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JOINT ECONOMIC

# United States Senate

WASHINGTON, DC 20510

March 20, 2020

Mr. Michael Carvajal  
Director  
Federal Bureau of Prisons  
320 First Street, N.W.  
Washington, DC 20534

Dear Director Carvajal:

I write to express my concern regarding recent reports of widespread shortages of personal protective equipment (PPE) and conflicting guidance from the Bureau of Prisons (BOP) related to the COVID-19 outbreak.<sup>1</sup> These concerns coincide with reports that my office has received indicating that the BOP and the U.S. Marshals Service intend to transport incarcerated individuals from out-of-state facilities to multiple facilities in Pennsylvania, including USP Lewisburg, USP Canaan and FCC Allenwood. Based on these reports, I am respectfully requesting additional information regarding the BOP's current preparation and guidelines for responding to the current COVID-19 pandemic.

On March 13, 2020, the BOP released guidance detailing a number of measures that were being deployed throughout the federal prison system.<sup>2</sup> These measures included, among other things, establishing quarantine areas within BOP facilities, suspending social visits for 30 days and suspending "inmate internal movement" with certain exceptions.<sup>3</sup> On March 19, 2020, the BOP changed this guidance to permit moving and transferring incarcerated individuals between facilities "to better manage detention bedspace."<sup>4</sup> Under this new guidance, the BOP also indicated that inmates "must have been in BOP custody for greater than 14 days" before being authorized to move between BOP facilities.<sup>5</sup>

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<sup>1</sup> Danielle Ivory, *'We Are Not a Hospital': A Prison Braces for the Coronavirus*, N.Y. TIMES (Mar. 17, 2020), <https://www.nytimes.com/2020/03/17/us/coronavirus-prisons-jails.html>; Cassidy McDonald, *Federal Prison Workers Say Conflicting Orders on Coronavirus Response is Putting Lives at Risk*, CBS NEWS (Mar. 19, 2020, 12:40 PM), <https://www.cbsnews.com/news/coronavirus-prison-federal-employees-say-conflicting-orders-putting-lives-at-risk-2020-03-19/>; David Shortnell & Kara Scannell, *New Coronavirus Cases in US Jails Heighten Concerns About An Unprepared System*, CNN (Mar. 18, 2020, 8:44 PM), <https://www.cnn.com/2020/03/18/politics/coronavirus-in-us-jails-heighten-concerns/index.html>.

<sup>2</sup> *Federal Bureau of Prisons COVID-19 Action Plan: Agency-wide Modified Operations*, FED. BUREAU OF PRISONS (Mar. 13, 2020, 3:09 PM), [https://www.bop.gov/resources/news/20200313\\_covid-19.jsp](https://www.bop.gov/resources/news/20200313_covid-19.jsp).

<sup>3</sup> *Id.*

<sup>4</sup> *Updates to BOP COVID-19 Action Plan Inmate Movement*, FED. BUREAU OF PRISONS (Mar. 19, 2020, 5:00 PM), [https://www.bop.gov/resources/news/20200319\\_covid19\\_update.jsp](https://www.bop.gov/resources/news/20200319_covid19_update.jsp).

<sup>5</sup> *Id.*

As of March 19, 2020, there have been nearly 4,600 cases of COVID-19 diagnosed in New York and only 133 in Pennsylvania.<sup>6</sup> I have also received reports that the U.S. Marshals Service intends to transport out-of-state individuals to a BOP facility in Pennsylvania, even though these individuals are currently in quarantine after coming in contact with COVID-19 and have not been in BOP custody for more than 14 days. At a time when numerous experts have recommended limiting travel to prevent the spread of the virus,<sup>7</sup> these reported transfers of incarcerated individuals from out-of-state facilities to multiple facilities in Pennsylvania raise serious questions related to the well-being of BOP employees, the general prison population and Pennsylvanians at risk for contracting and spreading this virus.

Furthermore, as you know, two BOP employees were recently tested and are presumed positive for COVID-19.<sup>8</sup> This new information follows multiple reports that the virus is exacerbating already well-documented staffing shortages and that protective masks, gloves, hand sanitizer and medical gowns are not widely available in BOP facilities.<sup>9</sup> Despite reassurances from the BOP leadership, some correctional staff have expressed concerns that their supplies may not last through the end of next week and expect to reuse some of their disposable masks.<sup>10</sup> These reports raise serious concerns not only for the health and safety of the prison population and correctional staff, but also for the communities surrounding BOP facilities.

Based on these reports and given the severe impact of a potential COVID-19 outbreak in the federal prison system, I respectfully request that you respond to the following questions by March 27, 2020:

1. How is the BOP currently working with federal agencies, including the Centers for Disease Control and the U.S. Marshals Service, to ensure that it is preparing and responding appropriately to the COVID-19 pandemic?
2. Are BOP facilities currently experiencing understaffing and if so, how is the BOP responding to these shortages to ensure that its COVID-19 measures are being properly implemented at all facilities?
3. How is the BOP managing its current personal protective equipment (PPE) inventory?
4. What does the BOP consider to be an adequate level of PPE inventory for each facility? How did it arrive at this determination?
5. What are the current levels of the BOP's PPE inventory, including a specific breakdown of items such as gowns, eyemasks, gloves and facemasks?
6. What BOP facilities do not currently have an adequate supply of PPE inventory? What alternative supply chain options are being utilized by the BOP if a facility does not have adequate levels of PPE inventory?
7. How is the BOP managing its inventory of personal hygienic products, such as hand soap and hand sanitizer, for both correctional staff and the general prison population? Are any BOP facilities currently experiencing a shortage in any personal hygienic products?

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<sup>6</sup> *Coronavirus Disease 2019 (COVID-19): Cases in the U.S.*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (last updated Mar. 19, 2020).

<sup>7</sup> *E.g.*, White House Coronavirus Task Force, *The President's Coronavirus Guidelines for America*, WHITE HOUSE (Mar. 16, 2020), <https://www.whitehouse.gov/briefings-statements/coronavirus-guidelines-america/>.

<sup>8</sup> McDonald, *supra* note 1.

<sup>9</sup> See sources cited *supra* note 1.

<sup>10</sup> McDonald, *supra* note 1.

8. On the BOP website, it indicates that “a national acquisition plan is being executed to obtain bulk purchases, stockpile supplies and coordinate distribution” for facilities.<sup>11</sup> Please describe this program and its current status.
9. How has the BOP coordinated with the U.S. Marshalls Service and other federal agencies to ensure that those agencies are following appropriate guidelines to protect BOP correctional workers and the general prison population?
10. What policies and procedures are in place to manage the transfer of individuals in the custody of the U.S. Marshalls Service or other federal agencies to BOP facilities?
11. What factors are being considered by the BOP when determining whether to transfer incarcerated individuals between facilities during the COVID-19 pandemic?
12. How does the BOP weigh the risk of additional travel and potentially spreading COVID-19 against other factors when determining whether to transfer incarcerated individuals between facilities?
13. Has the BOP attempted to coordinate with the federal courts and U.S. Attorneys Offices to limit travel to and from court for those incarcerated and if so, what steps have been taken?
14. What precautions are being taken by the BOP to ensure that incarcerated individuals being transferred between facilities are not spreading COVID-19?
15. The CDC recommends, among other things, that individuals should avoid being closer than approximately six feet to one another to avoid spreading COVID-19.<sup>12</sup> Recognizing the necessitated proximity of the prison population and correctional officers in BOP facilities, what steps are being taken by the BOP to promote social distancing—when appropriate—for both the general prison population and correctional staff?
16. Where are incarcerated individuals being quarantined at BOP facilities and what will the BOP do if these quarantined locations become filled?
17. How is the BOP accommodating correctional staff and incarcerated individuals deemed to be at a higher risk for more serious complications from COVID-19, including individuals over 60 years old, individuals with serious chronic medical conditions and pregnant women?

I thank you for your attention to this matter. Should you have any questions, I encourage you to contact my staff at 202-224-6324 or via email at [adam\\_fontaine@casey.senate.gov](mailto:adam_fontaine@casey.senate.gov).

Sincerely,

  
Robert P. Casey, Jr.

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<sup>11</sup> *A BOP COVID-19 Overview*, FED. BUREAU OF PRISONS, [https://www.bop.gov/coronavirus/overview.jsp#bop\\_emergency\\_response](https://www.bop.gov/coronavirus/overview.jsp#bop_emergency_response) (last visited Mar. 20, 2020).

<sup>12</sup> *Coronavirus Disease 2019 (COVID-19): Protect Yourself*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/prepare/prevention.html> (last visited Mar. 20, 2020).