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The Report of the Attorney General Pursuant to Section 16(b)(ii) of Executive Order 14074:

Department of Justice Planned Steps to Address Conditions of Confinement in Federal Detention Facilities

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I. Introduction

This report responds to Section 16(b)(ii) of Executive Order 14074, which calls on the Attorney General to issue a report identifying any planned steps to address conditions of confinement in federal detention facilities for individuals in the custody of the Bureau of Prisons (BOP) or the United States Marshals Service (USMS). According to the Executive Order, such plans may include steps designed to improve the accessibility and quality of medical care (including behavioral and mental health care), the specific needs of women (including breast and cervical cancer screening, gynecological and reproductive health care, and prenatal and postpartum care), the specific needs of juveniles (including age-appropriate programming), recovery support services (including substance use disorder treatment and trauma-informed care), and the environmental conditions for all individuals in BOP and USMS custody.

This report provides information about the policies and practices followed by BOP and USMS in federal detention facilities and the planned steps BOP and USMS will take regarding certain conditions of confinement. Consistent with ongoing support and resource needs as discussed throughout this report, BOP and USMS will continue to prioritize improvements in conditions of confinement and will reflect that prioritization in future funding and resource requests.

II. Overview of BOP and USMS Detention Facilities

A. *Bureau of Prisons (BOP).*

BOP protects public safety by ensuring that incarcerated individuals serve their sentences in facilities that are safe, humane, cost-efficient, appropriately secure, and provides reentry programming to ensure their successful return to the community. BOP's 35,000 staff members are responsible for the care and custody of approximately 150,000 people at 122 institutions nationwide. More than 11,000 of these individuals are women, comprising about seven percent of the total prisoner population.

B. *United States Marshals Service (USMS).*

USMS transports, houses, and cares for all pretrial prisoners remanded to its custody by a U.S. District Court. USMS is responsible for such prisoners until the federal courts adjudicate their cases and they are either released or delivered to BOP to serve any imposed prison sentence.

USMS does not own or operate any detention facilities. Rather, prisoners in USMS custody are housed in a network of federal, state, local, and privately-operated detention facilities. Approximately 50-51% of USMS prisoners are housed in state and local facilities pursuant to an intergovernmental agreement (IGA) between the USMS and the state or local entity. In fact, USMS has established IGAs with more than 2,000 state and local facilities. Since the primary mission of those facilities is to house prisoners prosecuted within their jurisdictions, these facilities only agree to house USMS prisoners as capacity is available. These agreements are not

contracts subject to the Federal Acquisition Regulation but are "at will" and can be terminated, or detention capacity further restricted, with little to no advance notice to USMS based on state and local facilities' prioritization of bedspace availability for their own detention populations.

USMS does not direct the operations of the federal, state, local, and privately-operated detention facilities in which people in USMS custody are housed, but USMS annually reviews each facility's operations to ensure that USMS prisoners are housed in a manner consistent with the Federal Performance Based Detention Standards (FPBDS).[1] USMS also coordinates with any facilities determined to be deficient pursuant to the FPBDS in identifying and requesting corrective actions. In those instances where a facility is incapable or unwilling to take corrective action, USMS may reduce the number of prisoners housed at the facility, or increase engagement, to mitigate further risk to USMS prisoners. Where the reduction of the USMS population within a detention facility does not mitigate concerns over conditions of confinement, USMS removes all USMS prisoners from the impacted facility, and refers the matter to federal, state, and local authorities for investigation where appropriate.

USMS occasionally experiences challenges with its state and local partners where federal laws, regulations, and standards conflict with those of the state or local jurisdiction. In these instances, some state and local facilities may refuse to endorse modifications to their IGAs that would require specific actions in furtherance of newly enacted federal legislation and/or Executive Orders. For example, some jurisdictions have refused to endorse a modification to the IGA designed to implement provisions of Executive Order 14019, *Promoting Access to Voting*.[2] USMS endeavors to ensure that all of its IGAs reflect new federal legislation and Executive Orders to the greatest extent possible.

The USMS will continue to work with state and local government regulatory agencies to prioritize improvements to its standards for conditions of confinement. The USMS will also continue its work with the Bureau of Justice Assistance (BJA) to review industry standards for conditions of confinement derived from the American Correctional Association (ACA), the National Commission on Correctional Health Care (NCCHC), and the National Institute of Corrections (NIC). These simultaneous reviews will be utilized to establish the basis for inclusion of any future revisions to the FPBDS.

III. The Accessibility and Quality of Medical Care for People Incarcerated in Federal Detention Facilities

A. *General Medical Care in Federal Detention Facilities.*

Both USMS and BOP work to ensure that prisoners in their custody have access to high quality medical care.

USMS does not directly provide health care services to its prisoners. But, pursuant to 18 U.S.C. § 4013, USMS ensures that such medically necessary services are provided to its prisoners by

[1] *The Federal Performance Based Detention Standards* (May 2022) at https://www.usmarshals.gov/sites/default/files/media/document/detention-standards.pdf.
[2] Executive Order 14019, *Promoting Access to Voting* at https://www.whitehouse.gov/briefing-room/presidential-actions/2021/03/07/executive-order-on-promoting-access-to-voting/.

other means.[3] In particular, USMS prisoners receive health care services from either (1) the detention facility housing the prisoner, to the extent that the medical care can be provided inside that facility, or (2) providers in the local community. The FPBDS establish the standards by which detention facilities housing USMS prisoners are expected to provide prisoner health care services. Consistent with USMS policy, the FPBDS require detention facilities to provide health care in accordance with national guidelines for health care services.[4] Medical care provided within a detention facility is covered through per diem costs paid to the facility, whereas external medical care is paid for by USMS. Appropriate medical personnel within the facility must initiate the request for external medical care, which is then reviewed by USMS medical personnel and either granted or denied in accordance with USMS policies and procedures.

All persons in BOP custody have access to medically necessary care for both acute and chronic medical needs. Upon their arrival at a BOP facility, all prisoners undergo an intake assessment that includes a medical screening to determine their medical needs. Each prisoner is assigned a Medical Health Care Level 1 to 4, and the number is used to ensure that the prisoner is matched to a facility capable of providing the necessary medical care.

Each BOP facility operates an ambulatory clinic staffed by licensed, credentialed medical professionals who provide primary care and urgent treatment to incarcerated persons at that facility. BOP also has seven facilities—designated as Medical Referral Centers (MRCs)—that are allocated increased staffing and resources to provide inpatient services with higher acute care, including skilled nursing care, to those with advanced health needs (typically Medical Health Care Level 4). BOP facilities also contract with community health systems and providers to deliver specialty services and consultations, ensuring that all BOP prisoners have access to medically necessary services that are not available directly through a BOP provider. In addition, many facilities offer telehealth services that help connect incarcerated persons either to BOP providers at other facilities or to specialist providers in the community.

BOP measures and analyzes the overall quality of its medical services at the local, regional, and national levels, coordinated by the Population & Correctional Health Branch of BOP's Health Services Division (HSD). BOP tracks, among other things, national performance measures for benchmarking clinical care, antibiotic and opioid stewardship programs, aggressive hepatitis C and HIV screening and treatment, expansion of Medication-Assisted Treatment (MAT) programs

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[3] https://www.govinfo.gov/content/pkg/USCODE-2020-title18/pdf/USCODE-2020-title18-partIII-chap301-sec4013.pdf. Medically Necessary Health Care are health care services provided by a hospital or licensed health care provider that the USMS determines meet the following criteria: (a) necessary to diagnose or treat a medical condition which, if left untreated, would likely lead to the significant loss of function, deterioration of health, uncontrolled suffering, or death; (b) consistent with established standards of medical practice in the United States; (c) not primarily for the personal comfort or convenience of the prisoner, family, or provider; and (d) approved by the United States Food and Drug Administration. A.2 states that only POD/Office of Medical Operations (OMO) authorized health care personnel can deny or defer prisoner medical submissions. USMS Policy Directive 9.4 Prisoner Health Care Management (10/18/2021) at https://www.usmarshals.gov/sites/default/files/media/document/usms-policy-directive-prisoner-health-care-management.pdf.

[4] The national guidelines for health care services are established by the National Commission on Correctional Health Care (NCCHC), the American Correctional Association (ACA), and other organizations prescribing standards of care for specific correctional populations, *e.g.*, pregnant prisoners.

to all BOP facilities in accordance with the First Step Act (FSA)[5], a robust infection prevention and control program (including COVID response monitoring), gender responsive care procedures, and mortality review processes to determine areas for care improvement. BOP also conducts an annual Patient Perception of Care Survey, which allows all BOP prisoners the opportunity to provide direct feedback and responses to executive leadership on their medical care quality and experiences.

BOP has also developed specialized programming, including a support group, for incarcerated transgender individuals with specialized modules on sexual safety and reentry. This specialized program is voluntary and those who participate and are eligible will be able to earn time credits, as prescribed by the First Step Act. In addition, BOP is supporting transgender individuals through its Transgender Executive Council, a multidisciplinary decision-making body led by the agency's Women and Special Populations Branch. Individuals in BOP custody may request that BOP provide various accommodations including clothing, cosmetics, salutation/pronoun changes, as well as medication and surgical interventions.

B. *Dental Services.*

Each BOP facility operates a fully equipped dental clinic staffed by licensed, credentialed dental professionals who provide dental treatment to incarcerated persons at that facility. Initial dental services include an Intake Screening and an Admission and Orientation (A&O) Examination upon the inmate's arrival to a BOP facility. Along with the dental examination performed by the facility's dentist at the A&O encounter, prisoners are provided education on oral hygiene, advised of caries risk, informed about the availability of oral care items in the commissary, and instructed how to access treatment.

Emergent and urgent dental care is provided and may be requested by inmates on a 24-hour basis. This includes treatment for relief of severe, acute dental pain, traumatic injuries, and acute infections exhibiting signs of infection. Palliative treatment interventions for urgent conditions may include placement of sedative, temporary restorations, extraction of non-restorable teeth, pulpectomies, and gross debridement of symptomatic areas.

Treatment Planning Examinations are subsequent examinations performed by the dentist. These examinations enable the practitioner to assess risk, diagnose oral disease, and develop and document a treatment plan before providing non-urgent treatment. It will determine the basis for comprehensive dental treatment, continued dental maintenance, dental hygiene services and frequency of future dental appointments. Non-urgent routine dental care is provided to inmates on an equitable access basis ensuring those waiting the longest are provided dental care first. At the end of 12 months, pretrial inmates are eligible to receive comprehensive care and can then request to be put on the national treatment list.

C. *Behavioral and Mental Health Care.*

USMS and BOP work to guarantee that prisoners in their custody have access to high quality behavioral and mental health care.

[5] First Step Act (FSA) of 2018 (P.L. 115-391), Sec. 607, *Evidence-Based Treatment for Opioid and Heroin Abuse*.

USMS does not directly provide behavioral or mental health care services to its prisoners. Rather, such services are provided by the federal, state, local, and privately-operated detention facilities that house USMS prisoners. USMS's IGAs require that behavioral and mental health care services be provided to USMS prisoners consistent with the facility's policies and procedures and the agreement itself. Pursuant to USMS Policy Directive 9.4,[6] USMS likewise ensures that all court-ordered mental health examinations, treatment, and hospitalizations are conducted consistent with federal statutes and any corresponding court orders. USMS policy does not allow the involuntary administration of psychiatric medication, except when such administration is court ordered or in the case of a psychiatric emergency.

BOP also works to ensure that prisoners receive all medically necessary behavioral and mental health care.[7] All individuals who enter BOP custody are screened for a history of mental illness as well as any current notable behavioral or mental health symptoms. The intake screening also identifies special treatment or referral needs; provides information useful in future crisis counseling situations; identifies strengths as well as potential adjustment problems to imprisonment; and offers information about programs that might address specific needs of the individual.[8]

Pursuant to the FSA, BOP has implemented a criminogenic risk-needs assessment system to deliver evidence-based treatment programs that reduce recidivism by addressing a wide range of targets, including mental health/substance use. Incarcerated persons with mental health needs are offered a range of services, as well as supportive services pertinent to needs beyond mental health (e.g., education, special population status, release planning). Many of these services are offered in outpatient settings. A variety of evidenced-based treatment groups based on or compatible with cognitive behavioral therapy are offered to treat serious mental illness, post-traumatic stress disorder, and anger management problems. At some institutions, BOP also provides various Psychology Treatment Programs with dedicated staff and specific, evidence-based protocols.

Suicide prevention is likewise one of BOP's top priorities, and BOP has maintained a suicide rate that is consistently lower than other correctional systems and the community at large.[9] BOP provides every staff member with annual training on this important topic, and many receive additional training based on their specialty discipline. Training focuses on the identification and

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[6] https://www.usmarshals.gov/sites/default/files/media/document/usms-policy-directive-prisoner-health-care-management.pdf. In the Federal Performance Based Detention Standards, A.4 Facility Admission and Orientation Program references admissions processes which include medical, dental, and mental health screenings, and screening to detect signs of drug/alcohol abuse and suicidal ideation. B.1 Health Care Administration provides for the designation of a health authority with responsibility for health care services. B.2 Intake Health Screening and B.3 Medical, Mental Health, and Dental Appraisals describe minimum standards for health screening. FPBDS at https://www.usmarshals.gov/sites/default/files/media/document/detention-standards.pdf.

[7] Approximately 45% of federal prisons have a mental health problem other than substance use disorders. https://bjs.ojp.gov/content/pub/pdf/mhppji.pdf.

[8] BOP Program Statement 5310.16, *Treatment and Care of Inmates With Mental Illnes*s (May 1, 2014) at https://www.bop.gov/policy/progstat/5310_16.pdf and BOP Program Statement 6031.04, *Patient Care* (June 3, 2014) at https://www.bop.gov/policy/progstat/6031_004.pdf.

[9] *Suicide in Local Jails and State and Federal Prisons 2000 - 2019 - Statistical Tables* at https://bjs.ojp.gov/library/publications/suicide-local-jails-and-state-and-federal-prisons-2000-2019-statistical-tables.

referral of prisoners at risk for suicide as well as appropriate follow up. Specific intervention strategies include direct clinical care and focused support in restrictive housing, which has been shown to be a higher risk environment for suicide. Postings in all housing units remind staff and prisoners about the signs of suicide risk and identify the steps to take if someone is experiencing thoughts of suicide. BOP has an expansive Suicide Prevention Program[10] that outlines strict criteria for safeguarding those who are identified as being at acute risk for suicide as well as procedures to maintain their safety in the least restrictive environment. If an individual dies by suicide in BOP custody, a comprehensive internal review is completed to identify corrective actions and ensure they are implemented. Lessons learned are used to shape future training and education.

BOP understands that mental health care is most effective when provided in an environment that is supportive of people's needs and rights. Therefore, a broad range of services and supports are available to individuals in custody. These include recreation, education, work, and leisure activities. Also key to the wellbeing of many individuals is support of their faith. Indeed, numerous stakeholder organizations that participated in listening sessions during the researching and drafting of this report stressed the importance of religious support for incarcerated individuals. BOP has Chaplaincy Services Departments at every institution staffed by theologically trained Chaplains. BOP supports 28 congregant faith groups and countless individual religious practitioners. Agency Chaplains lead worship and study opportunities out of their own faith tradition, but also facilitate religious accommodations across all faiths. All BOP Chaplains receive mandatory faith specific training to increase their cultural competencies and sensitivity across faith lines. In addition, all Bureau staff receive training on respecting inmates' right to worship and exercise religious practices in support of inmates First Amendment Religious Rights and the Religious Freedom Restoration Act.

D. *Planned Steps for Improvement.*

1. *Recruit and Retain Medical and Mental Health Professionals*. BOP is developing aggressive recruitment initiatives, pay incentives, and position flexibility for medical, dental, and mental health professionals. A five-year recruitment campaign is ongoing and directed specifically at psychologists, treatment specialists, and pre-doctoral interns. BOP has also expanded the number of pre-doctoral internship positions, as the internship program is traditionally BOP's most successful recruitment stream for psychologists. The Health Services Division (HSD) is also committed to creating opportunities for health services professionals to practice at the highest range of their scope, education, and training. This will improve access to care through utilization of the full range of skill sets of licensed providers, including nurse led clinic programs, clinical pharmacists, and expansion of in-house specialty services such as wound care, treatment of hepatitis C and HIV, and management of substance use disorders.

2. *Expand Telehealth Services*. HSD is implementing greater use of telehealth services to increase access to equipment and providers to decrease wait times for specialty consultants and ensure timely, appropriate care is available when needed. Telehealth services not only

[10] BOP Program Statement *5324.08, Suicide Prevention Program* (3/15/2007) at https://www.bop.gov/policy/progstat/5324_008.pdf.

expand the range of patients that can be treated by specialists, but also increases the safety of communities by decreasing medical trips into those communities when incarcerated persons need specialist services. Telehealth also provides an opportunity for significant cost avoidance while maintaining community standards of care.

3. *Improve Health Outcomes with Data Collection and Analysis*. BOP has onboarded its first epidemiologist to enhance data collection and analysis processes/capabilities for high-risk populations and will be expanding dashboards to better facilitate comparisons and tracking of populations adversely affected by social determinants of health. HSD has also expanded its application of the mortality review process to morbidities, near-misses, and sentinel events to increase the scrutiny of preventable injury and proactively identify areas for improvement in its care processes.

4. *Provide Mental Health and De-escalation Training for All Staff.* All staff will receive training to help them better support individuals in custody with mental health needs. For example, all BOP staff are intensively trained on the warning signs of suicide and routinely make effective referrals for suicide risk assessments. A similar expansion of training in 2023 will provide all staff with tools to address a broader range of mental health problems, effective communication skills, and de-escalation skills that will significantly expand the safety net for individuals in custody who experience mental illness. This training will be provided by BOP staff who have received 24 hours of training in a protocol taught by nationally recognized experts on de-escalation skills.

5. *Reduce Wait Times for Competency Restoration.* BOP will take decisive action to reduce the wait time for competency restoration among federal defendants to include use of innovative strategies such as jail-based restoration, temporary programs, tele-psychiatry, and hiring initiatives that will include post-doctoral fellows for the first time. Fellows will be eligible for promotion to GS12-13 Forensic Psychologist positions to increase availability of mental health staff. BOP will also expand capacity in competency restoration programs in 2023 to reduce wait times. These initiatives will continue until defendants needing competency restoration services can receive them immediately.

6. *Set Minimum Standards for the Care of Prisoners with Mental Illness in Secure Housing.* BOP will set minimum standards for the treatment and care of prisoners with mental illness in secure housing. The standards will describe conditions of confinement and the treatment services available to them. For example, the standards will ensure that individuals in secure housing receive outdoor recreation, out of cell time, and other individualized interventions intended to help them exit secure housing as quickly as possible.

7. *Identify additional resources and capabilities*. USMS is partnering with BOP, the National Institute of Corrections (NIC), the National Sheriffs Association (NSA), the National Commissions on Correctional Health Care (NCCHC), and the Bureau of Justice Assistance (BJA) to assist with the identification of resources and capabilities state and local governments may leverage to mitigate challenges presented in a correctional setting.

8. *Implement a Clinical Decision Support System (CDSS).* USMS will implement a CDSS to provide evidence-based clinical support to health care providers. The CDSS is part of a continuing effort to improve oversight of the medical care provided to USMS prisoners. The CDSS promotes use of standardized criteria in the medical decision-making process and will allow routine prisoner medical requests to be automatically adjudicated. The CDSS provides software based clinical practice criteria that is used by the medical community at large to apply evidence-based guidelines to clinical decision making. The CDSS guidelines are continuously reviewed and updated by appropriate medical authorities. The CDSS will expedite medical decision making and ensure that the USMS is approving prisoner medical care in a manner that is consistent with community medical standards.

IV. The Specific Needs of Women in Federal Detention Facilities

BOP provides comprehensive primary and specialty health care services to all incarcerated individuals in BOP facilities. More than 11,000 of these individuals are women, comprising about seven percent of the total prisoner population. In addition to routine chronic and acute care delivery, health care services specific to women's needs are provided at all 27 female facilities. All preventive care and screening are offered based on current U.S. Preventive Services Task Force (USPSTF) Recommendations,[11] along with screening recommendations for other cancers such as colon and lung, infectious diseases, and chronic medical conditions. The BOP's Preventative Health Care Screening Clinical Guidance (July 2022)[12] outlines health recommendations regarding several of these health care services.

A. *Breast and Cervical Cancer Screening.*

Within the first 14 days of arrival, women are offered a vaginal and breast exam with cervical cancer screening (PAP smear) and STI testing for human papilloma virus (HPV), syphilis, gonorrhea, and/or chlamydia if risk factors or age considerations for those infections are present. For any identified disease or infection, treatment is provided consistent with community standards of care as medically appropriate. After the initial intake period, breast exams are available upon request annually, and prisoners receive instruction on proper breast self-examination. Vaginal exams/PAP smears continue to be offered throughout incarceration at intervals consistent with U.S. Preventive Services Taskforce[13] recommendations based on the woman's most recent exam results. Other diagnostic services are also available to women during incarceration, including routine screening mammograms to evaluate for breast cancer beginning at age 50 (or 40 for high-risk women) and colonoscopies to evaluate for colon cancer beginning at age 50.

B. *Gynecological and Reproductive Health Care.*

All new female prisoners have urine pregnancy testing, and if pregnant, begin prenatal care or are provided access to abortion counseling and services. If necessary, USMS and BOP will facilitate and fund transportation to a state where such services are permitted under state law.

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[11] https://www.uspreventiveservicestaskforce.org/uspstf/topic_search_results?topic_status=P.
[12] https://www.bop.gov/resources/pdfs/preventive_health_care_cg_2022.pdf.
[13] https://www.uspreventiveservicestaskforce.org/uspstf/.

Women can request screening/testing/examination for pregnancy, STI, breast abnormalities, or vaginal concerns at any time. Hormone therapy is available to women with medically appropriate need for menopausal hormone replacement, control of menstrual symptoms/cycles, prevention of osteoporosis, gender-affirming hormone therapy and related medical care, or other needs as determined in coordination with the medical provider. Birth control options are made available to prisoners on request in the period preceding release to the community, if clinically appropriate. Pursuant to the FSA, Section 611, BOP also provides feminine hygiene products to prisoners at no cost.[14]

USMS FPBDS address pregnancy-related care and apply to IGA and contract facilities. The standards require that pregnant women in USMS custody have access to timely and appropriate prenatal, postpartum, and specialized obstetrical services when indicated. All prisoners, to include pregnant and postpartum women, must receive medical, mental health, and substance use screenings during the facility intake process. The standards also address segregation, stating that pregnant and postpartum women should not be placed in restrictive housing; and that senior facility and health officials must approve the decision to place a pregnant or postpartum woman in restrictive housing.[15]

BOP's Program Statement 5200-07 CN-1 Female Offender Manual[16] provides guidance on identifying and monitoring pregnant and postpartum women throughout their pregnancy and postpartum recovery, methods for care, and available programming.[17]
Pregnancy pre-screening is initiated prior to a woman's designation to an institution. Upon confirmation of pregnancy or postpartum status, women are provided information regarding the prohibition on the use of restraints on pregnant and postpartum women as outlined in the FSA.[18] Pregnant women are also provided information related to pregnancy options, prenatal and postpartum care, restraint restrictions, delivery, and residential parenting programs. Under both the CFR and BOP policy, pregnant individuals are informed of their reproductive rights. If she elects to carry to full term, a parenting plan, including her decision about placement of her child, is developed with the assistance of a social worker and unit team. Female prisoners with high-risk pregnancies are referred to FMC Carswell for closer monitoring and evaluation by specialty consultants.

Women who are not eligible for a residential parenting program remain in a BOP facility to receive prenatal and postpartum care. Expectant mothers who remain in a facility may participate in gender responsive programs to address pregnancy and postpartum needs. Women also have access to medical and social services support such as OB/GYN care, prenatal vitamins,

[14] https://www.bop.gov/policy/progstat/5200.07b.pdf at 11.
[15] E.4.7 at https://www.usmarshals.gov/sites/default/files/media/document/detention-standards.pdf.
[16] https://www.bop.gov/policy/progstat/5200_007_cn.pdf.
[17] As of December 10, 2022, there were 35 female prisoners in BOP custody receiving pre-natal care and 18 are receiving post-partum care. Ten female prisoners receiving pre-natal care reside in the community at residential facilities, and six are designated to a medical referral center. The Bureau Justice of Statistics (BJS) publication, Federal Prisoner Statistics Collected under the First Step Act, 2022 reported that 74 pregnant female prisoners were held in BOP-operated prison facilities in 2021, a 19 percent decrease from 2020. Forty-nine of the pregnant females had live births while still incarcerated in BOP facilities in 2021, and 20 pregnant female prisoners were released from federal prison before giving birth.
[18] https://www.bop.gov/inmates/fsa/overview.jsp; FSA Sec. 301.

regular medical consultation, and examinations, as well as counseling on issues such as lactation, changing physical needs, childcare, and postpartum depression.

Expecting mothers also may also participate in residential programs outside of BOP-operated facilities, provided they meet certain eligibility criteria. The Mothers and Infants Together (MINT) program promotes mother and infant bonding in a safe residential environment. Upon arrival at the MINT, expectant mothers are provided an orientation that includes a tour of the facility, an overview of the health care and social service assistance, review of expectations and facility rules. Within a week, participants meet with a MINT case manager and develop an individualized program plan. The plan includes prenatal care such as lactation consultation, birthing classes, and a scheduled tour of the hospital. Mothers are expected to set and work toward meeting parenting and programming goals prior to their release or return to an institution to complete their sentence. The MINT offers a variety of programs which include prenatal and postpartum care, parenting skills, GED, life skills, mental health and substance abuse treatment and tools for reentry preparation.

The Residential Parenting Program (RPP) offers a secure, private living space for mother and child, and access to a semi-private restroom and common area space. The RPP also has designated classrooms for programming. Each day mothers attend programming in accordance with their individual case plan. Mothers can take their children to the Early Head Start Day Care Program, which is located on institutional grounds, during scheduled programming and scheduled doctor's appointments. The program offers day care services and child development activities for children.

C. *Planned Steps for Improvement.*

1. *Update statement of work for MINT programs*. A now complete updated the statement of work for MINT programs regarding future service solicitations will include domestic violence programming, family programming, additional evidence-based recidivism reduction programs, and productive activities.

2. *Provide additional training and information to staff.* RPP and MINT eligibility criteria have been added to the BOP intranet page and annual training will include *Programs for Pregnant Women* and other information to ensure staff have a clear understanding of the programs and eligibility criteria.

3. *Secure contracted doula services and a doula training program for incarcerated women*. BOP is currently in the solicitation process for placement of doula services at five women's facilities. Prenatal and postpartum women will be afforded the opportunity to use doula services and women in these facilities also will be given the opportunity to complete doula training.

4. *Add gender responsive family programming to the evidence-based recidivism reducing program offerings under the FSA.* This interactive programming will target incarcerated individuals and their family members and focus on building healthy relationships. In addition, training in gender responsive care is underway and is being provided to specific disciplines to include Psychology Services and Chaplaincy Services.

5. *Schedule additional listening sessions.* BOP routinely engages in listening sessions targeting stakeholders such as health care professionals, advocates for women, and incarcerated women. These sessions frequently address concerns related to prenatal and postpartum women. BOP utilizes this information to enhance its programming and services.

6. *Update existing evaluation tools and add new outcome measures related to health care, mental health care, parent/child bonding, social services, programming, family reunification, and overall pregnancy experience*. These improvements will help BOP assess the effectiveness of programs and interventions for incarcerated women, as will an expansion of exit interviews for women leaving prenatal and postpartum periods and for those who complete MINT and RPP placements.

7. *Optimize the provision of services based on women's specific health care needs, particularly preventive service*. BOP will focus several of its National Performance Measures on female health-related screening benchmarks, including breast cancer and cervical cancer screening rates, pregnancy testing, and HIV/Hepatitis C screening. The BOP uses data analytics dashboards to assist facilities in monitoring health indicators for these performance measures. Benchmarking performance measures such as these encourages continuous quality improvement to increase both the rate at which these services are offered and the rates at which women accept these screening tests. Providers are incentivized to use performance measures by increasing title 38 pay eligibilities for those meeting or exceeding specific benchmarks or a group of benchmarks.

8. *Explore options to improve and expand services provided to women during their incarceration to ensure facilities are meeting or exceeding community standards of care.* These steps include enhancing the functionality and reporting capabilities of the national performance measure dashboards to capture rates more consistently between facilities that have different processes in place to deliver care. Additionally, the Centers for Disease Control and Prevention recently published updated CDC Recommendations for Correctional and Detention Settings (September 2022)[19] which include several more aggressive strategies for facilities with incarcerated female prisoners to screen and treat STIs. These recommendations are under review for integration into BOP's current preventive health guidelines to improve consistency of services and screening offered to women and improve the quality of care provided in BOP facilities.

9. *Collect baseline data on populations and prevalence/incidence of disease to address gaps in care disproportionately affecting certain populations, including women.* In 2021, HSD established a new Population & Correctional Health Branch to oversee national quality improvement strategies and the surveillance and epidemiologic evaluation of special populations in BOP custody. As this new branch expands operations and its data capabilities and resources, BOP anticipates it will identify several areas for focused, prioritized clinical care improvement and monitoring.

[19] https://www.cdc.gov/correctionalhealth/rec-guide.html.

V. The Specific Needs of Juveniles in Federal Detention Facilities

Very few juveniles are remanded to the custody of the USMS. In the limited circumstances this occurs, juveniles in USMS custody are managed in accordance with the Juvenile Justice and Delinquency Prevention Act (JJDPA).[20] The juveniles are housed in detention facilities specifically designated for juveniles, and they typically receive educational assessments, special education services, and social, psychological, and/or mental health treatment, as necessary. In certain situations, juvenile housing may not be available. In such cases, USMS may house juvenile prisoners in an adult facility, with sight and sound separation from adult detainees. Juveniles remanded to USMS custody are also provided all medically necessary and preventative health care and special diets and/or supplemental meals consistent with their age.

BOP currently has 26 juvenile prisoners in custody. BOP is responsible for housing juveniles who have been sentenced pursuant to JJDPA. Federal law provides that no juvenile committed to BOP custody "may be placed or retained in an adult jail or correctional institution in which he has regular contact with adults incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges."[21] Accordingly, all juveniles in BOP custody are held in juvenile-specific facilities.

A. *Contractor Facilities and Obligations*.

BOP does not operate any juvenile facilities of its own. Instead, BOP enters into agreements with state, local, Tribal, and private entities to provide for the care and confinement of federal juvenile prisoners in secure and non-secure correctional facilities. Contractors are responsible for ensuring the safety, care, security, control, accountability, and custody of juvenile prisoners, and providing for public protection through a system of written policies, procedures, and practices that are based on recognized juvenile correctional practices. To contract with BOP, a contractor must submit written policies and procedures that meet BOP's requirement that each juvenile in federal custody receives at least 50 hours of formal quality programming per week, 12 months a year. The contractor must reference all sections in Part 5, American Correctional Association Standards for Juvenile Training Schools, and BOP Program Statements on Minimum Standards for Administration, Interpretation and Use of Education Tests, Literacy Program (GED Standard), and English-as-a-Second-Language Program for guidance and direction. Contractors must meet also meet the requirements of BOP's Statement of Work ("SOW") for juvenile services.

Contractor staff are required to be sensitized to and trained in dealing with issues of juvenile sexual, emotional, and physical abuse. Counseling staff must incorporate abuse issues into counseling sessions when appropriate and clinically beneficial.

The contractor must ensure that information about each juvenile is incorporated into a formalized Individualized Program Plan addressing, at a minimum, the following needs: education, to include general and special education; vocational training; independent living preparation;

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[20] https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/jjdpa-as-amended_0.pdf.
[21] 18 U.S.C. § 5039; see also BOP Program Statement 5216.05 (9/1/99), *Juvenile Delinquents* at https://www.bop.gov/policy/progstat/5216_005.pdf.

specialized treatment goals and objectives; counseling and psychological services; substance use; structured recreational activities; religious services; cultural services; and financial responsibility. The contractor agrees to make the following available to each juvenile in its custody:

- educational activities or access to correspondence courses;
- library services with access to a variety of research and reading materials;
- vocational training programs geared towards job-training needs and future employment;
- independent living preparation courses consisting of training modules to assist transition to the community and adulthood;
- a minimum of 30 hours of substance use education;
- substance use treatment for juveniles whose assessment and/or clinical interview indicate a need for this treatment;
- counseling and psychological services tailored to the needs of each juvenile based on assessments and/or a clinical diagnosis;
- structured recreational activities;
- religious services and activities and opportunities to adhere to requirements of their faith; and
- opportunities to participate in cultural activities.

B. *Planned Steps for Improvement*.

1. *Explore new programming for juveniles focused on specific needs*:

    - Gender responsive programming. This programming will ensure juvenile providers plan appropriate programs and services for juvenile prisoners.
    - Trauma programming for all juveniles. This programming will assist juveniles who are victims of sexual abuse, physical abuse, and other crime-related trauma, including the loss of a loved one due to homicide, violence at home or among peers in the community.
    - Cognitive behavioral therapy for all juveniles. This programming will provide a problem-focused, therapy approach to assist juveniles in identifying and changing the dysfunctional beliefs, thoughts, and patterns contribute to their problem behavior.

    To implement these new services, BOP will revise its SOW to require contractors who provide juvenile services to provide care that is therapeutic, trauma-informed, and gender responsive. BOP will budget appropriately to ensure all new juvenile contracts and agreements contain the revised SOW requirements.

VI. Recovery Support Services

A. *USMS.*

Consistent with the FPBDS, prisoners remanded to the custody of the USMS receive a comprehensive mental health appraisal following admission to a detention facility. The mental health appraisal addresses the prisoner's history of psychiatric treatment, suicidal behavior,

violent behavior, victimization, cerebral trauma, and drug and/or alcohol use. Prisoners receive medically necessary treatment of any mental illness identified, to include referral for treatment at an outside mental health facility. Prisoners requiring treatment for drug intoxication or withdrawal may continue or initiate Medication-Assisted Treatment (MAT) while in USMS custody.[22]

B. *Substance Use Disorder Treatment.*

BOP's drug abuse and treatment strategy has grown and changed along with advances in substance treatment programs. Staff members maintain their expertise in treatment programming by monitoring and incorporating improvements in the treatment and correctional programs literature, research, and effective evidence-based practices.

BOP's substance use disorder treatment strategy includes seven programs designed to educate prisoners about the negative health and social consequences of drug use, encourage them to consider their substance use treatment needs, and engage them in evidence-based individualized substance use disorder treatment. The BOP has chosen cognitive behavioral therapy (CBT) as its theoretical treatment model because of its proven effectiveness with prisoner populations. CBT focuses on challenging and changing unhealthy cognitive distortions and behaviors, improving emotional regulation, and developing effective coping strategies. Using CBT underpinnings, BOP has created evidence-based treatment protocols for use in its suite of drug treatment programs. Treatment interventions are individualized to ensure each prisoner's unique treatment needs are addressed.

- The Drug Education Program encourages prisoners with a history of drug use to review the physical, social, and psychological consequences of substance misuse and addiction. Drug education takes prisoners through the cycle of drug use and crime and offers compelling evidence of how continued drug use can lead to a further criminality and related consequences. In FY 2022, 23,954 prisoners participated in the Drug Education Program.
- The Non-Residential Drug Abuse Treatment Program (NRDAP) is a general population therapeutic group designed for treatment of prisoners with self-reported substance use disorders. NRDAP is available in every BOP facility, and it is designed to meet the specific individualized treatment needs of participants, improve current functioning, and address symptoms that may interfere with successful reentry. NRDAP is conducted 90-120 minutes a week for a minimum of 12 weeks and a maximum of 24 weeks. In FY 2022, 20,163 prisoners participated in the NRDAP.

[22] A.4 *Facility Admission and Orientation Program* references facility admissions processes and their requirements, to include medical, dental and mental health screenings, and screening for drug/alcohol abuse and suicidal ideation. B.1 *Health Care Administration* identifies the facility's responsibility for providing health care services. B.2 *Intake Health Screening*, and B.3 *Medical, Mental Health, and Dental Appraisals* further describes minimum standards for health screening. Federal Performance-Based Detention Standards at https://www.usmarshals.gov/sites/default/files/media/document/detention-standards.pdf.

- The Residential Drug Abuse Program (RDAP) consists of three components: the unit-based component, follow-up services, and community treatment services. The unit-based component is 500 hours of face-to-face drug treatment provided in a residential unit-based program. Follow up treatment is provided to participants who successfully complete the unit-based component. The final phase of RDAP consists of community outpatient treatment services provided during the prisoner's placement in community custody, such as a Residential Reentry Center (RRC) or home confinement. At present, BOP operates 78 RDAPs at 70 locations. In FY 2022, 11,817 prisoners participated in the RDAP.

- The Female Integrated Treatment Program (FIT) is a residential treatment program designed to be responsive to the gender-specific needs of women. It uses an integrated treatment model to address trauma related disorders, mental illness, and substance use disorders. Special emphasis is placed on job skills and reentry. At present, BOP has two FIT Programs with a combined programming capacity of 184 participants.

- The Challenge Program is a unit-based, residential program developed for prisoners with substance use disorders and/or mental illness in high security penitentiary settings. At present, BOP operates 13 Challenge Programs with a programming capacity of 920 participants.

- Community Treatment Services (CTS) ensures prisoners receive mental health, substance use, and sex offender treatment while in BOP custody through placement in a RRC Residential Re-entry Center or home confinement. In FY 2022, 14,118 prisoners participated in Community Treatment Services.

- Medication-Assisted Treatment (MAT) is available for prisoners with opioid use disorders with the goal of promoting recovery and reducing deaths by overdose. BOP's MAT Program integrates medications for opioid use disorder within the comprehensive framework of evidence-based, individualized psychosocial interventions provided by psychologists and drug treatment specialists at each of BOP's 122 institutions. In FY 2022, 3,208 prisoners engaged in MAT.

C. *Trauma-Informed Care.*

Trauma-informed care is an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma. Trauma-informed care also emphasizes physical, psychological, and emotional safety for both consumers and providers, and helps survivors rebuild a sense of control and empowerment. With this approach, relationships between the environment, triggers, and perceived dangers are noted and addressed. BOP strives to incorporate trauma-informed care into its recovery support services program and annually trains its staff using materials that are consistent with the guidance of the National Center for Trauma-Informed Care.[23] Doing so helps improve both practice and safety by reducing critical incidents, de-escalating situations, and avoiding restraint and seclusion. This,

[23] https://www.traumainformedcare.chcs.org/resource/samhsas-national-center-for-trauma-informed-care/

in turn, results in controlling costs of healthcare, reducing the need for restrictive housing, increasing the safety of both staff and prisoners, and having more resources for reentry programming.[24]

D. *Planned Steps for Improvement.*

BOP continues to work to meet the growing demand for substance use treatment services, with particular emphasis in three areas:

1. *Expansion of MAT Programs.* BOP will expand capacity in its MAT Program for prisoners with opioid use disorder. BOP no longer requires immediate rapid detoxification of prisoners who enter its custody as existing MAT patients. Prisoners are continued on established treatment plans, including methadone, buprenorphine, buprenorphine/naloxone, and naltrexone, as appropriate. Prisoners with a history of opioid use disorder who are nearing transfer to Residential Reentry Centers (RRCs) are evaluated for MAT and treatment is initiated prior to transfer when clinically indicated. This treatment then continues during placement in the community facility. All other prisoners in BOP custody with opioid use disorder who are referred for or request MAT are evaluated to determine the clinical indication for treatment. Special emphasis is given to prisoners known to be actively misusing contraband opioids during incarceration, as this population is known to be at increased risk of death by overdose or suicide. BOP will expand capacity through a hub and spoke prescription model, additional primary care positions, and increased prescriber caseloads. This increased capacity will support more timely medication consultations and larger overall capacity to prescribe MAT medications.

2. *Expansion of Treatment Services in Spanish.* Over 17 percent of BOP prisoners have limited English proficiency. Consequently, many of these prisoners are unable to participate in substance use treatment programs facilitated in English. As part of the goal to increase treatment admissions, BOP will broaden the availability of treatment services delivered in Spanish by hiring Spanish-speaking treatment staff and translating treatment protocols into Spanish.

3. *Expansion of FIT Programs.* Women often become involved in criminal behavior for different reasons than men do, and these reasons are important when considering how to keep women from reentering the system once they leave. The most common pathways into contact with the justice system for women involve three factors: abuse, economic disadvantage/poverty, and mental health/substance use. Women often need multiple services, including mental health care, substance use treatment, trauma treatment, education, job training, and physical health care. BOP seeks to further implementation of holistic,

[24] See BOP Program Statement 5330.11 (3/16/2009), *Psychology Treatment Programs* at https://www.bop.gov/policy/progstat/5330_011.pdf ; BOP Program Statement 52900.07 (July 8, 2022), *Female Offender Manual* at https://www.bop.gov/policy/progstat/5200_007_cn.pdf; and BOP Program Statement 5240.01(August 11, 2022), *Female Integrated Treatment (FIT)* at https://www.bop.gov/policy/progstat/5240_001.pdf.

integrated, evidence-based treatment for female prisoners by expanding FIT Programs to all female facilities.

4. *Expand Treatment Services for Prisoners Actively Using Substances.* Despite robust security measures, it is impossible to fully prevent the introduction of illicit drugs into BOP institutions. A review of BOP's substance use treatment programs reveals the only program specifically aimed at assisting individuals in custody with active substance use is MAT (which is typically indicated only for opioid users). Therefore, most individuals struggling with active substance use are either held in restrictive housing where no substance use treatment is available, relegated to low intensity treatment (NRDAP), or must wait until the end of their sentences for intensive, residential treatment (RDAP). BOP will develop strategies to address substance use in the prisoner population, including the creating of semi-secure unit-based programs. Unlike RDAPs, they should be designed specifically to treat individuals struggling with active use in a correctional setting. Over a 6–12-month period, they will provide safe detoxification (if necessary), treatment (including MAT), and preparation for sobriety in a correctional setting via goal-focused activities (e.g., education, vocational programs, recreation, and family connection). Individuals will leave with a recovery plan to support them throughout the rest of their incarceration and into the community. By providing intensive residential treatment in a semi-secure environment, BOP can reduce the demand for contraband and increase opportunities for reentry success.

VII. Environmental Conditions for Individuals in BOP and USMS Custody

BOP Environmental and Safety Policies are designed to ensure a safe and healthy environment for staff and prisoners to work and live, free from recognized hazards and unsafe or unhealthy working conditions. BOP requires compliance with all applicable Federal, state and local environmental and life/safety regulations and Executive Orders, and compliance with national fire codes and ACA Standards. BOP has robust and proactive environmental compliance and awareness programs, safety programs, and facilities management. BOP has safety, environmental and facilities managers and staff at each of its institutions, with oversight and assistance from specific Regional, Central Office, and Legal professionals.[25]

Many of BOP's institutions are over 50 years old and have associated aging infrastructure and correctional design. Infrastructure age, coupled with chronic underfunding over the past 15 years in BOP's appropriations for maintenance and repair, has resulted in system failures impacting the working conditions of BOP employees and living conditions for prisoners. Such system failures are exemplified by heating system failures at MDC Brooklyn in recent years.

As noted previously, USMS relies on federal, state, local, and privately-operated detention facilities to house its prisoners. Those facilities are required to conform to applicable federal, state, and/or local fire safety codes, in addition to those set forth by the National Fire Protection Association (NFPA), and the Occupational Safety and Health Administration (OSHA). Further,

[25]See BOP Program Statement 1600.10, *Environmental Management Systems;* 1600.11*, National Occupational Safety and Health Policy;* 1600.12*, National Environmental Protection Policy;* 1600.13, CN-1*, National Fire Protection Policy;* and 4200.12*, Facilities Operations Manual.*

USMS's IGAs require all facilities with USMS prisoners to house them in safe, clean, and secure conditions and to have comprehensive housekeeping and maintenance plans that address all facility areas and provides for daily housekeeping and regular maintenance.[26]

A. *Planned Steps for Improvement.*

BOP is conducting a long-term strategic review of its facilities needs, including the need for facilities improvements. That effort includes obtaining a contractor to assist in building the framework from which the BOP will make long term facility decisions. This process will also help BOP assess funding priorities for these many critical requirements. The outcome will include the development of impartial criteria that BOP can use to prioritize modernization and repair projects. But the BOP is taking steps to address these issues now. For example, in May 2021 BOP issued a decision to replace USP Leavenworth, constructed in 1906, with a modern medium-security correctional institution. BOP has received funding for this project, and the new institution will be constructed adjacent to the old USP Leavenworth. The new facility will be designed to provide an institution with modern approaches to security, building efficiency, life/safety, cost effectiveness, and the current and future needs of staff, prisoners, and the public. In addition. the BOP will prioritize critical repair and maintenance needs. Future appropriations and resource requests will include separately funded appropriations to address both BOP's significant backlog of critical repair needs and its ongoing maintenance requirements.

VIII. Conclusion

This report outlines the Department's planned steps to address conditions of confinement in federal detention facilities. The Department, BOP, and USMS will continue to prioritize addressing conditions of confinement, including the delivery of medical care, the specific needs of women and juveniles, recovery support services, and the environmental conditions for all individuals in BOP and USMS custody.

[26] See generally FPBDS Sec. F, *Safety and Sanitation;* F.1.1, requiring facilities to conform to applicable federal state and/or local fire safety codes, NFPA, and OSHA requirements; and F.2 *Sanitation and Environmental Control*, which addresses general facility environmental conditions; and F.2.1. which addresses housekeeping maintenance plans at https://www.usmarshals.gov/sites/default/files/media/document/detention-standards.pdf.