



DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

PANDEMIC RESPONSE REPORT

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COVID-19 Challenges for the U.S. Department
of Justice

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The Department of Justice (DOJ) employs over 200,000 personnel worldwide executing the federal government's law enforcement and national security efforts. The DOJ primarily accomplishes its critical mission through its 30+ components, the largest of which are the Bureau of Prisons (BOP, which has nearly 40,000 employees) and the Federal Bureau of Investigation (FBI, which has roughly 35,000 employees). Beginning in early March, the Office of the Inspector General (OIG) promptly shifted a significant portion of its oversight toward assessing the DOJ's readiness to respond to the rapidly evolving COVID-19 pandemic. Through its initial assessment, the OIG determined that the most immediate challenges to DOJ operations involved preventing the spread of the virus among its roughly 170,000 federal inmates and 61,000 detainees in BOP and U.S. Marshals Service (USMS) custody, respectively; operating its immigration courts in a manner that minimizes the risk to participants; and ensuring robust oversight of \$850 million in pandemic-related CARES Act grant funding being disbursed by DOJ to fund state, local, and tribal efforts to combat COVID-19—all while also protecting the health and safety of the tens of thousands of employees who oversee these particular operations. In addition to the \$850 million CARES Act grant funding, some DOJ components received supplemental funding, including the BOP (\$100 million) and USMS (\$15 million), to better position their COVID-19 efforts. The OIG received \$2 million, which will be used to help support our oversight of these significant and immediate challenges and others as they may arise. Overall, DOJ's CARES Act funding topped \$1 billion.

CARES Act Grant Funding by the Office of Justice Programs (OJP)

The CARES Act provided the Office of Justice Programs' (OJP) Bureau of Justice Assistance (BJA) with \$850 million to fund state, local, and tribal efforts to combat the COVID-19 pandemic. Ensuring this funding reaches its intended recipients quickly and efficiently is paramount to the efforts of law enforcement agencies throughout the country as they strive to protect the communities they serve. The OIG recognizes, especially based on its previous oversight Recovery Act funding, that achieving speed and maximum efficiency in the distribution of nearly \$1 billion in grant funds, while in an emergency posture, is a challenging undertaking for OJP. These challenges include the increased risk of fraud and misuse or waste of program funding. Currently, BJA is in the process of distributing CARES Act funding through the Coronavirus Emergency Supplemental Funding (CESF) grant solicitation for recipients eligible for OJP's Justice Assistant Grant program. Recipients of CESF funding (generally state, local, and tribal law enforcement agencies) will be operating under unprecedented circumstances, including reductions in administrative staff that may weaken internal control systems. Additionally, bad actors have launched multiple fraud schemes specifically targeting COVID-19 aid, with some illicit ploys targeting OJP award recipients, specifically. Known schemes include the sale of ineffective or unsafe treatment options and non-delivery of needed PPE, both of which may challenge effective grant implementation and even risk the lives of U.S. citizens. It is the responsibility of OJP to

effectively oversee the grant funds and mitigate risks that could affect the valuable and proper use of the funds to help law enforcement during the COVID-19 pandemic. However, the CESF solicitation represents a considerable addition to OJP's normal administration and oversight responsibilities, comprising approximately 20 percent of the total amount of grant funds that will be awarded by OJP in all of 2020.

COVID-19 Challenges Related to Protecting DOJ Prison Staff and Inmates

The COVID-19 pandemic has created serious challenges for DOJ related to its responsibility to safely house 160,000+ federal inmates and 61,000+ detainees awaiting trial or sentencing decisions, while also keeping free from harm correctional and detention facility employees as well as the communities in which they serve. This includes the safety and welfare of the approximately 40,000 staff and contract employees who work in BOP institutions, contract prisons, and residential reentry centers—as well as the thousands who oversee USMS detainees in state, local, tribal, and contract detention centers. The most immediate and pressing challenges include: securing personal protective equipment (PPE); identifying, accessing, and implementing effective testing protocols; providing access to quality medical care for those in custody; transferring inmates and detainees to and from facilities; and social distancing, screening, quarantining, and otherwise mitigating the risks presented by the pandemic. Additionally, the CARES Act granted the Attorney General additional authority to release inmates upon a finding of a national emergency, which complements other pre-existing release authorities in federal law, such as compassionate release provisions. The Attorney General has since made that finding, and the DOJ is facing the difficult task of determining which inmates should be released while still ensuring the safety of the communities where such early releases are granted. As noted, many individuals in BOP or USMS custody are placed in correctional environments not directly controlled by the DOJ—about 60 percent of USMS pre-trial detainees are held in over 850 different state and local facilities under the terms of intergovernmental agreements, and approximately 16 percent of BOP inmates are held in contract prisons and residential reentry centers. This amplifies the challenge for DOJ to ensure not only that these individuals receive adequate medical care and protection from COVID-19, but also that the DOJ properly considers the health and safety of hundreds of communities its decisions may affect.

COVID-19 Challenges in the Immigration Courts

While DOJ does not have responsibility for housing immigration detainees (that is the responsibility of the Department of Homeland Security), the DOJ's Executive Office for Immigration Review (EOIR) is tasked with adjudicating immigration cases and it has faced challenges in mitigating health risks for all those involved in these immigration cases during the COVID-19 pandemic. As it maintains certain operations, EOIR—like other DOJ components—has experienced challenges such as securing PPE for its staff and a lack of remote options to perform some work necessary to ongoing operations. EOIR must also

balance mitigating health risks at its court facilities while ensuring the rights of individuals subject to immigration court proceedings.

Initial DOJ OIG Oversight Efforts

In light of the BOP's pandemic-related challenges, the OIG created skill-mixed teams—incorporating the diverse disciplines and expertise from the OIG's operational divisions—to perform numerous remote inspections of all types of facilities that house BOP inmates. These remote inspections will seek to ensure facility compliance with guidance from the Centers for Disease Control and Prevention, DOJ, and the BOP, while also identifying significant risk areas. The OIG is also leveraging its data analytics platforms to illustrate for DOJ and BOP leadership data on at-risk inmate populations, estimates of inmates eligible for early release and home confinement, and the BOP facilities most at risk of outbreaks. The OIG also initiated a review intended to assess the pandemic-related risk in USMS detention operations, and another that will address EOIR's handling of certain challenges in conducting operations during the pandemic. Additionally, the OIG has commenced a review of OJP's efforts to distribute the \$850 million in COVID-19 award funding in a timely and efficient manner, as well as its pre-award activities to ensure that grant awards are made in accordance with applicable laws, regulations, and other guidelines. Lastly, the OIG has established a dedicated COVID-19 inbox to receive pandemic-related complaints that will be assessed by OIG investigators for criminal activity or misconduct and analyzed by OIG auditors and analysts for trends and other risk indicators.