

July 19, 2021

The Hon. Joseph R. Biden, Jr
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Re: Clemency for CARES Act Home Confinement

Dear President Biden:

On behalf of the 20 organizations listed below, representing a broad spectrum of American life, we write to request a meeting to discuss the issue of clemency for individuals currently living in home confinement under the CARES Act. We are organizations on the right and on the left who are committed to our nation's constitutional rights and public safety. We have come together to urge you to use your presidential power to commute the sentences of people currently living in home confinement because the federal Bureau of Prisons has determined they qualify under the CARES Act, but who are under threat of being sent back to federal prison.

In response to the COVID-19 pandemic, Congress passed the CARES Act, which among other things, expanded the federal government's ability to move people from federal prison to serve their sentences at home. This power has existed since the George W. Bush presidency, when Congress passed the Second Chance Act.

Under the Trump administration, thousands of people were released to serve their sentences at home. These individuals had to meet numerous stringent requirements set by the administration to be allowed to enter home confinement, including that they will not be a risk to public safety. Not surprisingly, according to publicly available data, less than one percent have violated the terms of their release once transferred to home confinement.

Despite the successes of this program, thousands of people are now in danger of being sent back to federal prison. This is because on January 15, 2021, just five days before President Trump left office, the Justice Department's Office of Legal Counsel issued a memo declaring that people transferred to home confinement under the CARES Act would be sent back to prison once the national COVID emergency ended. Despite public requests to rescind the memo, the Department of Justice has not given any signs it will take action to keep these individuals home.

As a consequence, today, thousands of people are living under the threat of being sent back to federal prison. People like 43-year-old Miranda McLaurin, a disabled Army veteran sentenced to five years for a drug offense. She was allowed to go home to Mississippi to serve the rest of her sentence, instead of being imprisoned more than 1,000 miles away in a federal prison in Connecticut. “I came home, I got a job. I’m working,” she said. But now, she and approximately 4,000 people like her are under threat of being sent back to prison.

President Biden, we ask that you use your power of clemency to commute the sentences of people living in home confinement due to the CARES Act and prevent this impending crisis. We ask that you issue an order that contains a presumption that all people in home confinement under the CARES Act will have their sentences commuted, unless the Bureau of Prisons can prove an articulable and current threat of violent harm.

On the campaign trail and during your presidency, you have spoken about the importance of second chances. This is your opportunity to provide second chances to thousands of people who are already safely out of prison, reintegrating back into society, reconnecting with their loved ones, getting jobs and going back to school. We urge you to provide clemency now to people under CARES Act home confinement.

Thank you in advance for your consideration. If you have any questions, please contact Udi Ofer, ACLU, at uofer@aclu.org, Kevin Ring, FMM, at kring@famm.org, or Holly Harris, Justice Action Network, at holly@justiceactionnetwork.org.

Signed,

American Civil Liberties Union (ACLU)
FMM
Justice Action Network
Amnesty International
Brennan Center for Justice
Drug Policy Alliance
Dream Corps JUSTICE
Due Process Institute
Faith and Freedom Coalition
Freedomworks
FWD.us
Leadership Conference on Civil and Human Rights
NAACP
NACDL

REFORM Alliance
R Street Institute
Right on Crime
Sentencing Project
The Fortune Society
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