



U.S. Department of Justice
Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

March 21, 2020

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

The Honorable Karen Bass
Chair
Subcommittee on Crime, Terrorism,
and Homeland Security
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Nadler and Congresswoman Bass:

This responds to your letter to the Attorney General dated March 19, 2020 and to Chairman Nadler's letter to the Attorney General dated March 12, 2020 inquiring about the efforts of the Department of Justice (Department) to ensure the health and safety of personnel and prisoners in the custody of the Bureau of Prisons (BOP) and the U.S. Marshals Service (USMS) during the novel coronavirus (COVID-19) global pandemic.

As we face the nationwide spread of COVID-19, we want to emphasize that the critical mission of the Department will continue. We will ensure that the Department's law enforcement functions operate efficiently during the outbreak. Specifically, the BOP and USMS are actively and aggressively working to monitor and mitigate risks presented by COVID-19 to Department staff and inmates.

Bureau of Prisons

As with any type of emergency situation, BOP is consistently assessing how to best ensure the safety of staff, inmates and the public. To date, there are no confirmed cases of coronavirus among inmates. The BOP has launched a website that documents its COVID-19 prevention and mitigation efforts. That website, available at www.bop.gov/coronavirus, provides the latest information on the Bureau's preparation for the pandemic and its response, including updated information about the health of inmates and staff.

BOP's existing policies and procedures are designed to manage infectious disease incidents among its inmate population. Led by BOP Director Michael Carvajal, the Bureau has also instituted a comprehensive, multiphase management approach specific to the COVID-19 pandemic, as well as implemented its approved Pandemic Influenza Plan. Since January 2020, BOP's initial COVID-19 Phase One activities included seeking guidance from the Health Services Division regarding description of the disease, where the infection was currently occurring, and best practices to mitigate transmission. An agency task force, working in conjunction with subject matter experts from the CDC, reviewed guidance from the World Health Organization (WHO). As a result of these Phase One efforts, which remain ongoing, the BOP is now implementing the second phase of its COVID-19 response. BOP will continue to coordinate with subject matter experts both internal and external to the agency and will implement the latest guidance and directives from the WHO, the CDC, and the White House Coronavirus Task Force.

As part of BOP's Phase Two efforts, as of March 13, 2020, all social visits are suspended for 30 days. To ensure inmates maintain social ties, the BOP will allow for additional inmate telephone communications (including 500 versus 300 telephone minutes per month). In general, legal visits are also suspended for 30 days, although access to legal counsel remains a paramount requirement in the Bureau and, as such, confidential legal calls will be allowed and attorneys may seek in-person visits with their client. Case-by-case accommodation will be accomplished at the local level; if approved for an in-person visit, the attorney will need to undergo screening using the same procedures as staff. In addition, inmate movement has been significantly curtailed for 30 days, with limited exceptions allowed for forensic studies, writs, Interstate Agreements on Detainers, medical or mental health treatment, release to pre-release custody, or other case-by-case exceptions (such as for judicial proceedings). The BOP may also need to move inmates to better manage detention bed-space and to ensure administrative facilities do not become overcrowded. BOP will reevaluate these suspensions, as well as other operational changes, after 30 days.

All newly-arriving BOP inmates are being screened for COVID-19 exposure risk factors and symptoms. Asymptomatic inmates with exposure risk factors are quarantined for 14 days. Symptomatic inmates with exposure risk factors will be isolated and tested for COVID-19 per local health authority protocols. Additionally, all inmates authorized for movement within the federal detention system will receive exit screenings for COVID-19 symptoms before being transferred. Staff are being asked to self-report any potential COVID-19 exposure risks or symptoms, and are being screened and referred to the BOP's Occupational Health Office for review as appropriate. Per Office of Personnel Management guidance, anyone meeting CDC quarantine or isolation criteria are not allowed to come to work for the duration of the quarantine period. Staff with respiratory symptoms, but no COVID-19 risk factors, are encouraged to stay home until their symptoms resolve.

BOP has coronavirus testing kits available and will utilize those tests in a manner consistent with CDC guidelines and local health department guidance. The Bureau will follow CDC guidelines, generally, and will also follow its own existing infectious disease management procedures for prevention, monitoring, treatment, transport, personal protective equipment

(PPE), and other infection control measures. Contracted facilities are also expected to adhere to BOP policies and standards for communicable disease prevention and response.

Guidance memos have been issued from the BOP's Central Office, including guidance sent by the BOP Medical Director to all field clinical personnel on January 31, 2020 and on February 29, 2020. The guidance described screening best practices, provided inmate and staff screening tools, and CDC best practices/flyers as to preventing the spread of the disease. The screening tool for staff has been published on the BOP's internal and public websites. On March 6, 2020, additional guidance was sent to BOP field sites to assess and review the BOP's PPE inventory. A national acquisition plan is currently being executed to obtain bulk purchases, stockpile supplies, and coordinate distribution. The inventory of infectious disease PPE supplies has already been completed at all BOP locations and the use of alternative supply chain options is being explored.

Finally, BOP is also providing interagency representation, resources, and collaboration with regard to COVID-19 to and with: USMS; Emergency Support Function #13 ("ESF-13" as part of FEMA); and the Biological Operational Threat Resource Federal Task Force (DHS). BOP is participating in collaborative teleconferences with the CDC to exchange information related to COVID-19 and corrections.

U.S. Marshals Service

USMS is fiercely committed to protecting the health and safety of its detainees and staff. USMS personnel have been issued specific COVID-19 guidance for screening prisoners, which supplements USMS existing protocols for the transportation of infected prisoners. This guidance is developed by a doctor and a public health service infectious disease expert from the U.S. Public Health Service, who regularly check the CDC website for updates and adjust the guidance in accordance therewith.

As you may know, USMS does not operate or own any detention facilities. While some USMS detainees are housed in BOP facilities (see above for BOP protocols regarding COVID-19), the majority of those in USMS custody are housed in state or local government facilities or private detention facilities that are contracted to provide housing, care and feeding of prisoners on a per day basis. As a general matter, individual detention facilities are responsible for the medical care of USMS prisoners. Emergency health care is always provided to prisoners immediately and without pre-authorization by the USMS. Similar to the provision of healthcare, each detention facility has their own policies and procedures addressing attorney and family visits.

USMS prisoners in direct custody of USMS during courthouse legal appearances are held in cellblocks. A cellblock is a secure staging area in each federal courthouse where prisoners arrive from a detention facility in the morning, and leave by close of business. As a general matter, prisoners are screened at the detention facility before being transported to court. As noted above, USMS has issued screening guidance specific to COVID-19.

The Honorable Jerrold Nadler

The Honorable Karen Bass

Page 4

Like BOP, state, local and private detention facilities have existing infectious disease management procedures that follow established protocols. In the case of COVID-19 testing, the USMS is not directly providing test kits to contract facilities or state or local facilities housing USMS prisoners. If a prisoner is symptomatic of COVID-19, the contracted facility would request testing from the state or local department of health. As of the date of this letter, the USMS has no confirmed cases of coronavirus infection among prisoners; one staff member has a confirmed positive case.

As you know, this is a rapidly evolving pandemic, and the Department is continually evaluating our response to this unprecedented health crisis, while ensuring the continuation of our critical law enforcement missions. We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'S. Boyd', with a long horizontal flourish extending to the right.

Stephen E. Boyd
Assistant Attorney General

cc: The Honorable Jim Jordan
Ranking Member

The Honorable John Ratcliffe
Ranking Member
Subcommittee on Crime, Terrorism,
and Homeland Security