MEMORANDUM FOR ALL CHIEF EXECUTIVE OFFICERS

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SUBJECT: CORONAVIRUS (COVID-19) PHASE NINE ACTION PLAN

This memorandum describes the Bureau's (BOP) Coronavirus (COVID-19) Phase Nine Action Plan, which includes an extension of previously disseminated guidance along with new measures to implement in the management of the pandemic.

EXTENSION OF PHASE EIGHT ACTION PLAN

The BOP will continue its nationwide action as described in previous phase memorandums. These measures will remain in place through August 31, 2020, at which time the plan will be evaluated.

STAFF TRAINING

All in-person training is suspended through August 31, 2020. Exceptions to in-person training includes: ICT I, ICT II, completion of mandatory requirements for Annual Training, OSHA mandated certifications, and any training that can be conducted remotely to fulfill ongoing mandatory credentialing requirements that cannot be waived. Any other exceptions to this suspension must be routed through the appropriate Assistant Director or Regional Director, and submitted to the Deputy Director for final approval.
STAFF TRAVEL

All non-essential official staff travel is suspended through August 31, 2020. Any requests for travel, except for deployment to institutions to assist with the COVID-19 pandemic, must be approved by the appropriate Regional Director or Assistant Director.

LEGAL ACCESS

As courts begin to conduct more criminal and civil proceedings, inmates will need increased access to counsel and legal materials.

Legal calls and/or virtual legal visits: Telephone calls and/or video conferencing with outside counsel should be accommodated to the extent possible. Please work with your IT Department to provide and expand virtual access to attorneys whenever possible using either a VTC unit and/or WebEx.

In-Person Legal Visits: Consistent with standing guidance, in-person legal visits should be accommodated upon request. The legal visits should be accommodated based on local resources, and consistent with the following recommendations:

Inmates in medical isolation for COVID-19 should not have in-person legal visits unless absolutely necessary. Strongly consider rescheduling or, as an alternative, utilize video teleconferences (VTC) and telephone legal calls.

Inmates in quarantine for COVID-19 may have asymptomatic COVID-19 infection or be in the incubation period, and should delay legal visits until they are COVID-19 tested negative at the end of quarantine. Video tele-conferencing (VTC) or legal telephone calls with attorneys are recommended as alternatives, if available.

In general, testing an inmate for COVID-19 immediately after a legal visit would have little utility and is not recommended.

Further considerations for in-person legal visits include:

- Inmates and attorneys/legal visitors should wear face coverings (cloth or surgical mask) and should perform hand hygiene (washing hand with soap and water or using hand sanitizer) just before and after in-person visits.

- Use of Plexiglas or similar barrier between inmate and attorney is strongly recommended for in-person visits. In the alternative, if a barrier is not present, social distancing (i.e., 6 feet apart) should be used.
o Attorney/legal visitors should be symptom screened and temperature checked upon entry into the facility, should wear a face covering, and perform hand hygiene just before and after the legal visit. Legal visitors who are sick or symptomatic should not be allowed to visit.

o If necessary, documents should be passed back and forth in a manner to avoid touching.

o When legal attorney rooms are available, they should be utilized to allow for social distancing among all present in the room. If there is no legal attorney room available and if there are more than one attorney/inmate pair present, all pairs should be separated by more than six feet to the extent possible while protecting attorney-client communications.

o Tables, chairs, and other high-touch surfaces should be disinfected between usage.

Electronic Law Library and Discovery Materials: Whenever possible, consistent with social distancing protocols and safe institution operations, inmates should be permitted access to the Electronic Law Library (ELL) under conditions determined by the Warden at each facility. Similarly, inmates will need access to discovery materials relevant to pending cases, beyond those which are maintained by the inmate in his or her cell. We recommend that a schedule be established to permit fair and timely access to ELL terminals and discovery materials upon inmate request, and that the schedule be provided to inmates at the facility.

PROGRAMMING

Inmate programming is an essential function in our facilities, and delivery of First Step Act approved Evidence-Based Recidivism Reduction (EBRR) Programs and Productive Activities (PAs) is required by law. Institutions will offer programming in the following ways:

• Residential programs (i.e., RDAP, BRAVE, SOTP, TCU, FIT, etc.) will immediately resume full time treatment, as required by policy. Programs may resume groups with more than ten participants, however, other social distancing modifications should remain in place (e.g., holding groups in larger spaces; suspending community meetings).

• Delivery of non-residential EBRR Programs and PAs (e.g., GED, Anger Management) will resume/continue. These services will be offered at no less than half of their regular capacity.

• Institutions should continue to deliver EBRR and PA programming consistent with the curriculum; however, staff may offer programs on the housing unit or in outdoor or unused spaces for safety/social distancing.
• GED testing, in groups of six or less, will resume with priority given to inmates releasing within 120 days. Other inmates may be tested if resources allow.

Appropriate SENTRY assignments must be used to track program enrollment and participation. Inmates must be recommended for and allowed to sign up for programs that meet their assessed needs.

General population recreation access will resume. Ordinarily, inmates in groups of no more than 100 will be able to access the recreation yard for a minimum of one hour at a time as long as they remain appropriately distant from one another. Inmates should have access at least three times per week and attend the recreation yard with inmates from their designated housing units. Group sports or use of gym equipment (e.g., weights, basketballs) are prohibited. Small classes that do not involve physical contact may be offered at the discretion of the Warden. If this occurs, all materials must be thoroughly sanitized after each use.

• Recreation in Special Housing will resume, consistent with standards outlined in policy.

Institutions with active COVID-19 cases may make exceptions to these programming requirements for the safety of staff and inmates. Modification requests are sent to the Regional Director and concurrence given by the Reentry Services Division.

Beyond program delivery, staff are required to complete needs assessments on all newly-committed inmates, and this process remains in effect during the pandemic. As a reminder, needs are assessed by Unit Team, Health Services, Psychology Services, and Education staff. The results of the assessments must be keyed into SENTRY or Insight. Based on the needs assessment, inmates must be enrolled in an appropriate EBRR Program or PA.

VOLUNTEERS AND CONTRACTORS

Institution access for Volunteers and Contractors will continue as previously described in the Phase Six Action Plan.

UNICOR

In consultation with Safety & Health Services departments, Wardens will develop plans to safely have UNICOR operations at their institutions running at least 80% capacity no later than September 1, 2020 and 100% normal operation levels no later than October 1, 2020. Written plans are due to the Regional Directors for approval by Tuesday, August 11, 2020. Wardens whose institutions have a UNICOR operation will also develop and forward plans to establish UNICOR units. A standard questionnaire for reporting of these plans will be provided by the Assistant Director for FPI.
Institutions with active COVID-19 cases may make exceptions to these work requirements for the safety of staff and inmates. Modification requests are sent to the Regional Director and concurrence given by the Assistant Director, FPI.

**COMPLIANCE REVIEWS**

Effective immediately, the Program Review Division (PRD) will be conducting unannounced site visits to ensure institution operations conform to the ongoing COVID guidance. This compliance review will include, but is not limited to, adherence with the Health Services Division guidance on best practices for managing COVID-19 outbreaks, CDC guidance on COVID-19 precautions, and all of the Phase Memorandums outlining our progression as an agency through this crisis. PRD will soon disseminate written standards that will encompass the scope of their review.

**COURT TRIPS**

A number of variables affect the risk of COVID-19 transmission during in-person court appearances and will influence some of the specific management strategies that are needed at each location. The U.S. Marshals Service (USMS) takes responsibility for the inmate once they leave the BOP institution until their return. Each USMS district may have their own COVID management procedures. Individual courts may also have different COVID prevention/mitigation procedures and requirements. Recognizing the likelihood of BOP inmates mixing with non-quarantined, non-BOP inmates while in USMS custody during a court visit is essential to assess the risk of COVID-19 exposure.

The frequency of an inmate's court appearance and the number of inmates going to a court at any one time are also important factors to consider. It is recommended that each BOP detention center contact the USMS and the court to ascertain their COVID-19 mitigation procedures and consult with Regional Health Services staff on developing an individualized strategy. The following are general principles to follow:

- Inmates in COVID isolation should not have in-person court appearances unless absolutely necessary. Strongly consider the inmate appearing via telephone hearing or via a VTC if it is accessible.

- Inmates in COVID quarantine (intake/exposure) should delay in-person court appearances until they are COVID tested negative at the end of quarantine. It is recommended that VTC or telephone appearances be used as alternatives. In general, testing an inmate immediately after a court visit would have little utility and is not recommended as a strategy. If in-person attendance is required, however, Abbott ID NOW tests can be used on a case-by-case basis if a visit is ordered by the court.

- Inmates should wear face coverings and perform hand hygiene just before departure from and upon return to the institution.
• BOP officials should request to the USMS that BOP inmates be cohered only within their own housing or quarantine cohort and not be mixed with inmates from other housing units or other institutions, or transported with inmates from other institutions to the extent possible while at court.

• Upon return to the detention center, inmates should be quarantined if they were outside of the institution and were exposed to inmates from other housing units or locations (i.e., county jails). Periodic testing of inmates with frequent court appearances should be considered. The 14-day quarantine period must be restarted for any inmate who is in close contact with other inmates not from their housing unit or location.

INTAKES

As we return to a more normalized inmate movement, the quarantine site model will no longer be utilized. All inmates entering an institution will require enhanced intake procedures:

• Institutions are to designate specific quarantine and isolation areas in advance with capacity numbers commensurate with anticipated levels and frequency of incoming inmates. Ideally, inmates should be quarantined or isolated in single-cells, if possible. When cohering is necessary, the best practice is to keep cohorted inmates together and not add to the cohort when new intakes arrive.

• All new intakes should be screened for COVID-19 on arrival, to include a symptom screen, temperature check, and an approved viral PCR test (either an Abbott ID Now POC test or commercial send out lab test) performed on a sample obtained from a nasopharyngeal, mid-turbinate, or anterior nares swab.

  o Inmates who test positive and/or are symptomatic will be placed immediately in medical isolation. They will remain in medical isolation until they meet the CDC symptom-based (for symptomatic inmates) or time-based (for asymptomatic inmates) release from isolation criteria.

  o Inmates who are asymptomatic and test negative are placed in quarantine. They will remain in quarantine until:

    • They become symptomatic during the quarantine period. These inmates should be tested (Abbott or commercial) and placed in medical isolation immediately. Depending on the housing circumstances, potential contacts (e.g., cellmate, cohort, housing unit) will need to reset their quarantine. When risk of exposure and/or spread of transmission is higher, re-testing of potential contacts could be considered.
- A testing frequency of every 3 to 4 days is preferred whenever feasible in consultation with the Regional Infection Prevention and Control Consultant and the Regional Medical Director.

- On or after 14 days. The inmates who have remained asymptomatic will have a symptom screen, temperature check, and be tested with a commercial lab test. Inmates should remain in quarantine status until test results are available. If the test is positive, see above bullet. If the test is negative, the inmate may be released to General Population.

**MOVEMENT**

Movement of inmates between BOP institutions can be a simple, short-distance transfer between two institutions or a complex, multi-day, multi-institution process. The risk of COVID-19 exposure and transmission increases as the complexity of the move increases. Movement variables that increase the risk of COVID-19 exposure and transmission should be avoided whenever possible and include multiple stops, staff and agencies; and potential mixing with other inmate groups from other BOP facilities or other correctional jurisdictions. However, even a direct movement from one facility to another is not without some degree of risk due to the characteristics and communicability of COVID-19. Refer to the HSD Guidance (6/19/20) for Inmates who are transferring or Releasing from a BOP Facility, [https://sallyport.bop.gov/co/hsd/infectious_disease/covid19/docs/guidance_for%20_transferring_or%20releasing%20inmates_20200619.pdf](https://sallyport.bop.gov/co/hsd/infectious_disease/covid19/docs/guidance_for%20_transferring_or%20releasing%20inmates_20200619.pdf)

- As inmate movement operations move toward “normalizing”, the number and complexity of inmate moves will increase. This process of normalizing should be done in a measured approach to allow institutions, regions and the agency develop best practices moving forward.

- Institutions/ Regions should evaluate their space and staffing resources to accommodate increased numbers of the various types of quarantine inmate groups (intake, exposed and pre-release) as well as isolation inmates in various stages of the process. Various and/or large groups of quarantine and isolation inmates may require a re-distribution of inmates amongst institutions within a region.

- The first step in ensuring safe inmate movement is a full test-in/out, 14-day pre-release quarantine of transferring inmates prior to transport.
  - Planning an inmate move should occur with enough time in advance to allow for a full test in/out 14-day quarantine and turnaround time for test results (21 days).
Planning should be coordinated with all the institutions involved from the beginning stages so that setting of dates will allow for the above process to occur for all the potential inmates on that move.

Inmates who have tested negative at the completion of their quarantine should stay in quarantine status until they are transferred, preferably within 5 days of the negative result, but may still move within 14 days of the negative result.

If an inmate develops symptoms and/or tests positive, they will not be permitted to travel until they have met the CDC symptom or time-based criteria for release from isolation. On rare occasions, there may be exceptions where an inmate must travel prior to the completion of this process or even with a positive result (e.g., court ordered transfer). In these cases, the transfer must be discussed and approved by local executive staff from the institutions and regions involved with input from health services staff, as needed.

For inmates who have previously tested positive for COVID-19: (refer to https://sallyport.bop.gov/co/hsd/infectious_disease/covid19/docs/covid19_testing_expanded_inmate_testing_strategies_2020619.pdf)

- If they meet CDC release from isolation criteria and are within 90 days of their original COVID-19 diagnosis (initial symptom onset for symptomatic patients or initial positive COVID-19 test for asymptomatic patients), they do not need any further testing or quarantine prior to transfer.

- If they meet CDC release from isolation criteria but are more than 90 days out from their original COVID-19 diagnosis, they should be placed in quarantine and tested just like an inmate who has never had the infection.

- If the test is positive, they cannot travel and must be placed in isolation until they meet the CDC release from isolation criteria.

Planning of inmate movement should be coordinated with close involvement of local Executive Staff, CMC, Unit Team, and Health Services staff from all involved institutions/regions and transport agencies. Communication and accurate information are vital to ensure a proposed inmate movement has minimized any potential risk of COVID-19 exposure/transmission.

To the extent possible, manifests should be generated that allow for appropriate social distancing during transport (e.g., loading a bus/plane at 50% capacity).
• “Normal” transport routes and schedules will need to be reviewed and reconsidered. Inmate movement should be coordinated in a manner that:

  o **Has minimal stops/holdovers**: e.g., consider institutions meeting at a halfway point to pick-up inmates rather than having multiple stops and holdovers.

  o **Minimizes the amount of time inmates are held in holdover**: the longer an inmate spends in transit, the greater the risk. The frequency of certain drop offs/pick-ups may need to be increased to minimize holdover times.

  o **Avoids mixing of inmate groups** as much as possible:

  - The following Inmate group terms will be defined as follows:

    - **BOP group** - inmates who have completed a full test in/out pre-release/transfer quarantine process prior to transfer from a BOP facility.

    - **Non-BOP group** - inmates from other agency/correctional jurisdiction who have not undergone a full test in/out quarantine.

  - Maximize runs with only BOP groups; make every effort to coordinate runs for Non-BOP groups separately.

  - There are many scenarios where mixing of BOP groups from different BOP institutions is unavoidable. If all BOP-groups have been properly tested in/out of a pre-release/transfer quarantine just prior to transport at their sending institution, this practice is acceptable.

  - Ideally, any non-BOP group during a transfer will have been tested for COVID-19 prior to transport. However, this is often not possible or verifiable. All non-BOP group inmates must have a temperature check and symptom screen immediately prior to transport. Anyone with a known positive COVID-19 test or who has fever or symptoms will not be admitted on the transport.

  - If a BOP group is mixed with a non-BOP group at any point in the transfer process, all the inmates in that group will require intake screening, testing
and intake quarantine (asymptomatic) or isolation (symptomatic) at their destination institution.

- During transport, BOP-group inmates should wear at least facial coverings and staff should wear at least facial covering and gloves. For transport of Non-BOP or mixed groups, inmates should wear surgical masks and staff should wear surgical masks and gloves during transport and add gown and eye protection with direct contact.

- Documentation on the BEMR exit summary/transfer paperwork (e.g. In-Transit Form) needs to include results of the symptom screen and temperature check performed within 24 hours of release or transfer; the most recent COVID-19 test result; and the inmate’s COVID-19 history. To ensure proper documentation of negative COVID-19 testing from a commercial lab is displayed on the exit summary, the **BOP ICD code of Z03818-c19** will need to be added to the inmate’s health problem list. This marking will then display properly upon the inmate Exit Summary. The BEMR Exit Summary/transfer paperwork should be provided to the bus LT/USMS to verify that a commercial lab test has been completed with a negative test result.

- **Holdover Sites/Bus Hubs:**

  - Holdover/ Bus hub sites should designate specific holdover quarantine areas in advance in numbers commensurate with anticipated levels and frequency of incoming inmates.

  - For BOP group transfers that have not mixed with Non-BOP groups and require holdover at a facility, the BOP groups can generally be placed directly into a holdover unit setting without a test in/out process and do not need to complete a full 14-day quarantine prior to moving on to their next destination.

  - These holdover groups should be housed separately from the new intake, post-exposure and prior to release/transfer quarantine groups at that institution.

  *Note there is a distinction between inmates coming from another institution in holdover status waiting to “transfer”/continue on to their next destination vs. inmates that are originating from the holdover site and waiting to transfer.*

  - The various holdover groups may be housed together, if necessary.

  - If a holdover site/bus hub is known to receive Non-BOP groups, they should consider having designated quarantine/isolation units for them and manage them as new intakes.
- Those inmates that are symptomatic and/or test positive must be placed in medical isolation and can be released after meeting CDC symptom- or time-based criteria for release from isolation into general population or transfer. If transfer is to occur more than 90 days from their initial symptom onset (symptomatic cases) or positive COVID-19 test (asymptomatic cases), the inmates will need to be quarantined and tested prior to transfer.

- Those who are asymptomatic and test negative will be placed in quarantine. When they complete quarantine and test-out:
  
  o Inmates who are expected to remain at the holdover site for a prolonged period of time can be released to General Population. If they are released to General Population, future transfers will require pre-transfer test-in/test-out quarantine.

  o For those inmates expected to transfer within a reasonable period of time, they should remain in quarantine until their transfer date. They should transfer within 14 days of the test-out negative result or be re-tested prior to transfer.

- If a holdover site/bus hub receives a mixed group of BOP and Non-BOP groups or BOP group that has previously mixed with a Non-BOP group, they must now all be managed as a Non-BOP group.

**DESIGNATED (FINAL RECEIVING) INSTITUTIONS:**

Transferred inmates will undergo the same process as a new intake, to include intake screen and temperature check, COVID-19 testing and isolation vs new intake quarantine at the final designated facility. One exception to this process is the inmate who has previously tested positive, has met the CDC’s symptom- or time-based release from isolation criteria, and is within 90 days of the initial symptom onset or positive test. Such cases do not need to be quarantined upon arrival at the designated facility.

**Questions**

If staff have questions about COVID-19, they may reach out to the agency at the following email box: COVID19Questions@bop.gov.

We appreciate your assistance and cooperation in this important matter.