



DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

## PANDEMIC RESPONSE REPORT

**20-098**

**AUGUST 2020**

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Remote Inspection of Federal Bureau of  
Prisons Contract Correctional Institution  
McRae, Operated by CoreCivic

EVALUATION AND INSPECTIONS DIVISION

## 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 (RRC). In total, these facilities house approximately 157,000 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 conducted telephone interviews with staff and issued a survey to over 38,000 BOP employees, as well as staff of contract prisons and RRCs.

[DOJ COVID-19 Complaint](#)

[Whistleblower Rights and Protections](#)

On March 23, 2020, the CDC issued guidance specific to correctional institutions noting 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.<sup>1</sup> The BOP issued its own COVID-19 related guidance to contract prisons beginning in February 2020.<sup>2</sup> On April 1, the BOP modified its underlying contract with contract prison vendors, emphasizing that, in the event of an epidemic or pandemic, the “contractor shall check with the CDC daily for updates and shall implement those changes timely to prevent further spread of the disease.”

Three different vendors, CoreCivic; Management & Training Corporation; and the GEO Group, Inc., currently operate the BOP’s 11 contract prisons, which house more than 14,500 of the approximately 157,000 federal inmates in BOP custody. The GEO Group, Inc., operates nine of these prisons, while CoreCivic and Management & Training Corporation operate one each. According to the BOP, as of July 10, 98.5 percent of inmates housed in private adult male contract facilities were criminal aliens or non-U.S. citizens subject to possible deportation based on their criminal offense.

As of August 4, 429 inmates and 236 staff in BOP contract prisons had tested positive for COVID-19, according to BOP data. However, testing within these 11 prisons has been limited—as of August 4 only 624 inmates in contract prisons had been tested for COVID-19. At the time of our fieldwork, between April 28 and May 22, Correctional Institution McRae (McRae), operated by CoreCivic and located in McRae-Helena, Georgia, had 11 inmates test positive for COVID-19 and 1 inmate had died. As of August 4, an additional 7 McRae

<sup>1</sup> CDC, “[Interim Guidance on Management of COVID-19 in Correctional and Detention Facilities](#),” March 23, 2020 (updated July 14, 2020), [www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html](https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html) (accessed August 24, 2020).

<sup>2</sup> In 2016, the OIG issued a report on the BOP’s oversight of contract prisons. See DOJ OIG, [Review of the Federal Bureau of Prisons’ Monitoring of Contract Prisons](#), Evaluation and Inspections Report 16-06 (August 2016), [www.oversight.gov/sites/default/files/oig-reports/e1606.pdf](https://www.oversight.gov/sites/default/files/oig-reports/e1606.pdf).

inmates had tested positive for COVID-19 and no additional inmates had died as a result of the disease.<sup>3</sup>

Between April 28 and May 22, the DOJ OIG conducted a remote inspection of McRae to understand how the COVID-19 pandemic affected the facility and to assess the steps McRae officials took to prepare for, prevent, and manage COVID-19 transmission within the facility (see [Appendix 1](#) for the scope and methodology of the inspection). As part of that effort, we considered whether McRae's policies and practices complied with BOP directives implementing CDC guidance, as well as DOJ policy and guidance. We conducted this inspection through telephone interviews with McRae officials, review of documents related to the BOP's and McRae's management of the COVID-19 pandemic, analysis of BOP and McRae data regarding McRae inmates and McRae-related staff and inmate COVID-19 cases, and the incorporation of McRae-specific results from a survey of employees of all 11 contract prisons (see [Appendix 2](#) for a summary of survey results from McRae respondents).

## Summary of Inspection Results

The OIG's remote inspection of McRae found that:

- The BOP's Privatization Management Branch, which provides guidance to and oversight of the BOP's contract prison vendors, issued guidance to contract prisons after the BOP issued its guidance to BOP-managed institutions between February and April 2020. Contract prisons received most of these guidance documents between 1 and 5 days after comparable guidance was issued to BOP-managed institutions, but some delays were more significant. We cannot determine the extent to which these delays effected McRae's ability to mitigate the spread of COVID-19 between January and April (see [Appendix 3](#) for a timeline of the BOP's guidance).
- McRae officials did not restrict all inmates to their housing units until 7 days after McRae identified the first inmate who presented symptoms and ultimately tested positive for COVID-19. Although McRae immediately isolated the inmate upon identification of symptoms, and had taken earlier steps to limit inmate movement throughout the institution, a McRae Physician told us that the delay in restricting the broader population of inmates to their housing units likely led to the spread of COVID-19 within the institution.<sup>4</sup>
- The McRae Warden had inmate work details make face coverings that were distributed to staff and inmates by April 2. While these efforts were in advance of CDC and BOP guidance on the distribution of cloth face coverings, the first McRae inmate who tested positive for

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<sup>3</sup> The current contract between CoreCivic and the BOP to house inmates at McRae began in December 2012. The contract is scheduled to expire in November 2022.

<sup>4</sup> In response to the working draft of this report, the BOP noted that, at the time, there was no directive from the CDC to quarantine (restrict movement) in the facility based on one positive case.

COVID-19 was already showing symptoms as of March 23; as subsequent data reflects, further spread of the virus was already occurring.

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

## COVID-19 at McRae

McRae houses 1,392 low security criminal alien inmates at its facility in McRae-Helena, Georgia. Most inmates at McRae are under U.S. Immigration and Customs Enforcement (ICE) detainees, meaning that subsequent to the completion of their criminal sentence they will be transferred to ICE custody pending the completion of their removal proceedings and possible deportation. McRae has 314 correctional staff who provide daily correctional services to inmates.

McRae confirmed its first COVID-19 positive inmate case on April 2 and its first COVID-19 positive staff member on April 5. As of August 4, 18 inmates had tested positive, 2 had active cases, 15 had recovered, and 1 had died. As of August 4, Telfair County, Georgia, the county in which McRae is located, had a total of 256 confirmed positive cases.

Inmate Population as of  
June 8, 2020



**1,392**

Active Inmate Cases as  
of August 4, 2020<sup>a</sup>



**2**

Inmate COVID-19 Deaths  
as of August 4, 2020



**1**

Active Inmate COVID-19 Cases Over Time, March 30–August 4, 2020<sup>a</sup>



<sup>a</sup> 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 Sources:** BOP, CoreCivic

Contract Staff as of June 8, 2020



**314**

Active Staff Cases as of August 4, 2020



**1**

Staff COVID-19 Deaths as of August 4, 2020



**0**

Active Staff COVID-19 Cases Over Time, March 30–August 4, 2020



Data Sources: BOP, CoreCivic

Total Confirmed Telfair County COVID-19 Cases Over Time, March 30–August 4, 2020<sup>a</sup>



<sup>a</sup> Total confirmed cases are cumulative positive COVID-19 cases.

Data Source: Johns Hopkins University Center for Systems Science and Engineering

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# INSPECTION RESULTS

## The BOP's Delays in Issuing Guidance to Contract Prisons

We found that McRae implemented strategies outlined in the BOP's technical directions and CDC guidance, but we note that the BOP did not always issue technical directions to contract prisons at the same time it issued comparable guidance to BOP-managed institutions between January and April 2020.<sup>5</sup> For McRae, we could not determine whether the delays we discuss below had a material effect on its ability to mitigate the spread of COVID-19 during that time. Nonetheless, we discuss these delays to assist the BOP in its continued efforts to effectively manage the COVID-19 pandemic at its contract prisons and because we believe that moving forward it is important that the BOP share with contract prisons, as soon as practicable, the preventive measures it has taken at BOP-managed institutions, even if those measures are also outlined in CDC guidance.

In reviewing the issuance of COVID-19 technical directions to BOP contract prisons between January 31 and April 13, we found that contract prisons received most of these guidance documents within 1 and 5 days after comparable guidance was issued to BOP-managed institutions. However, we identified the following instances in which the delay was more significant:

- On January 31, the BOP issued to its institutions guidance that included screening for newly arriving inmates; the BOP did not distribute a similar technical direction to contract prisons until February 26.<sup>6</sup> According to McRae, it started screening newly arriving inmates that day.
- On March 20, the BOP issued to its institutions guidance outlining steps for limiting outside medical and dental trips.<sup>7</sup> The BOP never issued the guidance to contract prisons.
- On March 13, the BOP provided both BOP-managed institutions and contract prison operators with initial guidance to limit inmate movement and congregate gatherings.<sup>8</sup> Most significantly, this guidance advised institutions to stagger meal and recreation times

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<sup>5</sup> The BOP's privatization contracts include a clause defining a technical direction as providing "technical direction on contract performance." A technical direction does not include "additional work that is outside the scope of the contract" or "action that would cause an increase or a decrease in contract pricing."

<sup>6</sup> BOP, Guidance on 2019 Novel Coronavirus Infection for Inmate Screening and Management, January 31, 2020. The same guidance was issued to contract prisons as Technical Direction: Corona Virus Notification, February 26, 2020. Subsequent guidance reinforcing this requirement was issued to BOP institutions on February 29 as BOP, Guidance Update for Coronavirus Disease 2019, February 29, 2020. The same guidance was distributed to contract prisons, in a more timely manner, on March 3. BOP, Technical Direction: Corona Virus Update, March 3, 2020.

<sup>7</sup> BOP, Guidance for Prioritizing Outside Medical and Dental Trips During the COVID-19 Pandemic, March 20, 2020.

<sup>8</sup> BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Phase Two Action Plan, March 13, 2020. According to the BOP, this guidance was provided by the BOP to the contractors' corporate offices as a "best practice measure" while each contractor developed specific COVID-19 response plans.

to limit the number of inmates who came into close contact with one another. On March 31, the BOP subsequently provided guidance advising its institutions to further limit movement and congregate gatherings but did not provide similar guidance to contract prisons until April 8.<sup>9</sup>

- On April 6, the BOP issued to its institutions guidance requiring implementation of an April 3 CDC recommendation for individuals to wear cloth face coverings in public settings where social distancing measures are difficult to maintain. The BOP issued the guidance to contract prisons on April 16.<sup>10</sup>

A BOP official asserted that the underlying contract between the BOP and contract prison vendors required the vendors to comply with CDC COVID-19 guidance. The official further told the OIG that this information “was available on the CDC website, which the contractors are required to follow.” The official added that on April 1, to “ensure better clarification of daily reviews and timely implementation” of CDC guidance, the BOP modified its contract with its contract prison vendors to require them, in the event of an epidemic or pandemic, “to check with the CDC daily for updates and...implement those changes timely to prevent further spread of the disease.” As a result, the official stated that additional BOP guidance would not have been necessary for CoreCivic to take actions in advance of BOP guidance.

The OIG asked CoreCivic whether it agreed with the BOP’s interpretation of these earlier contract requirements. CoreCivic leadership stated, “We agree that prior to incorporation of the modification in April, the contract required us to use current evidence based clinical treatment guidelines promulgated by nationally recognized sources for the treatment of infectious diseases which would include the CDC.”

For McRae, we could not determine whether the delays in BOP guidance had a material effect on its ability to mitigate the spread of COVID-19 between January and April. Nonetheless, the BOP must continue to maintain effective oversight of its contract prison vendors to ensure that inmates receive the same quality of care in BOP-managed institutions and contract prisons. The prompt issuance of guidance to contract prison vendors, even that which reiterates CDC guidance,

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<sup>9</sup> BOP, memorandum for All Chief Executive Officers, COVID-19 Phase Five Action Plan, March 31, 2020. The guidance directed institutions to limit inmate movement by April 1, 2020. Relevant inmate movement restriction guidance was issued to contract prisons on April 8 as Technical Direction: Establishment of COVID Community Health Point of Contact, April 8, 2020.

<sup>10</sup> CDC, “[Recommendation Regarding the Use of Cloth Face Coverings, Especially in Areas of Significant Community-Based Transmission](https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html),” April 3, 2020, [www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html](https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html) (accessed August 24, 2020). BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Update–Use of Face Masks, April 6, 2020. The guidance indicated that the BOP would be distributing cloth face coverings. This guidance was issued to contract prisons as Technical Direction: COVID-19, Phase Six Action Plan, April 16, 2020.

is vital to this effort and will continue to be so as the BOP is likely to develop additional guidance as its knowledge of COVID-19 preventive measures continues to develop.

## **COVID-19 Testing**

On March 13, the BOP issued COVID-19 testing guidance to BOP-managed institutions and contractors requiring them to isolate and test symptomatic inmates for COVID-19 consistent with local health authority protocols.<sup>11</sup> In response to the working draft of this report, CoreCivic provided to the OIG a March 5 memorandum from McRae's Health Services Administrator to McRae's Warden stating that the local health authority was not doing or recommending any testing for COVID-19. According to CoreCivic's comments to the working draft, this informed McRae's decision not to test inmates for COVID-19 when they first reported symptoms. We also note that McRae did not receive its first test kits until March 31, a week after the first inmate reported symptoms.

The first McRae inmate experienced COVID-19 symptoms on March 23; he reported his symptoms to McRae staff on March 24 and was isolated on that date. A second inmate reported symptoms and was isolated on March 26. McRae did not test either of these inmates until April 1, receiving positive test results for each on April 2. While McRae isolated the inmates upon the identification of symptoms and had implemented certain social distancing protocols for all inmates on March 17, it was not until March 31 that McRae restricted all inmates to their housing units. Upon receipt of the test results on April 2, McRae took more restrictive measures by quarantining in place, for 14 days, the units in which the positive inmates had previously been housed.<sup>12</sup> According to a McRae Physician, COVID-19 likely spread within the institution before McRae restricted the movement of the broader population of inmates.

The McRae Physician further explained that McRae did not have test kits available to test inmates for COVID-19 until March 31, when it received two kits, indicating that they could not have tested symptomatic inmates at the institution until this date. The Physician also stated that, while under observation, the first two symptomatic inmates, who both ultimately tested positive, would demonstrate occasional improvement. For example, they had fevers that would subside, but then return, over the course of 2–3 days of observation. The Physician also added that known COVID-19 symptoms were very similar to a wide range of preexisting viruses, making it difficult at that time to isolate COVID-19 as the underlying cause of their symptoms.

As of May 5, 11 McRae inmates had been tested for COVID-19 either inside or outside of the institution. Of those 11 inmates tested, all 11 tested positive. Also, as of that date, BOP data indicates that 50 McRae inmates who had COVID-19 like symptoms had been medically isolated.

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<sup>11</sup> BOP, memorandum for All Chief Executive Officers, March 13, 2020.

<sup>12</sup> Unlike other inmates in non-quarantined units, inmates in quarantined units were checked for symptoms and had their temperatures checked twice a day.

Therefore, because McRae did not test all symptomatic inmates, it is possible that the reported number of inmates who tested positive for COVID-19 was lower than the actual number of inmates infected with COVID-19 at the institution. In response to the working draft of this report, CoreCivic noted that the “the McRae Physician followed CDC guidelines in effect at that time, which did not require all symptomatic inmates in medical isolation to be tested.”<sup>13</sup> According to McRae’s Health Services Administrator, McRae did not have a problem acquiring test kits. However, as of May 5, McRae had purchased and received only 22 test kits, using 9 of them for in-house testing. After our initial fieldwork was completed, we learned that McRae had increased inmate testing. As of August 4, McRae had tested 106 inmates: 87 tested negative; 18 tested positive (1 of the 18 inmates subsequently died on May 12); and 1 had a pending test result. We note that there is no BOP or CDC requirement for universal testing of inmates.

On May 6, the BOP’s Medical Director told the OIG that guidance on how institutions could begin offering testing to staff was forthcoming. However, as of the publication of this report, such guidance had not been issued and neither BOP nor CDC guidance required institutions to test staff for COVID-19.

According to BOP data, as of August 4, 65 McRae staff had been tested for COVID-19, with 26 testing positive, 38 testing negative, and 1 awaiting test results. McRae officials told us that staff members were tested for COVID-19 by community health providers, not by the prison.

## **Health Screening and Medical Capacity**

As stated above, McRae received BOP guidance on screening newly arriving inmates on February 26, several weeks after similar guidance was issued to BOP-managed institutions on January 31. On March 3, McRae received additional guidance from the BOP reinforcing the requirement to screen all incoming inmates.<sup>14</sup> Further, on March 13, McRae received BOP guidance requiring enhanced staff screening in areas with “sustained community transmission.”<sup>15</sup> The BOP issued comparable guidance to BOP-managed institutions on the same day. On March 26, the BOP issued guidance to its institutions stating that all institutions should begin enhanced staff screening regardless of whether the institution was in an area of sustained community transmission.<sup>16</sup> The BOP issued similar guidance to contract prisons on March 27.<sup>17</sup> We found that once McRae received these guidance documents from the BOP it implemented

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<sup>13</sup> The CDC’s March 23 “Interim Guidance” did not require testing of all symptomatic inmates in medical isolation.

<sup>14</sup> BOP, Technical Direction, March 3, 2020.

<sup>15</sup> BOP, memorandum for All Chief Executive Officers, March 13, 2020.

<sup>16</sup> BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Phase Four Action Plan, March 26, 2020.

<sup>17</sup> BOP, Technical Direction: Coronavirus (COVID-19) Phase Four Action Plan, March 27, 2020.

them in a timely matter. We also found that McRae medical staff have been able to address BOP requirements for COVID-19 medical response and capacity.

McRae officials began screening incoming inmates by February 27, the day after McRae received guidance from the BOP. As previously noted, McRae quarantined symptomatic inmates, inmates that may have been directly exposed to an inmate who tested positive, and all incoming inmates. According to a McRae Physician, Health Services staff checked symptomatic inmates' temperatures and screened their symptoms twice a day. We also found that, in compliance with BOP guidance, for inmates with COVID-19-like symptoms McRae waived the co-pay that inmates normally would have paid to seek medical attention.

On March 19, McRae began screening staff before allowing them to enter the institution by asking them questions from a COVID-19 symptom questionnaire and taking their temperature with an infrared thermometer.<sup>18</sup> McRae directed that all staff registering a forehead temperature greater than or equal to 100.4 degrees, or exhibiting COVID-19 symptoms or risk factors, be denied entry and placed on paid leave for at least 14 days or until their healthcare provider cleared them to return to work. On March 31, McRae lowered the temperature threshold to 100 degrees. Ninety-six percent of McRae survey respondents stated that staff were screened for symptoms at least once a day.

As of May 1, McRae's Health Services had a staff of 30 (32 total positions when fully staffed), including 2 Physicians, 1 Nurse Practitioner, 1 Infectious Disease Nurse, and 1 Quality Assurance Nurse. A McRae Physician told us that, due to the demands of his COVID-19 related duties, he was unable to attend to non-COVID-19 chronic care patients in the manner that he would normally. In response to the working draft of this report, CoreCivic noted that McRae delayed certain follow-up appointments for inmates with chronic conditions in order to better address the COVID-19 pandemic and lessen the burden on the required medical response, consistent with a Technical Direction provided to contract prisons on March 31.<sup>19</sup>

## **Staff Movement Restrictions**

We found that McRae officials took steps to limit staff movement and prevent cross-contamination throughout the institution as early as March 24, approximately 3 weeks before the BOP issued its April 13 guidance that "compartmentalization of staff and inmate movement will continue to help slow the cross-contamination of work spaces and housing units."<sup>20</sup> According to McRae officials,

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<sup>18</sup> BOP, Technical Direction, March 27, 2020. Additionally, in accordance with BOP guidance issued to contract prisons on March 3, McRae also began to ask staff to self-report any risk of exposure. One McRae staff member self-reported risk of exposure before McRae expanded screening on March 19.

<sup>19</sup> BOP, Technical Direction: Coronavirus (COVID-19) Policy Adjustments, March 31, 2020.

<sup>20</sup> See BOP, memorandum for All Chief Executive Officers, Coronavirus (COVID-19) Phase Six Action Plan, April 13, 2020. The memorandum limited supervisor and manager movements to specific locations, discouraged changing staff post

(Cont'd)

staff movement between housing units was restricted. Further, McRae documentation indicated that only staff assigned to the Special Housing Unit (SHU) would interact with new inmate intakes and only specific staff, including medical staff, would interact with high risk inmates.

## **Social Distancing and Quarantine Measures**

We found that by March 17 McRae took action to limit inmate movements within the prison by staggering meal and recreation times to limit the number of inmates who came into close contact with one another. This was consistent with the requirements outlined in the March 13 BOP guidance.

As stated above, McRae did not isolate all inmates in their housing units until March 31, 7 days after the first inmate who ultimately tested positive for COVID-19 reported his symptoms to staff. While we believe that a more proactive management decision to limit inmate movement after McRae officials identified a COVID-19 symptomatic inmate may have reduced the spread of COVID-19 at the institution, we also note that, as stated above, it was not until April 8 that the BOP issued guidance to contract prisons advising them to minimize inmate movement to decrease the spread of the virus (similar guidance was issued to BOP-managed institutions on March 31).<sup>21</sup>

At McRae, inmates live in either:

- barracks, or open dormitory style, housing units in which inmate beds are in close proximity and are adjacent to shared communal spaces or
- celled housing units in which inmates are assigned an individual cell with a door. Inmates in celled housing units share communal space during the day.

Additional changes to operations to increase social distancing included but were not limited to:

- suspending educational programs and other group activities;
- modifying food services by bringing meals directly to inmate housing units, as opposed to serving inmates in a centralized dining hall;
- allowing only one housing unit to use the recreation facilities at a time; and

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assignments other than to fill a vacant post, and permitted changes in shift hours only if the shift location remained the same.

<sup>21</sup> BOP, memorandum for All Chief Executive Officers, March 31, 2020. The guidance directed institutions to limit inmate movement by April 1. Relevant inmate movement restriction guidance was issued to contract prisons on April 8 as a Technical Direction.

- disallowing the use of communal tables in inmate housing units.<sup>22</sup>

McRae staff explained that the prison has an 88-bed housing unit available for inmates that have the highest risk of death from COVID-19, including inmates age 65 or older and inmates with heart disease, lung disease, and diabetes. Additionally, the institution has three medical isolation cells and two negative pressure cells. Further, the institution has a medical isolation range located within a SHU with 19 cells as well as a separate 40-cell SHU range used to quarantine incoming inmates.<sup>23</sup> Based on our discussions with McRae officials, as well as our review of McRae and BOP documentation, we determined McRae officials took the following medical isolation and quarantine actions:

- On March 24, after compiling a list of inmates with a high risk of death from COVID-19, including inmates age 65 and over and inmates with other health risks, McRae moved approximately 40 inmates into the 88-bed housing unit. According to McRae's Health Services Administrator, this number remained constant through May 21. Our review of BOP data determined that as of March 22 McRae housed 39 inmates age 65 or over.
- On March 24, upon identification of the inmate with COVID-19 symptoms, McRae began to medically isolate inmates with COVID-19 symptoms. McRae officials also stated that, after inmates tested positive for COVID-19, they began to quarantine inmates who may have been exposed. According to BOP data, as of June 5 a total of 51 McRae inmates had been placed in medical isolation.<sup>24</sup>
- On March 26, McRae began quarantining incoming inmates for 14 days. This was 1 day in advance of BOP guidance advising contract prisons to implement this measure.<sup>25</sup> According to McRae's Health Services Administrator, between March 26 and May 21 McRae received 28 inmates, all of whom were placed in the quarantine area.

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<sup>22</sup> Social distancing, also called "physical distancing," means keeping at least 6 feet between people and avoiding group gatherings. In a correctional setting, the CDC recommends 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."

<sup>23</sup> 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 recommends, 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.

<sup>24</sup> Isolation is used to separate people who (1) are infected with the virus (those who are sick with COVID-19 and those who are asymptomatic), (2) are awaiting test results, or (3) have COVID-19 symptoms from people who are not infected. In a correctional setting, the CDC recommends using the term "medical isolation" to distinguish the isolation from punitive action. See CDC, "Interim Guidance."

<sup>25</sup> BOP, Technical Direction, March 27, 2020.

According to the Warden, McRae was able to isolate symptomatic inmates because there was extra bed space in the prison. A BOP employee on site at McRae confirmed that McRae officials took steps to ensure physical distancing and quarantine measures. A McRae Physician told us that he was initially concerned about the amount of space available in the new inmate quarantine area but by early April McRae had stopped receiving new inmates, which mitigated his concern. Approximately two-thirds of McRae staff survey respondents indicated that incoming inmates were quarantined before they entered the general population, and approximately one-third said they were unaware of whether the institution was taking this step. The large number of staff who were unaware of whether the institution was quarantining incoming inmates may be attributable to the fact that the institution had not received new inmates since early April.

## **Conditions of Confinement**

In accordance with BOP guidance issued March 13, McRae suspended social visits while allowing in-person legal visits on a case-by-case basis.<sup>26</sup> The Warden stated that inmates were still permitted to request legal materials and conduct confidential phone calls with their attorneys. As mentioned above, McRae also suspended other visitation for educational programming.

As of March 31, McRae's general population inmates were confined to their housing units and experienced a reduction in programming opportunities but continued to be able to occupy communal spaces within their housing units. Each housing unit has its own communal space equipped with a television, phones, computers, and showers. According to McRae officials and a BOP On-site Contract Monitor, inmates were able to access communal showers in the housing units. A McRae Correctional Officer stated that inmates were provided with personal hygiene items including soap and hand sanitizer. Most McRae survey respondents agreed that inmates had adequate access to showers and personal hygiene supplies. Specifically, 97 percent of McRae staff who provided a definitive response or who had sufficient information to answer our survey question about cleaning practices indicated that inmates had adequate access to showers. Further, of those same respondents, 95 percent and 87 percent, respectively, stated that inmates had access to soap and hand sanitizer.

As of April 16, inmates received a total 500 free minutes of telephone time a month (increased from 300 paid minutes per month) to communicate with their families. Inmates continued to have access to computers, mail, and commissary items.

## **Personal Protective Equipment**

We found that McRae officials complied with the BOP's COVID-19 Phase Four and Phase Six Action Plan guidance on the use of personal protective equipment (PPE) and face coverings and provided

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<sup>26</sup> BOP, memorandum for All Chief Executive Officers, March 13, 2020. The memorandum suspended social visits for 30 days.

staff and inmates with cloth face coverings between April 1 and 2, before the CDC's April 3 recommendation.<sup>27</sup> However, while these efforts show that McRae was ahead of CDC and BOP guidance on the distribution of face coverings, the first McRae inmate who tested positive for COVID-19 was already showing symptoms as of March 23; as subsequent data reflects, further spread of the virus was already occurring. Accordingly, recognition by McRae management of the spread of the virus, and proactive action such as earlier requirement of face coverings, might have mitigated transmission of the disease in the prison. Subsequently, to provide face coverings to all staff and inmates, the Warden had an inmate work detail sew face coverings from materials available at the institution.

According to a McRae Physician, Health Services staff used enhanced PPE when treating medically isolated inmates. The Physician and a BOP On-site Contract Monitor also explained that there was a limited supply of hospital gowns and surgical masks in late March and early April that was since resolved. McRae management told us that as of early May the prison had a sufficient supply of PPE and, in a written response to the OIG dated May 8, a CoreCivic management official stated that McRae received PPE shipments at least once or twice per week. Despite evidence that McRae had PPE on hand, 56 percent of the McRae survey respondents cited more PPE for staff as an immediate need. By comparison, 38 percent of all contract prison staff who responded to our survey indicated that more PPE was an immediate need. Among respondents to our survey of BOP employees, 68 percent identified more PPE for staff as an immediate need.

## **Other Aspects of McRae's Experiences with or Management of COVID-19**

### **Cleaning and Sanitation**

To address BOP guidance regarding regular cleaning and sanitation, McRae maintained a 30-day inventory of cleaning supplies and had a vendor that could provide cleaning supplies within 24 hours. McRae officials and a BOP On-site Contract Monitor all stated that there were no difficulties acquiring cleaning supplies. Twenty-four percent of McRae staff who responded to our survey expressed an immediate need for more cleaning supplies. Ninety-two percent of McRae staff who provided a definitive response or who had sufficient information to answer our survey question about cleaning practices stated that areas such as toilets, showers, and sinks were regularly cleaned.

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<sup>27</sup> BOP, Technical Direction, March 27, 2020; Technical Direction, April 16, 2020; CDC, "Use of Cloth Face Coverings." In response to the likely introduction of COVID-19 into the prison, and the absence of other widely available face coverings for staff and inmates, McRae's Warden assigned inmate work details to produce cloth face coverings, which were distributed to all staff and inmates between April 1 and 2.

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.

## Communication

According to our interviews with McRae staff and the OIG survey results, McRae staff generally felt that the COVID-19 guidance provided to them was timely, clear, and comprehensive. A review of documentation demonstrated that McRae management regularly communicated guidance and procedural changes to staff and inmates. Over 79 percent (97 of 122) of survey respondents stated that they were provided with sufficient information about COVID-19 preventive actions, and over 71 percent (87 of 122) of survey respondents stated that they had been given sufficient information about COVID-19 symptoms. Nearly 70 percent (85 of 122) of survey respondents stated that they felt inmates were given sufficient information about COVID-19 symptoms, 68 percent (83 of 122) of survey respondents stated that they felt inmates were given sufficient information about COVID-19 preventive actions, and nearly 75 percent (91 of 122) of survey respondents stated that they felt inmates were given sufficient information about daily routine changes caused by COVID-19.

## 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.<sup>28</sup> 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.”<sup>29</sup> The BOP assigned to its Central Office the responsibility of developing policy guidance and initially identifying inmates who would be considered for transfer to home confinement. Over the next 5 weeks, the 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 had determined might be eligible for release 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 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.

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<sup>28</sup> Home confinement, also known as home detention, is a custody option whereby inmates serve a portion of their sentence at home while being monitored.

<sup>29</sup> 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 August 24, 2020).

BOP memoranda on transfer of inmates to home confinement indicate that inmates subject to a detainer were excluded from being considered for transfer. That exclusion was particularly relevant to McRae since, as described above, most of the inmates at the facility were subject to ICE detainers.

Between March 28 and June 1, the BOP Central Office and McRae staff identified 26 McRae inmates who were potentially eligible for transfer to home confinement.<sup>30</sup> McRae staff reviewed these inmates to determine whether they were eligible for transfer to home confinement. As of June 1, 23 inmates were deemed ineligible; 2 were identified as eligible pending final approval from the BOP; and 1 was preparing to leave the institution on June 9, following the completion of his criminal sentence.<sup>31</sup> The 23 inmates were deemed ineligible because they either had an active ICE detainer or their removability was being determined by an immigration judge through DOJ's Institutional Hearing and Removal Program.<sup>32</sup> The remaining two inmates were eligible for transfer to home confinement because an immigration judge had determined that they were not removable from the United States following the completion of their criminal sentences. Following final BOP review, one inmate was transferred to home confinement on July 28; but, as of August 7, the BOP deemed the second ineligible because he did not have a reliable release plan.

Another means by which inmates may be transferred 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).<sup>33</sup> 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, a terminal illness, other physical or medical conditions, or family circumstances. An inmate must first submit a compassionate release request to the Warden of his or her institution; but the inmate is permitted to file a motion directly with the court if the initial petition is denied, or 30 days after the inmate files the initial petition, whichever occurs first.

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<sup>30</sup> On March 28, the BOP Central Office and McRae identified one additional inmate who was potentially eligible for home confinement. That inmate completed his criminal sentence and was released on April 27.

<sup>31</sup> The inmate who completed his criminal sentence was released from McRae on June 9.

<sup>32</sup> As part of the Institutional Hearing and Removal Program, ICE identifies federal inmates who may be removable from the United States and initiates removal proceedings before an immigration judge while the inmate is still serving his or her criminal sentence.

<sup>33</sup> 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.oig.justice.gov/reports/2013/e1306.pdf](http://www.oig.justice.gov/reports/2013/e1306.pdf).

As a result of the COVID-19 pandemic, McRae had received 45 compassionate release requests from inmates as of May 19. According to the Warden, no inmate has been granted compassionate release since the institution's COVID-19 outbreak.<sup>34</sup>

To provide more insight into this issue, the OIG will report separately on the Department's and the BOP's use of home confinement and other early release authorities provided under the Coronavirus Aid, Relief, and Economic Security Act to manage the spread of COVID-19 within BOP facilities.<sup>35</sup>

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<sup>34</sup> If an inmate were approved for compassionate release, the inmate would still be subject to potential ICE detention and removal proceedings.

<sup>35</sup> Pub. L. No. 116-136.

## 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. This inspection included telephone interviews with McRae officials; a review of documents produced by the BOP, CoreCivic, and McRae related to the management of the COVID-19 pandemic at McRae; the results of an OIG survey issued to all BOP contract prison staff; and an analysis of BOP and CDC COVID-19 data.

To understand BOP contract prison staff concerns, impacts, and immediate needs related to COVID-19, we issued an anonymous, electronic survey to all BOP contract prison employees from May 1 through May 12, 2020. We issued 2,689 invitations for employees to take the survey and received 774 responses, a 29 percent response rate. McRae's 142 responses represent 18 percent of the 774 total responses. We received responses from 41 percent (142 of 344) of the invitations we sent to McRae staff.<sup>36</sup>

We conducted telephone interviews with McRae staff including the Warden, the Chief of Unit Management, a Shift Supervisor, the Health Services Administrator, a Physician, a Case Management Coordinator, and a Correctional Officer. We also conducted a telephone interview with the CoreCivic Vice President of Core Services, a BOP On-site Contract Monitor, and a BOP Contracting Officer responsible for oversight of McRae.

The main issues we assessed through our interviews and data requests were the institution's compliance with BOP directives and CDC guidance related to PPE, COVID-19 testing, medical response and capacity, physical distancing, quarantine, sanitation, supplies, cleaning procedures, and conditions of confinement. We also assessed actions taken to reduce the inmate population through implementation of relevant authorities.

We reviewed CDC guidelines and BOP-wide guidance and procedures; BOP privatization data identifying infected, tested, quarantined, and medically isolated inmates and staff; and McRae documentation and guidance for staff and inmate COVID-19 screening, PPE, and social distancing.

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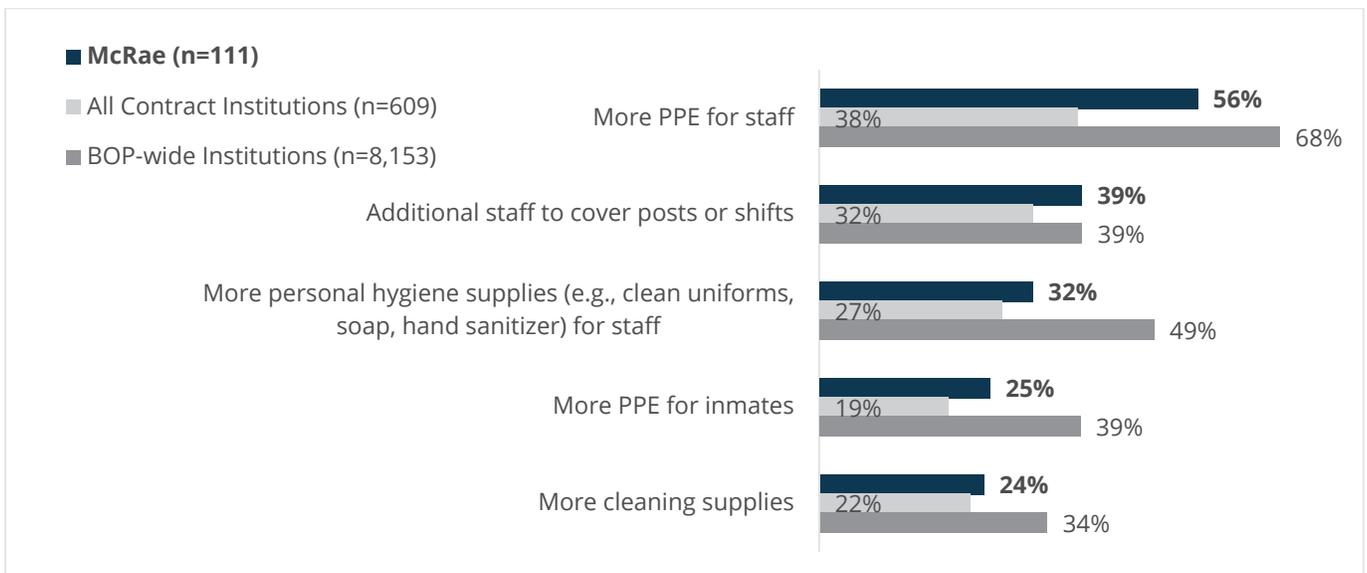
<sup>36</sup> According to CoreCivic, as of June 8 its staff total was 314. However, we sent the survey invitation to the 344 staff email addresses CoreCivic provided on April 24.

## OIG COVID-19 SURVEY RESULTS FOR McRAE

Open Period: <b>May 1–11, 2020</b>	Invitations Sent: <b>2,689</b>	Overall Responses: <b>774 (of 2,689)</b>	McRae Responses: <b>142 (of 344)</b>
McRae Responses by Department:			
<b>Correctional Services: 31%   Health Services: 9%   Correctional Programs: 18%   All Other Departments: 43%*</b>			

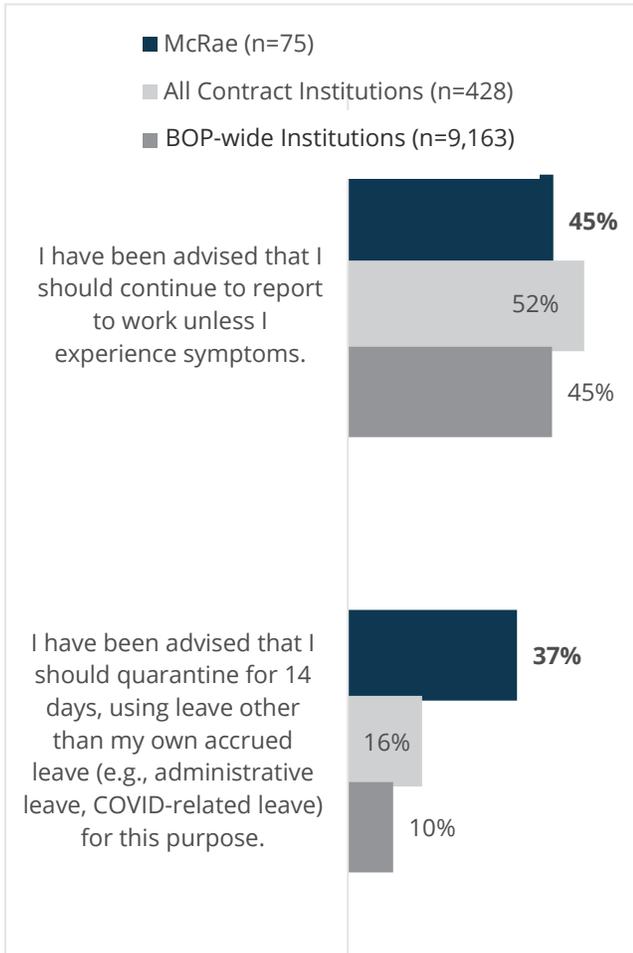
\* Total percentages do not equal 100 percent due to rounding.

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



Notes: Personal hygiene supplies are defined as soap and hand sanitizer. The response “Increased social distancing measures for inmates” was written as “Increased social distancing measures for staff and inmates” in the BOP-wide survey. The BOP-wide survey did not include an answer choice of “None of the above.”

**Which of the following statements best describes the current guidance you have received from institution 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.*

	McRae Rating	Contract Prison Rating	BOP-wide Rating
The guidance was timely.	3.39	3.49	3.18
The guidance was clear.	3.50	3.53	2.97
The guidance was comprehensive.	3.41	3.55	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)**

<i>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.</i>	<b>McRae Rating</b>  (n=122)	<b>Contract Prison Rating</b>  (n=638)	<b>BOP-wide Rating</b>  (n=8,978)
<b>Three Practices Rated Highest:</b>			
<b>Inmates at high risk for contracting COVID-19 are afforded adequate protections (e.g., accommodations for dining, programming, and recreation).</b>	4.27	4.07	3.51
<b>Inmates have an opportunity to shower at least three times a week.</b>	4.26	4.33	4.27
<b>Inmates diagnosed with, or showing symptoms of, COVID-19 are being sufficiently segregated from other inmates to mitigate the virus spreading.</b>	4.26	4.26	3.94
<b>Three Practices Rated Lowest:</b>			
<b>Staff are provided a sufficient supply of uniforms.</b>	3.62	3.59	N/A*
<b>Shared staff equipment, such as radios and keys, is regularly cleaned and sanitized.</b>	3.60	3.84	3.15
<b>Staff are provided a sufficient supply of masks.</b>	3.53	3.76	3.13

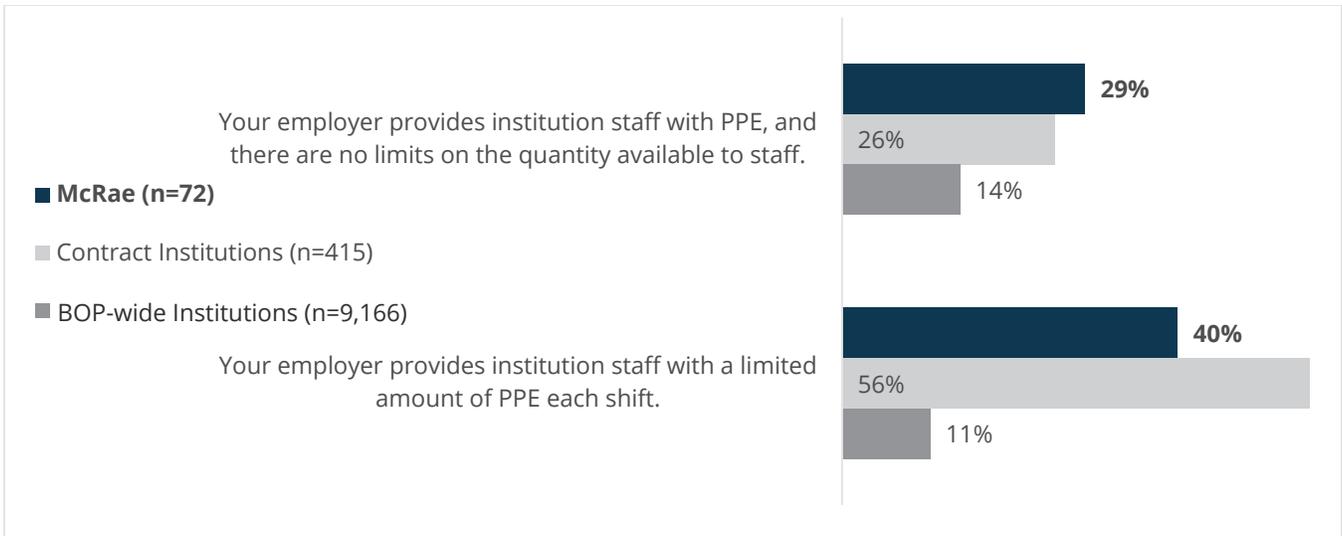
\* The BOP-wide survey did not include this answer option.

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)

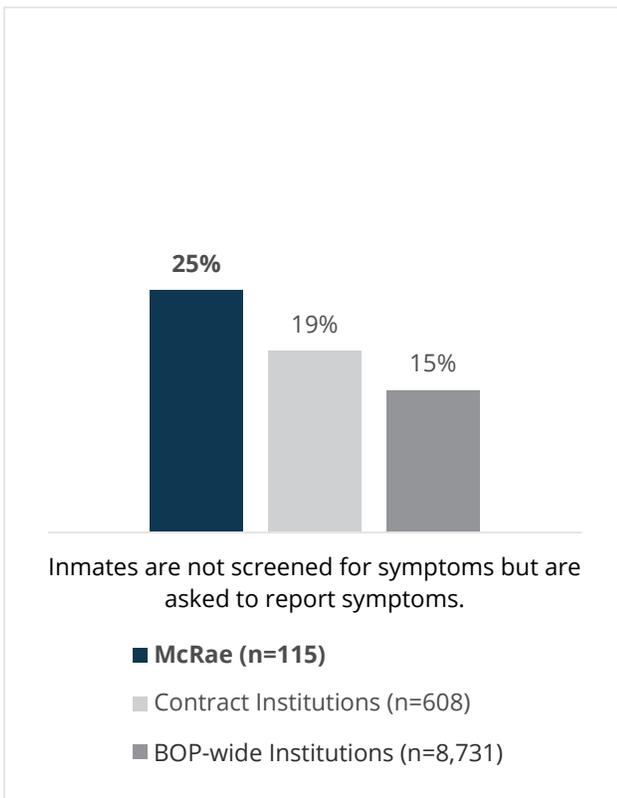
	McRae Percent of Respondents (n=110)	Contract Prisons Percent of Respondents (n=585)	BOP-wide Percent of Respondents (n=8,435)
Inmates are placed on full or partial lockdown status in which inmate movement has been significantly reduced.*	82%	74%	N/A*
Daily schedules are adjusted so that only one housing unit at a time is allowed to enter common space (e.g., the inmate cafeteria, Health Services clinic, library, classrooms, chapel, workspace, or recreation space).	44%	43%	44%
The amount of time that inmates are required to remain in their housing units each day has been increased.	42%	35%	59%
Work details are reconfigured to provide more space between inmates while they are working.	35%	35%	12%
The number of inmates participating in a program or activity at one time has been reduced.	30%	33%	42%

\* This question was not asked on the BOP survey.

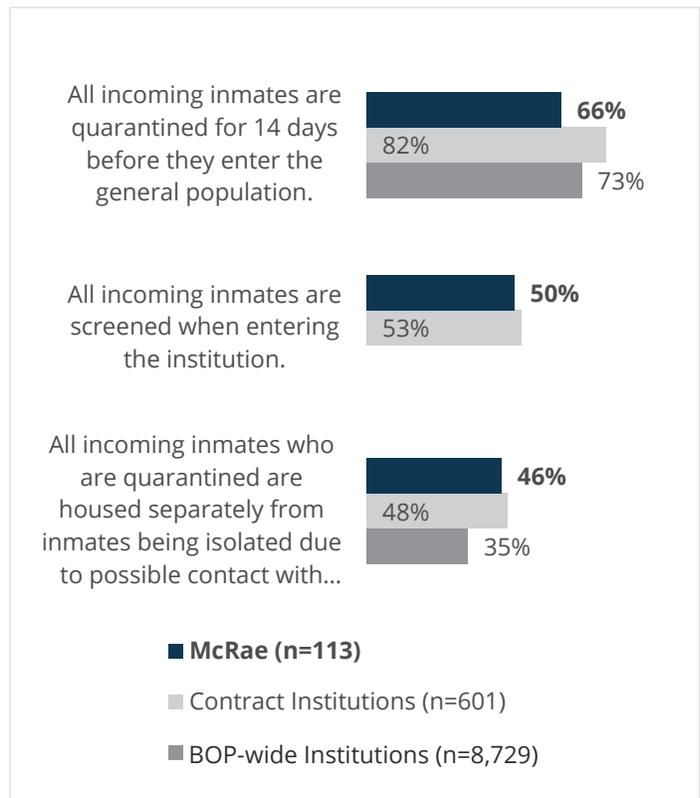
Which of the following statements best describes the current guidance you have received from facility leadership about your use of personal protective equipment (PPE)? (Top 2 Responses)



**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? (Top Response)**

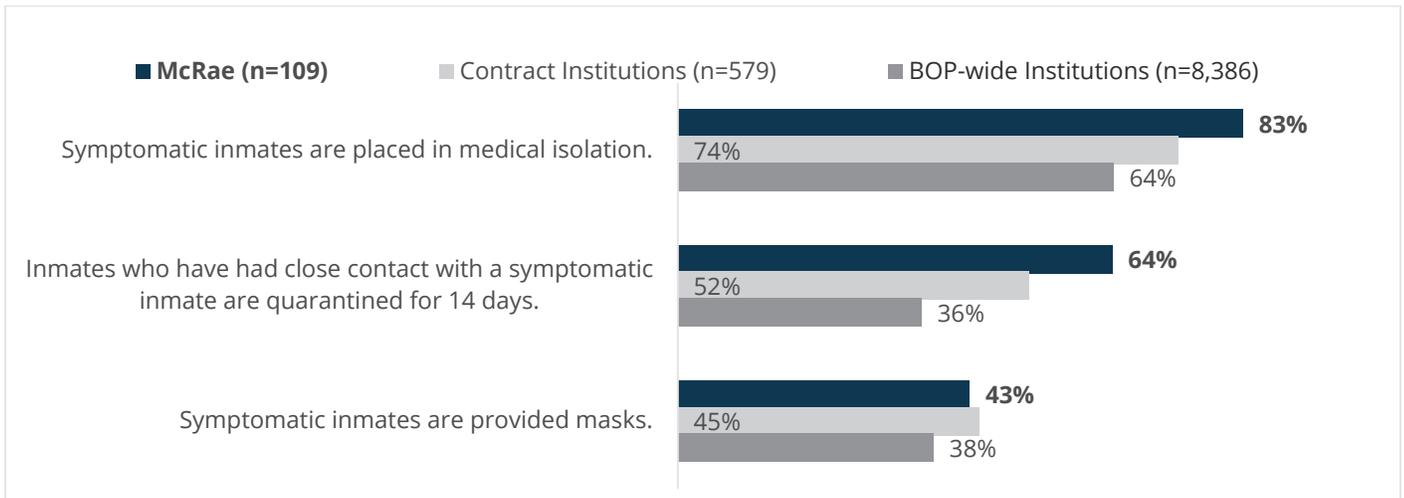


**Please identify which, if any, of the following COVID-19 measures for screening incoming and departing inmates (temperature check, questioning about other symptoms) your institution is currently taking. (Top 3 Responses)\***

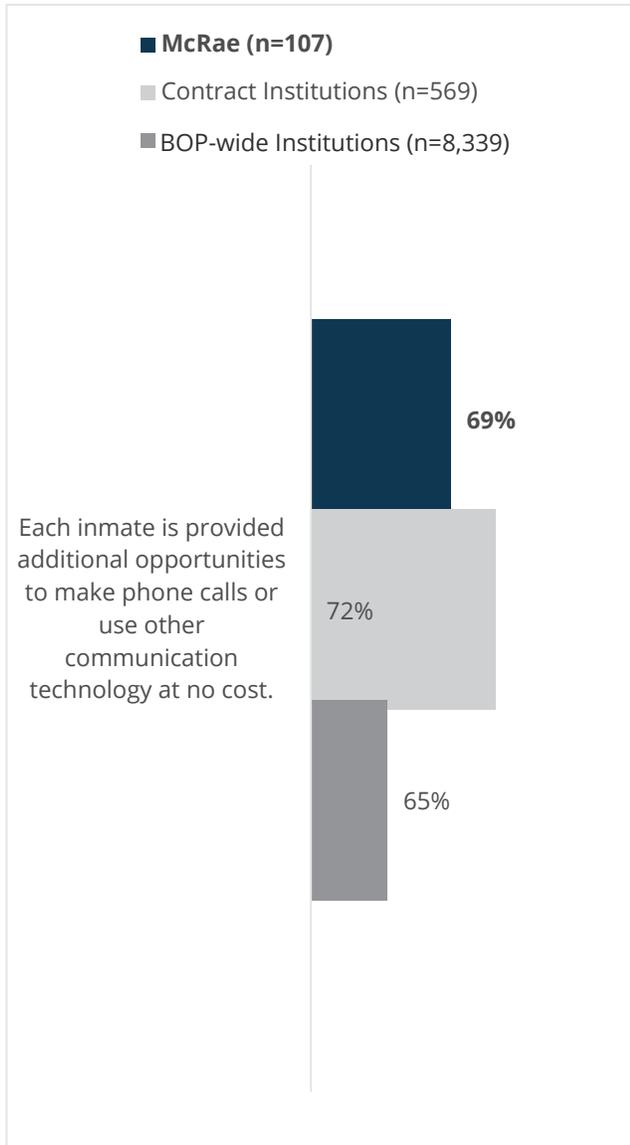


\* The BOP-wide survey did not include the answer choice "All incoming inmates are screened when entering the institution."

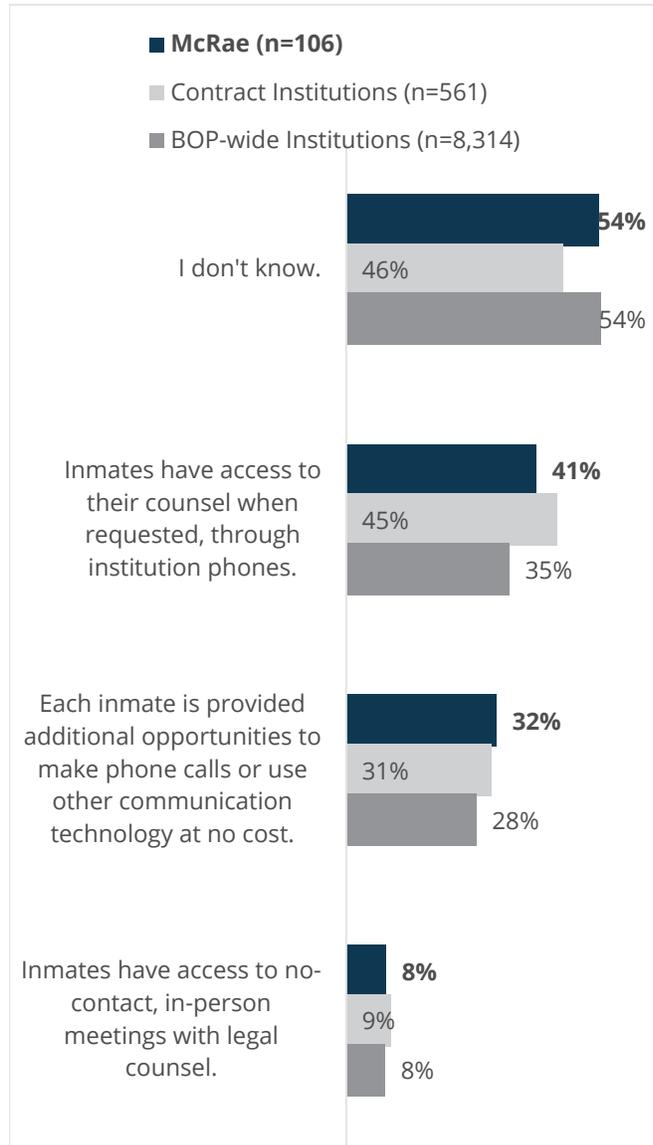
**Please identify which, if any, of the following measures your institution is currently employing to manage inmates with COVID-19 symptoms. (Top 3 Responses)**



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. (Top Response)



Please identify which, if any, of the following strategies your institution is currently employing to facilitate inmates' ability to communicate with legal counsel. (Top 4 Responses)



## TIMELINE OF BOP GUIDANCE

January	31	<p><b>The BOP Issued Action Plan Phase One:</b></p> <ul style="list-style-type: none"> <li>Identified the potential risk of exposure within BOP facilities and informed recipients about risk factors, symptoms to look for, and preventive measures</li> <li>Recommended screening all new inmate arrivals to the BOP for COVID-19 risk factors and symptoms using a provided screening questionnaire</li> <li>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</li> </ul>
		<p><b>The BOP Issued Technical Direction to Contract Prisons Consistent with Action Plan Phase One.</b></p>
February	26	<p><b>The BOP Issued Updated Guidance for COVID-19 to BOP Medical Staff:</b></p> <ul style="list-style-type: none"> <li>Recommended screening staff with potential risk factors and all new inmate arrivals using a screening questionnaire</li> <li>Recommended conducting fit-testing for N95 respirator masks, disseminating information about proper PPE use, and establishing baseline supplies of PPE</li> <li>Recommended establishing communication with local public health authorities, identifying possible quarantine areas, and alerting visitors that people with illnesses would not be allowed to visit</li> </ul>
	29	
	3	<p><b>The BOP Issued Technical Direction to Contract Prisons Consistent with Updated Guidance for COVID-19 to BOP Medical Staff.</b></p>
March	9	The BOP issued screening and leave guidance for staff.
	11	The World Health Organization declared COVID-19 a pandemic.
	13	<p><b>The BOP Issued Action Plan Phase Two:</b></p> <ul style="list-style-type: none"> <li>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</li> <li>Canceled staff travel and training</li> <li>Instructed institutions to assess inventories of food, medicine, cleaning supplies, and sanitation supplies</li> <li>Required screening of staff (by self-reporting and temperature checks) “in areas with sustained community transmission,” as well as all new BOP inmates and quarantining inmates where appropriate (those with exposure risk factors or symptoms)</li> <li>Required Wardens to modify operations to maximize social distancing, such as staggering meal and recreation times, for 30 days</li> </ul>
		The BOP issued a memorandum to Chief Executive Officers outlining necessary inmate mental health treatment and services during social distancing.
		<b>The BOP Issued Technical Direction to Contract Prisons Consistent with Action Plan Phase Two.</b>
		<b>The BOP Issued an Update to Action Plan Phase Two:</b>
		<ul style="list-style-type: none"> <li>Stated that additional accommodations could be made for staff in high risk categories</li> </ul>
	18	<p><b>The BOP Issued Action Plan Phase Three:</b></p> <ul style="list-style-type: none"> <li>Provided guidance for noninstitutional locations that perform administrative services</li> </ul>
		<p><b>The BOP Issued Technical Direction to Contract Prisons on COVID-19 Reporting:</b></p> <ul style="list-style-type: none"> <li>Required contract prisons to complete and daily submit a chart that identifies both new and running totals of identified COVID-19 cases</li> </ul>

- 19 **The first two BOP staff were presumed positive for COVID-19.**
- The BOP Issued Technical Direction to Contract Prisons Consistent with Update to Action Plan Phase Two.
- 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.
- 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.
- 26
  - 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 masks
- 27 **The BOP Issued Technical Direction to Contract Prisons Consistent with Action Plan Phase Four.**
- 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
- 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 symptomatic 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 inmate 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
- 31 **The BOP Issued Technical Direction to Contract Prisons:**
  - Announced no sick call co-pays for COVID-like symptoms

April	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.
	4	<b>The BOP Issued Home Confinement Technical Direction to Contract Prisons:</b> <ul style="list-style-type: none"> <li>• Provided guidance on reviewing at-risk inmates for placement in home confinement and a roster to aid in the identification of inmates potentially eligible for home confinement</li> </ul>
	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 were to be placed in quarantine for 14 days prior to release.
	8	<b>The BOP Issued Technical Directions to Contract Prisons Consistent with Action Plan Phase Five and on Community Health Points of Contact and Responsiveness to Outside Stakeholders.</b>
	13	<b>The BOP Issued Action Plan Phase Six:</b> <ul style="list-style-type: none"> <li>• Extended guidance issued in Phase Five through May 18</li> </ul>
	16	<b>The BOP Issued Technical Direction to Contract Prisons Consistent with Action Plan Phase Six and Mandates Issuance of Face Coverings at Contract Prisons.</b>
May	24	The BOP expanded COVID-19 testing to include asymptomatic inmates following the acquisition of rapid ribonucleic acid testing equipment at select BOP facilities.
	3	The CDC updated guidelines to increase the period of recommended isolation from 7 to 10 days. For persons recovered from COVID-19 illness, the CDC recommended that isolation be maintained for at least 10 days after illness onset and at least 3 days (72 hours) after recovery.
	18	<b>The BOP Issued Action Plan Phase Seven:</b> <ul style="list-style-type: none"> <li>• Extended guidance issued in Phase Six through June 30</li> </ul>
June	19	<b>The BOP Issued Technical Direction to Contract Prisons Consistent with Action Plan Phase Seven.</b>
	30	<b>The BOP Issued Action Plan Phase Eight:</b> <ul style="list-style-type: none"> <li>• Extended guidance issued in Phase Seven through July 31</li> <li>• Established new procedures for in-person court trips and inmate movement between BOP institutions</li> <li>• Required COVID-19 testing of all incoming inmates</li> </ul>
	July	2

Source: OIG analysis of documents provided by the BOP

## CORECIVIC'S REPOSENSE TO THE DRAFT REPORT



August 24, 2020

René Rocque Lee  
 Acting Assistant Inspector General, Evaluation and Inspections  
 Department of Justice, Office of the Inspector General  
 150 M Street, N.E.  
 Washington, D.C. 20530

Dear Ms. Lee:

CoreCivic appreciates the opportunity to review and comment on the Formal Draft Report of the United States Department of Justice ("DOJ") Office of the Inspector General ("OIG") Remote Inspection of Federal Bureau of Prisons ("BOP") Correctional Institution McRae, operated by CoreCivic, for the period of April 28 and May 22 with the stated goal to "understand how the COVID-19 pandemic affected the facility and to assess the steps McRae officials took to prepare for, prevent, and manage COVID-19 transmission within the facility."

While COVID-19 has created extraordinary challenges for every corrections and detention system in America, public and private, the early and decisive measures CoreCivic has implemented at McRae have helped prevent further transmission of COVID-19. CoreCivic has worked closely with the BOP, the Centers for Disease Control and Prevention ("CDC"), and state health officials to respond to this unprecedented situation appropriately and thoroughly for our staff, the well-being of those entrusted to our care, and our communities.

Preventing and addressing infectious diseases to protect the health and safety of those who reside and work at CoreCivic facilities has long been a part of correctional facility operations. CoreCivic is required to adhere to applicable standards established by the BOP and other CoreCivic partners to respond to the threat of infectious disease at CoreCivic facilities. These standards, which CoreCivic implements and is audited against by its government partners, have formed the basis for CoreCivic's preparation and management of the COVID-19 global pandemic.

In addition to following these standards and other guidance and technical direction, CoreCivic has taken numerous company-wide steps in response to the COVID-19 pandemic. In February, CoreCivic began monitoring the development of COVID-19, both nationally and throughout its facilities. We created a cross-functional Coronavirus Response Committee comprised of company leaders and subject matter experts, such as our Chief Medical Officer, and Human Resources, Occupational Safety and Operational representatives. The mission of the committee is to educate, prepare, and protect our staff and the inmates in our care from COVID-19. All CoreCivic facilities, including McRae, adopted a facility-specific COVID-19 Institutional Operational Plan outlining measures to combat the spread of COVID-19. On March 18, we activated our Emergency Operation Center ("EOC"), functioning 24 hours a day, seven days a week, from our Facility Support Center (corporate headquarters), to assist our facility leadership team in managing COVID-19. Our EOC, which uses software employed by many Emergency



Management Agencies for emergency response, serves as a central point to identify and direct resources needed, such as Personal Protective Equipment (“PPE”), tracks and analyzes cases, holds regular conference calls with our facilities, and collects and shares data to assist in making informed decisions. The role of the EOC in coordinating the response to the pandemic by our facilities has been particularly important as the CDC guidance and recommendations, as well as the recommendations of our partners, have evolved over time and as we have learned more about COVID-19.

Consistent with the recommendations of the CDC and following the guidance and technical direction from our government partners, CoreCivic has implemented measures to combat the spread of COVID-19 in our facilities. CoreCivic staff adheres to the CDC recommendations for cleaning and disinfection during the COVID-19 response. This includes cleaning and disinfecting surfaces, objects, and shared equipment that are frequently touched or used by staff members and those entrusted to CoreCivic's care. The facility uses commercial cleaners and EPA-registered disinfectants that are effective against the virus that causes COVID-19. All staff follow label instructions to ensure the safe and effective use of these products. CoreCivic has adequate supplies to support these intensified cleaning and disinfecting practices.

We have distributed signage, posters, and educational packets to facility staff to inform them and the inmates about the symptoms of the disease and promote enhanced hygiene practices to prevent its transmission. Our staff actively encourages and models these best practices, including social distancing when possible, regular handwashing, respiratory etiquette (coughing or sneezing into a sleeve or tissue), and avoiding touching one's face. Consistent with appropriate medical and safety precautions, CoreCivic maintains an inventory of PPE, including N95 respirators, in the usual course of business. Based on CDC recommendations, CoreCivic possesses masks, eye protection, gloves, and coveralls at all facilities. CoreCivic distributes additional PPE when indicated by CDC guidance. CoreCivic has provided all staff and inmates at McRae with face coverings, which are replenished as necessary and when requested. For staff, disposable gloves are readily available when conducting searches and handling property. Staff working at the front lobby screening site also wear PPE. In response to COVID-19, CoreCivic continues to increase the purchase of additional PPE to protect staff and inmates at the facility, with the facility receiving PPE replacement orders at a minimum of one to two times weekly. We have attached a table in this response that provides an inventory overview for McRae from April 13 – August 19, 2020.

As addressed in the CoreCivic Pandemic Coronavirus Plan, in the event of any positive cases, CoreCivic separates inmates who test positive for COVID-19 from the general population. Inmates who test positive are isolated or housed with other inmates who have tested positive. Inmates exposed to a positive case are quarantined with other inmates who have also been exposed and are monitored for any symptoms. CoreCivic also adjusts meal schedules and services to promote social distancing and, if necessary, delivers meals to inmates to reduce contacts that may lead to COVID-19 transmission. CoreCivic implemented its Coronavirus Plan at the facility which included procuring COVID-19 test kits, and strengthening the medical intake process to identify those at high risk of contracting COVID-19. As recommended by the CDC, CoreCivic provides



medical staff who are treating patients infected with COVID-19 with PPE, including N95 respirators, face shields, gloves, and gowns. Within the facility, CoreCivic staff are responsible for providing medical care for inmates diagnosed with COVID-19; in the event that hospital care is indicated, CoreCivic arranges transport for those inmates to a medical facility for further treatment or calls an ambulance.

In addition to educating staff and those in our care about hygiene practices, CoreCivic screens all employees before entry to prevent the spread of COVID-19. As early as March 5, following receipt of the BOP Technical Direction 20-10 dated March 3, all Department Heads at McRae had notified staff of the need to self-report any risk of exposure. Employee screenings now include temperature checks and questions designed to identify possible COVID-19 symptoms or potential exposure. If a staff member exhibits symptoms of, or indicates exposure to, COVID-19 during the screening, a human resources ("HR") representative is notified, and the staff member is designated for a necessary leave of absence. In addition to these screenings, if an employee calls out sick with COVID-19-like symptoms, HR managers will contact the employee telephonically to discuss the employee's symptoms to determine whether the employee should refrain from returning to work until he or she has recovered or is determined not to have contracted COVID-19. By taking these precautions with staff before they enter the facility, and sending home those with symptoms of or likely exposure to COVID-19, CoreCivic aims to prevent situations where staff who are symptomatic, or believe they have been exposed to COVID-19, enter the facility and risk infecting other employees or inmates. The company's Pandemic Coronavirus Plan stipulates that employees who test positive for COVID-19 or who experience COVID-19 symptoms inform their supervisor and HR manager and refrain from returning to work until the appropriate time following the guidance of a healthcare professional.

We're deeply committed to the health and well-being of our employees at McRae. Recognizing the increased pressure on all essential employees reporting to work during the global pandemic, we have taken a number of steps to support our professionals during these uncertain times. Early in our response, CoreCivic suspended all non-essential business travel, shared guidance with employees regarding COVID-19, and distributed information to the families of our employees. To accommodate employees during this time, CoreCivic expanded its paid leave policies to employees who have to miss work for COVID-19 related reasons. CoreCivic also makes accommodations for employees who may face an elevated risk of complications from COVID-19 and those who wish to take extended leave for COVID-19 related reasons. To recognize and further support CoreCivic employees' service and dedication during this unprecedented time, CoreCivic has provided every CoreCivic facility employee, including part-time employees, with a \$500 "Hero Bonus" and additional time off in recognition of their efforts to respond to COVID-19. In addition, as noted above, CoreCivic distributes masks to employees and mandates their use when inside the facility to protect themselves and the health and safety of those entrusted to our care.

We also understand the unpredicted challenges that COVID-19 places on the individuals in our care and the concern that creates for their loved ones. CoreCivic has enacted prudent measures intended to prevent and mitigate the spread of COVID-19 at McRae while continuing to



meet the ongoing needs of those in our care. Like many other operators of congregate settings, CoreCivic suspended visitation at McRae in order to reduce the risk that COVID-19 may enter the facility. While a necessary step to protect the health of staff and inmates, suspension of visitation also reduces opportunities for the social and familial interaction that we believe is so crucial. To mitigate that impact, we have facilitated additional virtual communication through phones and other means, such as email. In addition, the BOP has worked with CoreCivic to provide additional free call minutes for inmates. We have also held numerous town halls to convey information to inmates and listen to their concerns. CoreCivic's website has a dedicated section for the families of those in our care to visit that, among other things, provides resources, answers frequently asked questions, conveys CDC guidance, and delivers updates on visitation changes.

Throughout this time, CoreCivic has continued to emphasize and monitor for quality performance and compliance at the facility. While current conditions preclude the company from conducting the exact same on-site inspections that were consistently carried out prior to the pandemic, continued internal audits and inspections are critical to our ability to maintain compliance and meet or exceed our partners' requirements. We will continue to provide any needed technical assistance to our McRae facility and adjust our Quality Assurance practices as necessary to carry out certain monitoring and auditing functions remotely. CoreCivic has resumed limited onsite audits of facility operations; and the current internal audit plan has scheduled an onsite audit at McRae in mid-October. During this pandemic, we remain committed to ensuring compliance with COVID-related guidance.

We are immensely proud of our CoreCivic staff at McRae who work daily to protect and care for those in their care. It cannot be overstated that the challenges they and all corrections professionals have faced are unprecedented. Nonetheless, our company has worked continuously and collaboratively in response to the requirements of the BOP, adjusting our operations as we learn more information about the virus. We are confident that CoreCivic's efforts and the steps we have implemented have helped to reduce the transmission of COVID-19, and we will continue to do all we can to protect our staff, those entrusted to our care, and our communities.

Sincerely,

A handwritten signature in blue ink that reads "Natasha K. Metcalf".

Natasha K. Metcalf  
Vice President, Partnership Contracts Counsel



McRae PPE Inventory 4/13/2020- 8/19/2020		
PPE	Daily Average	Weekly Average
Inventory - N95 Respirator	2059	2051
Inventory - Masks / Surgical	8895	8771
Inventory - Goggles	18	18
Inventory - Gowns	1041	1032
Inventory - Face Shields	673	672
Inventory - Latex Gloves	106183	106200
Inventory - Shoe Covers	379	378
Inventory - COVID-19 Tests	191	187
Inventory - Strep Tests	41	41
Inventory - Influenza Tests	30	30

## THE BOP'S RESPONSE TO THE DRAFT REPORT



U.S. Department of Justice

Federal Bureau of Prisons

Office of the Director

Washington, D.C. 20534

August 25, 2020

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  
 Bureau of Prisons Correctional Institution McRae,  
 Operated by CoreCivic (A-2020-007C)

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 1, 1<sup>st</sup> paragraph, last sentence, "... and because we believe that moving forward, it is important that the BOP share with contract prisons, as soon as practicable, the preventative measures it has taken at BOP-managed institutions, even if those measures are also outlined in CDC guidance."

Page 3, 1<sup>st</sup> paragraph, "For McRae, we could not determine whether the delays in BOP guidance had a material effect on its ability to mitigate the spread of COVID-19 between January and April. Nonetheless, the BOP must continue to maintain effective oversight of its contract prison vendors to ensure that inmates receive the same quality of care in BOP-managed institutions and contract prisons. The prompt issuance of guidance to contract prison vendors, even that which reiterates CDC guidance, is vital to this effort and will continue to be so as the BOP is likely to develop additional guidance as its knowledge of COVID-19 preventive measures continues to develop."

**BOP's Response:** Neither the FAR nor the relevant privatization contracts require issuance of Technical Direction. It is a discretionary tool held by the Contracting Officer's (COR) Representative to provide technical direction on contract performance. See *infra* Privatization Contract Clause G.1 Technical Direction ("The COR **may at times** provide technical direction on contract performance.") (emphasis added). Upon determining a TD is practical, they are issued within 5 days. This process aligns with authorities in the FAR and is adhered to by the BOP. As the TD is a discretionary tool, G.1 does not establish a threshold for when an event becomes so significant as to require technical direction.

Furthermore, mandating the issuance of TDs when significant events occur: (1) gives the appearance that private providers would await direction from BOP prior to taking required action(s) in response to such significant events; and (2) may cause confusion regarding the distinction between TDs and contract modifications. Any delay to act poses potential serious risk to inmates, staff, and surrounding communities. It is incumbent upon each provider to adhere to contract requirements and implement action accordingly.

Lastly, on information and belief, the BOP's action phase plans in response to COVID were posted on its public website within one business day of issuance to BOP-managed facilities. This rendered the information readily available to private providers, negating the need for Technical Direction.

Relevant Definitions Provided As Referenced Below:

The term "Contract Modification" is defined by the Federal Acquisition Regulation (FAR) as "any written change in the terms of a contract." FAR 2.101. The authority for executing modifications solely rests with the contracting officer (CO). See FAR 1.602-2(d)(5). The contracting officer's representative (COR) is responsible for assisting the CO in the technical monitoring or administration of the contract. FAR 1.604. To this end, BOP's privatization contracts include a clause defining "Technical Direction" as providing "technical direction on contract performance." An example of this clause is attached below.

G.1 CONTRACTING OFFICER'S REPRESENTATIVE (COR)

A. An individual that shall be named after contract award is hereby designated to act as Contracting Officer's Representative (COR) under this contract. Additional COR's may be appointed as needed.

B. The COR is responsible, as applicable, for: receiving all deliverables, inspecting and accepting the supplies or services provided here under in accordance with the terms and conditions of this contract; providing direction to the contractor which clarifies the contract effort, fills in details or otherwise serves to accomplish the contractual Scope of Work; evaluating performance; and certifying all invoices/vouchers for acceptance of the supplies or services furnished for payment.

C. The COR does not have the authority to alter the contractor's obligations under the contract, and/or modify any of the expressed terms, conditions, specifications, or cost of the agreement. If as a result of technical discussions it is desirable to alter/change contractual obligations or the Scope of Work, the Contracting Officer shall issue such changes.

#### G.2 TECHNICAL DIRECTION

(a) The COR may at times provide technical direction on contract performance. Technical Direction includes:

(1) Direction to the Contractor which will assist them in accomplishing the requirements of the contract.

(2) Comments on and approval of services.

(b) Technical Direction does not include:

(1) Additional work outside the scope of the contract.

(2) A change as defined by the "Changes" clause.

(3) Any action that would cause an increase or a decrease in contract pricing.

(4) Any action that would alter the period of performance.

(5) Changes any of the other expressed terms or conditions of the contract.

(c) Technical direction will be issued in writing or confirmed in writing within five (5) days after oral issuance. The

contracting officer will be copied on any technical direction issued by the contracting officer representative.

(e) If, in the contractor's opinion, any instruction or direction by the contracting officer representative(s) falls within any of the categories defined in paragraph (b) of the clause, the contractor shall not proceed but shall notify the contracting officer in writing within three (3) days after receiving it and shall request that the contracting officer take appropriate action as described in this paragraph. Upon receiving this notification, the contracting officer shall:

(1) Advise the contractor in writing as soon as practicable, but no later than 15 days after receipt of the contractor's notification, that the technical direction is within the scope of the contract effort and does not constitute a change under the "Changes" clause of the contract.

(2) Advise the contractor within a reasonable time that the government will issue a written modification to the contract; or

(3) Advise the contractor that the technical direction is outside the scope of the contract and is thereby rescinded.

(f) A failure of the contractor and contracting officer to agree as to whether the technical direction is within the scope of the contract, or a failure to agree upon the contract action to be taken with respect thereto, shall be subject to the provisions of the clause entitled "Disputes" in this contract.

(g) Any action(s) taken by the contractor, in response to any direction given by any person acting on behalf of the government or any government official other than the contracting officer or the contracting officer representative, shall be at the contractor's risk.

## **OIG ANALYSIS OF THE BOP'S RESPONSE**

The OIG provided a draft of this report to CoreCivic and the BOP for their comment. CoreCivic's response is included as [Appendix 4](#) to this report and does not require analysis by the OIG. The BOP's response is included in [Appendix 5](#) to this report. Below is the OIG's analysis of the BOP's response.

### **Highlights of the BOP's Response**

In its response to a draft of this report, the BOP stated that it is not required to issue technical direction to contract prison vendors. Further, the BOP stated that mandating the issuance of technical direction in response to significant events could cause contract prison vendors to await direction from the BOP prior to taking required action(s) and may cause confusion regarding the distinction between technical directions and contract modifications. Lastly, the BOP asserted that its action phase plans were readily available for contract prison vendors because they were published on BOP's website within 1 business day of issuance to BOP-managed facilities.

### **OIG Analysis**

Our report did not state that the BOP was required to issue technical direction to its contract prison vendors. We stated, and continue to maintain, that, in the context of mitigating the effects of the pandemic on inmates within the ambit of the BOP's care and custody, it would be prudent and important that the BOP share with contract prison vendors, as soon as practicable, the preventive measures it has taken at BOP-managed institutions. In our report, we noted that with certain exceptions the BOP did issue comparable guidance to contract prison vendors soon after it issued it to BOP-managed institutions. We recognize the immense challenges that the COVID-19 pandemic has presented to the BOP. Our purpose was to convey that, under these exigent conditions, the BOP should make every effort to communicate in a timely manner the same information to its contract prison vendors as it communicates to BOP-managed facilities.

The intention of the OIG's remote inspections of BOP-managed institutions, contract prisons, and RRCs is to assist the BOP in its continued efforts to effectively manage the COVID-19 pandemic. Therefore, we described some delays by the BOP in issuing to contract prison vendors technical direction about guidance the BOP was providing to its own facilities. We did so to highlight a potential risk area for the BOP to consider as it moves forward in its efforts to protect inmates in its custody and staff from COVID-19. While we recognize that the BOP believes it is not obligated to issue technical direction, we believe that communication through technical direction is an important tool that can help the BOP's oversight of its contract prison vendors.