motion directly with the court if the BOP denies the petition, or 30 days after the inmate files the petition with the BOP, whichever occurs first.

⁵⁸ While 18 U.S.C. § 3624(c)(2) would normally have limited the maximum amount of time that such inmates could be placed in home confinement for the shorter of 10 percent of the term of imprisonment of that inmate or 6 months, the BOP’s post-CARES Act guidance eliminated that 10 percent restriction for inmates who had less than 18 months remaining in their sentence and had already served 25 percent of their sentence. For inmates with less than 6 months remaining in their sentence, that meant any inmate who had received an 8-month or longer sentence. According to the BOP, approximately 98 percent of defendants sentenced to a term of imprisonment have received a sentence of at least 1 year.

⁵⁹ In a written response to our draft report, Butner officials stated that the complex houses a large number of inmates whom Health Services staff deemed medically and or psychologically unsuitable for transfer to home confinement, because the inmates required frequent and on-going medical care that could not be met in the community. According to documents Butner provided to the OIG during the course of the inspection however, Butner staff only identified medical issues as a reason to deny transfer to home confinement for 4 of the 153 minimum and low security inmates.

⁶⁰ For more information about how the BOP manages its compassionate release program, see BOP Program Statement 5050.50, *Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§ 3582 and 4205(g)*, January 17, 2019. In 2013, the OIG issued a report examining the BOP’s compassionate release program. The OIG found, at that time, that the program had been poorly managed and inconsistently implemented. See DOJ OIG, *The Federal Bureau of Prisons’ Compassionate Release Program*, E&I Report I-2013-006 (April 2013), www.oversight.gov/sites/default/files/oig-reports/e1306.pdf.

We were told that the BOP prioritized using the home confinement authorities described above to respond to the COVID-19 pandemic because those authorities allow the BOP to approve inmates for release whereas compassionate release requires the approval of a federal judge. Officials in the BOP's Office of General Counsel told us that the COVID-19 pandemic has not changed the BOP's eligibility requirements for compassionate release. Additionally, when responding to compassionate release motions filed by inmates with courts, the Department has stated that the risk of COVID-19 by itself is not an "extraordinary and compelling" circumstance that should result in the grant of a compassionate release request.⁶¹ Thus, COVID-19 would not cause the BOP to support a petition for compassionate release that it would not have supported otherwise.

We found that, during the first 2 months of 2020, FCC Butner received an average of 22 requests for compassionate release per month. We also found that from March to June Butner received an average of 182 requests per month, with 243 requests in the month of April alone. According to FCC Butner, 86 inmates from the complex were granted compassionate release between March 13 and June 30. Of those 86 inmates, 1 had his request approved by the BOP prior to being granted release by the court.⁶²

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.

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

⁶² Of the 86 inmates who were approved for compassionate release, 18 inmates petitioned directly to a sentencing judge, without first petitioning the BOP, and were granted compassionate release.

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 FCC Butner encompassed an OIG survey issued to all BOP staff, telephone interviews of Butner staff, review of BOP documents related to the BOP's and FCC Butner's management of the COVID-19 pandemic, and analysis of BOP and COVID-19 data. We also reviewed over 100 complaints received from inmates, staff, and other stakeholders submitted between April 4 and September 1 through our online COVID-19 Response Complaints form (an element of the OIG Hotline) and other means. The inspection team did not substantiate or assess the validity of the complaints received through the OIG Hotline. The complaints consisted of concerns about early release, inmate access to legal materials and counsel, testing, quarantine, social distancing, COVID-19 exposure, and inmate access to hygiene products such as soap.

To understand staff concerns, impacts, and immediate needs related to COVID-19, we issued an anonymous, electronic survey to all BOP government employees from April 21 through April 29, 2020. We invited a total of 38,651 employees to take the survey and received 10,735 responses, a 28 percent response rate. BOP-wide institution staff represented 9,932 of the 10,735 responses (93 percent). We received 420 survey responses from the 1,320 FCC Butner personnel, representing about 32 percent of staff assigned to the institution.

We conducted telephone interviews with two institution Wardens, the complex Case Management Coordinator, two Clinical Directors, the Chief Psychologist, and the Union President, as well as four Senior Officer Specialists, three Lieutenants, two Captains, two Unit Managers, a Social Worker, two AHSAs, and a Supervisory Nurse. We also conducted a group teleconference with FCC Butner management, including the Complex Warden, the four institution Wardens, and staff from each of the five facilities at FCC Butner.

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

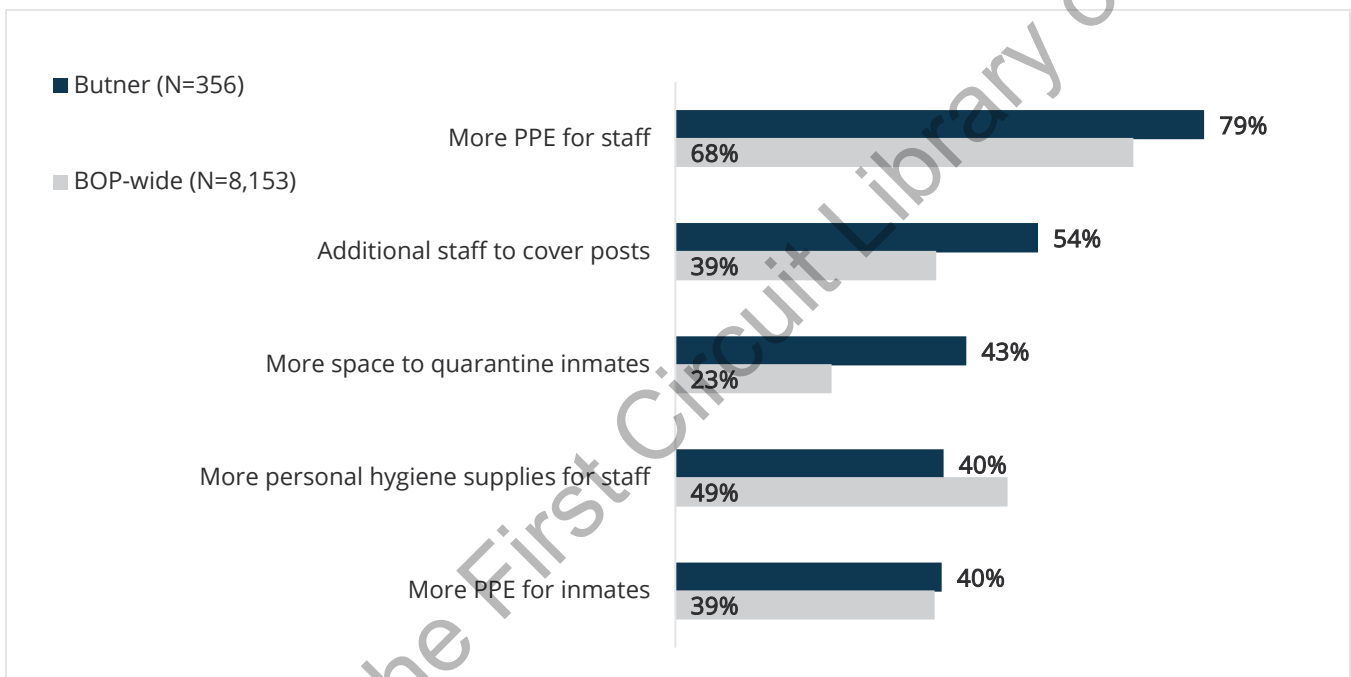
OIG COVID-19 SURVEY RESULTS FOR FCC BUTNER

Open Period	Invitations Sent to BOP Institution Staff	Overall Responses ⁶³	Butner Responses
April 21-29, 2020	38,651	10,735 (of 38,651)	420 (of 1,320)

Butner Responses by Department

Health Services: 37% | Correctional Services: 28% | Psychology Services: 8% | All Other Departments: 28%

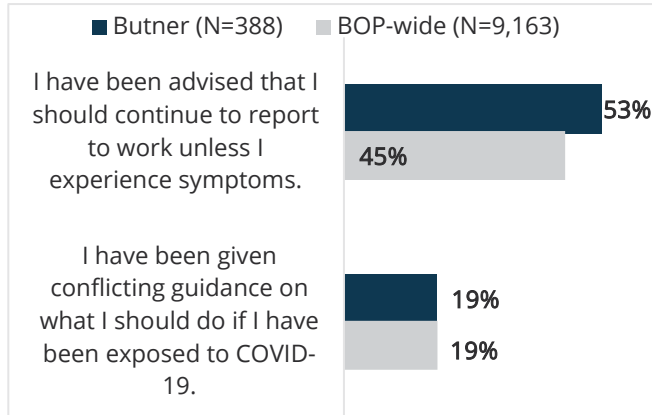
Which of the following are immediate needs for your institution during the COVID-19 pandemic? (Top 5 Responses)



Note: Personal hygiene supplies are defined as soap and hand sanitizer.

⁶³ 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. These views expressed in the staff responses may not necessarily reflect the 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.

	Butner Rating	BOP-wide Rating
The guidance was timely.	3.06	3.18
The guidance was clear.	2.89	2.97
The guidance was comprehensive.	2.97	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)

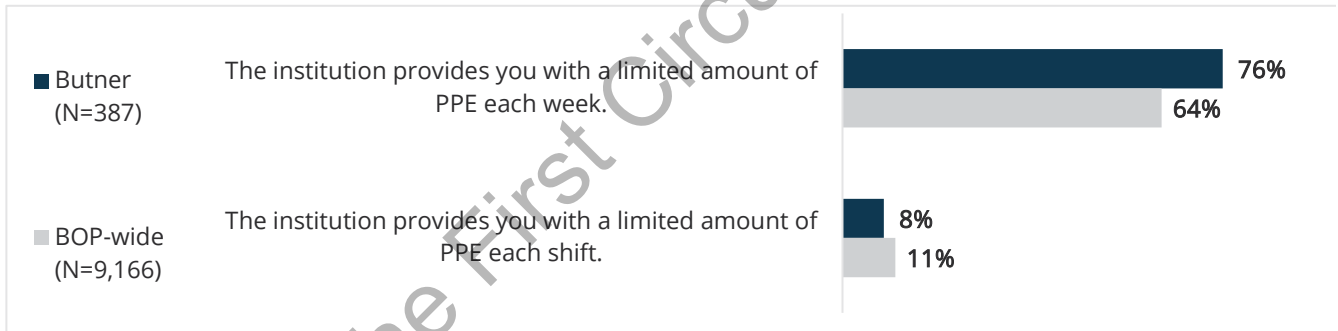
Respondents rated each item on a 5-point scale, with "strongly disagree" worth 1 point and "strongly agree" worth 5 points. "Don't know" responses are excluded.

	Butner Rating (N=378)	BOP-wide Rating (N=8,978)
Three Practices Rated Highest:		
Staff are provided a sufficient supply of soap.	4.05	3.90
Staff are given sufficient information about COVID-19 symptoms and preventive actions (hand washing, wearing masks).	4.04	4.09
Inmates have ample opportunity to shower at least three times a week.	3.87	4.27
Three Practices Rated Lowest:		
Shared staff equipment such as radios and keys is regularly cleaned and sanitized.	3.03	3.15
Inmates are provided a sufficient supply of hand sanitizer where sinks are not available.	2.92	3.07
Staff are provided a sufficient supply of masks.	2.88	3.13

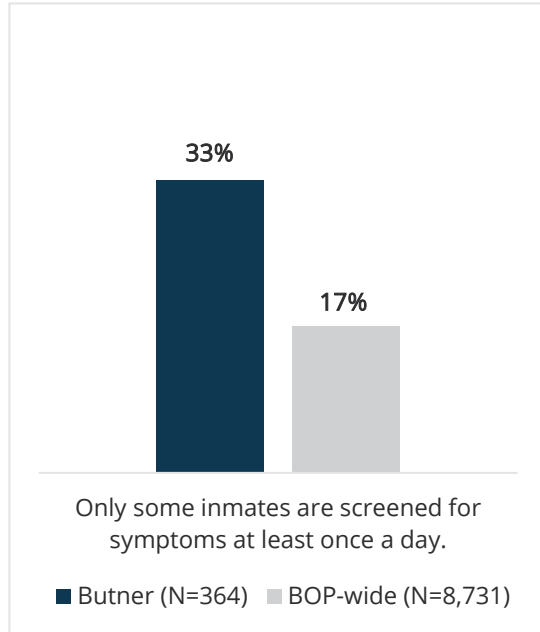
Please identify which, if any, of the following social distancing measures your institution is currently employing to increase the amount of space between staff and inmates. (Top 5 Responses)

	Butner Percent of Respondents (N=354)	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.	60%	59%
The number of inmates participating in a program or activity at one time has been reduced.	34%	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).	34%	44%
I don't know.	21%	15%
The number of inmates released, including those transferred to halfway houses or placed on home confinement, has increased.	19%	26%

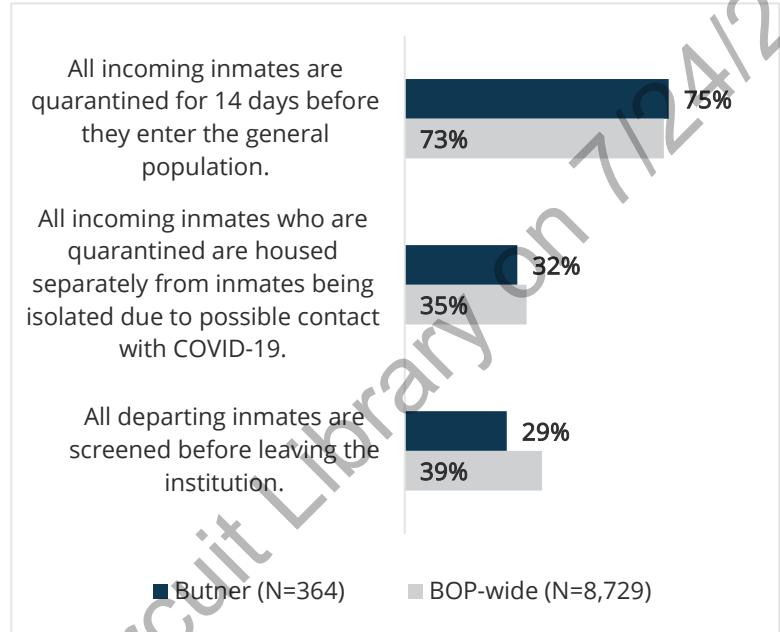
Which of the following statements best describes the current guidance you have received from facility leadership about your use of personal protective equipment (PPE)? (Top 2 Responses)



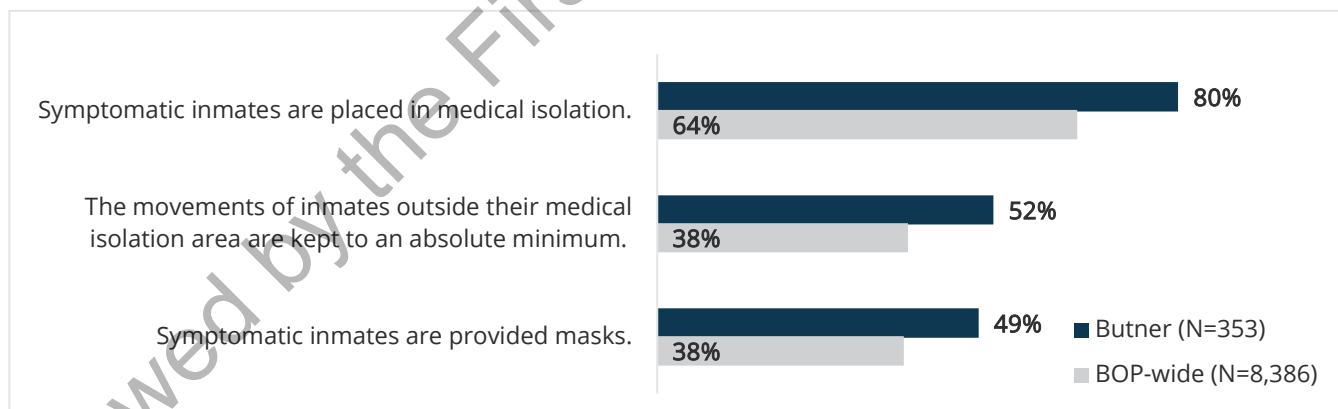
Which of the following statements best describes the current approach to COVID-19 screening of existing inmates (temperature check, questioning about other symptoms) at your institution?⁶⁴ (Top Response)



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

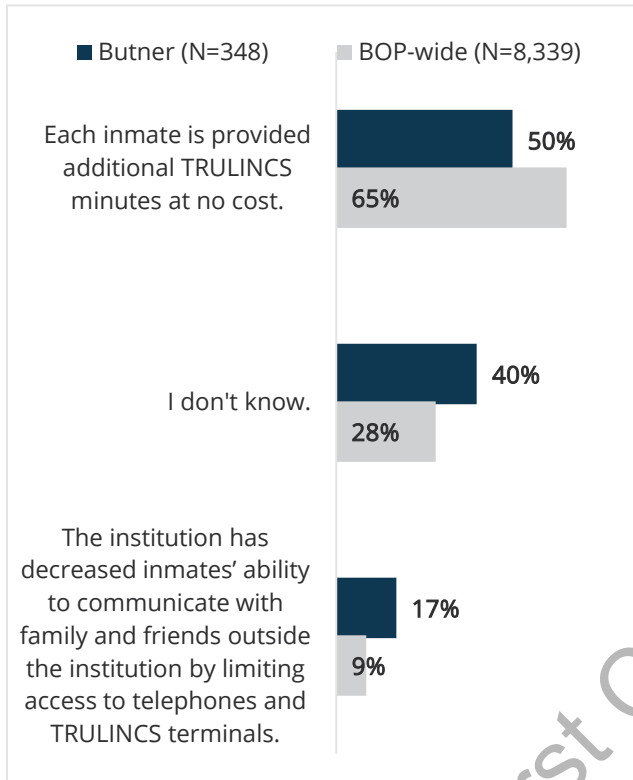


Please identify which, if any, of the following measures your institution is currently employing to manage inmates with COVID-19 symptoms. (Top 3 Responses)

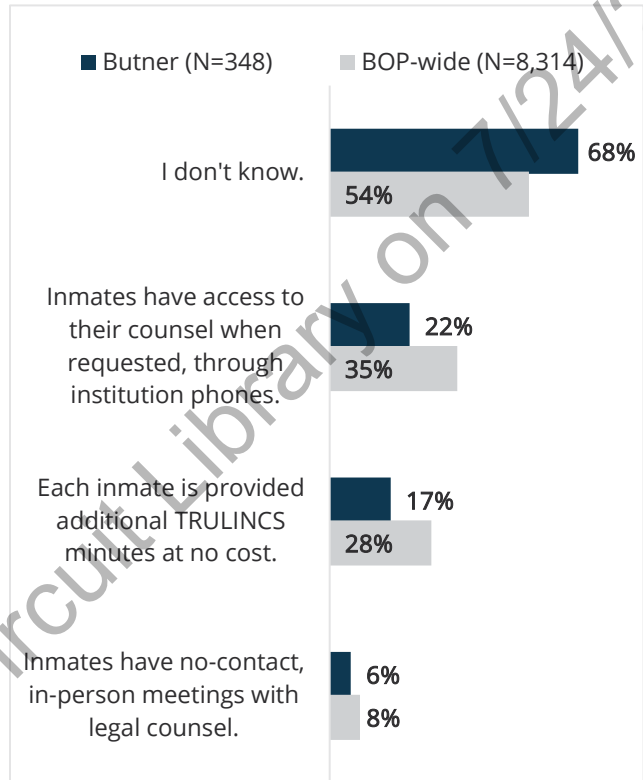


⁶⁴ Although BOP policy does not require the screening of every inmate, the BOP's Phase Five Action Plan, issued on March 31, 2020, emphasized the importance of practices for identifying symptomatic inmates as early as possible. In addition to the required intake screening and exit screening, the action 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 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.⁶⁵ (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.⁶⁶ (Top 3 Responses)



⁶⁵ 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.

⁶⁶ 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	<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.

26

The BOP Issued Action Plan Phase Four:

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

28

The BOP Issued an Update to Action Plan Phase Four:

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

31

The BOP Issued Action Plan Phase Five:

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

3

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

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

6

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

7

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

13

The BOP Issued Action Plan Phase Six:

- Extended guidance issued in Phase Five through May 18

24

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

18

The BOP Issued Action Plan Phase Seven:

- Extended guidance issued in Phase Six through June 30

June	30	<p>The BOP Issued Action Plan Phase Eight:</p> <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
July		
August	5	<p>The BOP Issued Action Plan Phase Nine:</p> <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
	31	<p>The BOP Issued Modification of Action Plan Phase Nine:</p> <ul style="list-style-type: none"> Extended guidance issued in Phase Nine through September 30 Provided guidance for safely resuming social visits
September		
October	2	<p>The BOP Issued Extension to Action Plan Phase Nine:</p> <ul style="list-style-type: none"> Extended guidance issued in Phase Nine through October 31
November	1	<p>The BOP Issued Extension to Action Plan Phase Nine:</p> <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

Office of the Director

Washington, DC 20534

January 15, 2021

MEMORANDUM FOR RENÉ ROCQUE LEE

ACTING ASSISTANT INSPECTOR GENERAL
EVALUATION AND INSPECTIONS

FROM:

Gene Beasley
Gene Beasley
Deputy Director

SUBJECT:

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

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

Draft Report: Page ii, 1st bullet under the heading "Summary of Inspection Results", "FCC Butner was not complying with some of the BOP's quarantine guidance because of the high volume of COVID-19 cases and a lack of quarantine space."

BOP's Response: Despite the high volume of COVID-19 cases, FCC Butner complied with BOP quarantine guidance. Specifically, in April, the Low Satellite Correctional Institution (LSCI) had defined two ranges as quarantine ranges and two ranges as isolation ranges. All incoming inmates and positive COVID-19 inmates were housed within these units. Incoming inmates were placed in quarantine and positive COVID-19 inmates were placed in isolation. Contact investigations were completed on every positive COVID-19 inmate and any close contacts were housed within the quarantine range.

Draft Report: Page ii, 2nd bullet under the heading "Summary of Inspection Results", "Butner did not quarantine inmates who tested negative for COVID-19, but who, after testing, were

likely exposed to known COVID-19 positive inmates, which was inconsistent with BOP and CDC guidance."

BOP's Response: In April BOP issued guidance to isolate close contacts and house them within the quarantine areas. Contact investigations were completed on every positive COVID-19 inmate. FCI I had to expand its established quarantine and isolation areas many times to accommodate the evolving guidance.

Draft Report: Page ii, 3rd bullet under the heading "Summary of Inspection Results", "Although Butner's management took steps to reduce staff movements throughout its five facilities, Butner was not able to restrict staff movements to fully mitigate the risk of cross-contamination and spread of COVID-19 throughout the complex."

BOP's Response: In March, FCC Butner restricted the complex overtime staff roster, rotation of posts, and staff movement into facilities to which they were not assigned. From the very beginning, FCC Butner has instructed staff to work at one institution at the complex. Staff have only been permitted to work at their assigned institution to further mitigate the spread of the virus from one facility to the other. Due to the large number of 24-hour and mission critical posts at each institution, and time off for staff to include regular days off, annual leave, and sick leave, it is impossible to keep the same staff on the same post throughout this pandemic; however, staff movement between facilities was restricted very early during the pandemic.

Draft Report: Page ii, 4th bullet under the heading "Summary of Inspection Results", "While Butner had sufficient supplies of personal protective equipment (PPE) during our inspection, we found that staff were not changing N95 respirators when moving between units that had COVID-19-positive inmates and those that had COVID-19 negative inmates, which may have increased the risk of cross-contamination."

BOP Response: "Crisis Capacity" strategies were utilized by FCC Butner per CDC guidance in April 2020 to optimize the supply of N95 Respirators as there was a national shortage. This allowed for up to five times use as long as proper handling and storage of mask was maintained utilizing assigned brown paper bags. Guidance for COVID-19 Personal Protective Equipment April 25, 2020, Version 2.0 validates reuse of N-95 with important points

to discard the respirator after it had been used five separate times, when visibly soiled, and when difficult to breathe through. Later, additional donning and doffing stations with signage and adequate supplies of PPE equipment were added in areas of isolation and quarantine to remind staff to utilize N95s appropriately.

Draft Report: Page ii, 5th bullet under the heading "Summary of Inspection Results", "Although Butner worked to comply with the Attorney General's guidance on home confinement, the composition of the inmate population and the need to adapt to rapidly changing guidance presented challenges to reducing the complex's population in a timely manner."

BOP Response: Rosters provided by Central Office in April 2020 identified inmates throughout the complex who met the Attorney General's criteria for home confinement via the Cares Act. These inmate files were reviewed and processed immediately. Depending on COVID test results, all eligible inmates received home confinement dates and were released via furlough crisis or on their home confinement date. Because of the medical mission of FCC Butner, all eligible inmates were screened by Health Services Staff to determine if the inmate required frequent and on-going medical care within the next 90 days. Some eligible FCC Butner inmates' medical needs could not be met in the community resulting in the inmates remaining at the facility. Once all factors were reviewed to include a review by Health Services, staff ensured inmates had a viable release plan. At that time, they were immediately referred for placement in a Residential Reentry Center.

Draft Report: Page 24, last sentence of the first paragraph, "As a result, we concluded that the BOP did not fully leverage its expanded authorities under the CARES ACT and the Attorney General's memoranda to promptly transfer FCC Butner inmates to home confinement."

BOP Response: BOP case management staff refer inmates for RRC placement 18 months in advance of their projected release date; however, that doesn't mean that placing them into the community was not a public safety risk particularly if such persons had no viable release plan. With all the caveats acknowledged by the Office of Data Analytics (ODA) in this portion of the report as to the limitations of their analysis, it is inappropriate to

conclude the BOP did not fully leverage its expanded authorities under the CARES ACT and the Attorney General's memoranda.

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OIG ANALYSIS OF THE BOP'S RESPONSE

The OIG provided a draft of this report to the BOP for its comment. The BOP's response is included in Appendix 4 to this report. Below is the OIG's analysis of the BOP's response.

Highlights of the BOP's Response

The BOP provided six comments in its response to this report. First, the BOP stated that it complied with BOP quarantine guidance and described efforts it took to quarantine inmates at the LSCI. It also stated that incoming inmates were quarantined when they entered the complex. Additionally, the BOP stated that contact investigations were completed on every positive COVID-19 inmate and any close contacts were housed within the quarantine range. Second, the BOP stated that in April 2020 it issued guidance to isolate close contacts and house them within the quarantine areas. The BOP also stated that FCI I had to expand its established quarantine and isolation areas many times to accommodate the evolving guidance.

Third, the BOP stated that in March FCC Butner modified its staffing plans to limit movement throughout the complex. However, it noted that because of a number of operational reasons it has been impossible to keep the same staff on the same post throughout the pandemic. Fourth, the BOP stated that in April Butner utilized "Crisis Capacity" strategies, per CDC guidance, to optimize the supply of N95 respirators as there was a national shortage. The BOP added that this guidance allowed staff to use N95 respirators up to 5 times, provided that they were properly handled between uses.

Fifth, the BOP stated that Butner staff conducted a review of the circumstances of each individual's eligibility for home confinement. It added that because of FCC Butner's medical mission, each eligible inmate was screened by Health Services staff to determine whether he would require frequent and ongoing medical care within the next 90 days and that some eligible Butner inmates' medical needs could not be met in the community. The BOP also stated that placing some inmates into the community could have been a public safety risk, particularly if those inmates had no viable release plan. Finally, the BOP stated that, with all the caveats acknowledged by the OIG's ODA as to the limitations of its analysis, it is inappropriate to conclude that the BOP did not fully leverage its expanded authorities under the CARES Act and the Attorney General's memoranda.

OIG Analysis

We acknowledged in our report that FCC Butner complied with BOP quarantine guidance in March and April 2020. However, as we noted in the report, as COVID-19 spread throughout the LSCI in May and June, and FCI I in June, these facilities were not able to quarantine all inmates meeting the criteria for quarantine, including close contacts, largely due to space availability issues.

Regarding the BOP's statement that keeping the same staff on the same post throughout the pandemic has been impossible, the OIG acknowledges that, as stated in the report, Butner informed us that it faced staffing challenges due to the large number of 24-hour posts that must be filled at each institution; staff days off, including for annual and sick leave; absences of COVID-19 positive staff; and temporary job modifications Butner made to protect the most vulnerable staff members from COVID-19 exposure.

Regarding the use of N95 respirators by Butner staff, the OIG recognizes that CDC guidance allowed for the use of N95 respirators up to 5 times in response to the national shortage. However, we note in the report that Butner staff were using the same N95 respirators in both isolation and non-isolation units at the LSCI and the Camp, which presented a risk of cross-contamination between these units.

With regard to the transfer of inmates to home confinement, we acknowledge that certain FCC Butner inmates potentially eligible for home confinement require frequent and ongoing medical care; however, we also note that, according to documents Butner provided to the OIG during the course of the inspection, Butner staff identified medical issues as a reason to deny transfer to home confinement for only 4 of the 153 minimum and low security inmates with less than 6 months remaining in their sentence. We recognize that we did not perform a case-by-case review for suitability for transfer to home confinement of those inmates who were potentially eligible and that BOP must consider public safety when making these risk-based decisions regarding inmate transfer to home confinement. Nonetheless, we note that under existing law, as well as the Attorney General's guidance, the BOP had been granted expanded authorities to "immediately maximize appropriate transfers to home confinement of all appropriate inmates" at prisons "where COVID-19 is materially affecting operations." In addition, on April 3 the Attorney General told the BOP Director that "inmates with a suitable confinement plan will generally be appropriate candidates for home confinement rather than continued detention at institutions in which COVID-19 is materially affecting their operations." Delays in transferring those inmates determined by Butner to be eligible for home confinement, as well as the limited number of those inmates actually transferred, indicates that the BOP did not fully leverage its existing or expanded authorities under the CARES Act and the Attorney General's memoranda to promptly transfer eligible Butner inmates to home confinement.