

# Congress of the United States

## Washington, DC 20515

May 27, 2021

The Honorable Merrick Garland  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20500

Dear Attorney General Garland:

We write to you today to echo our colleagues from the United States Senate Committee on the Judiciary and request that you rescind the Office of Legal Counsel's January 15, 2021 memorandum opinion entitled "Home Confinement of Federal Prisons After the COVID-19 Emergency" ("OLC opinion").

Last March, Congress passed the Coronavirus Aid, Relief, and Economic Security Act, or CARES Act, to provide emergency assistance to the states and individuals. The law included a provision to allow the Attorney General to expand the amount of time people in federal prison could spend on home confinement. Typically, the Bureau of Prisons (BOP) is authorized to send someone to home confinement only at the very end of their sentence. Congress's decision to expand the period of home confinement to help mitigate the spread of COVID-19 in federal prisons saved lives. Since last March, the BOP placed nearly 25,607 people on home confinement, with 7,213 currently on home confinement.

On January 15, 2021, in the waning days of the previous administration, the Justice Department's OLC issued an opinion arguing that the CARES Act requires the BOP to return those serving extended home confinement terms back to federal prison. We believe this opinion is wrong as a matter of law – the CARES Act includes no such requirement.

The vast majority of those people on home confinement today have reunited with their families and are working and contributing to society. To continue with the previous administration's OLC opinion will upend what has been a very successful means of reducing infection rates in federal prisons. This is on top of the fact that these individuals were not told they would have to return to prison, potentially causing more harm than good to all involved.

It is for these reasons that we ask you rescind the OLC opinion and allow those to finish the rest of their sentences on home confinement. In addition, we encourage you to work with the Bureau of Prisons to broadly exercise your authorities with respect to elder and compassionate early

release consistent with the First Step Act. Thank you for your time and consideration. We look forward to your prompt response.

Sincerely,



BONNIE WATSON COLEMAN  
Member of Congress

/s/

JERROLD NADLER  
Member of Congress

/s/

SHEILA JACKSON LEE  
Member of Congress

/s/

BENNIE THOMPSON  
Member of Congress

/s/

HAKEEM JEFFRIES  
Member of Congress

/s/

RITCHIE TORRES  
Member of Congress

/s/

RASHIDA TLAIB  
Member of Congress

/s/

ELEANOR HOLMES NORTON  
Member of Congress

/s/

HENRY C. "HANK" JOHNSON, JR.  
Member of Congress

/s/

JIM COOPER  
Member of Congress

/s/

MONDAIRE JONES  
Member of Congress

/s/

ADRIANO ESPAILLAT  
Member of Congress

/s/

ANDRÉ CARSON  
Member of Congress

/s/

MARK POCAN  
Member of Congress

/s/

PRAMILA JAYAPAL  
Member of Congress

/s/  
BARBARA LEE  
Member of Congress

/s/  
TED DEUTCH  
Member of Congress

/s/  
JAN SCHAKOWSKY  
Member of Congress

/s/  
EMANUEL CLEAVER, II  
Member of Congress

/s/  
KAREN BASS  
Member of Congress

/s/  
NYDIA M. VELÁZQUEZ  
Member of Congress

/s/  
AYANNA PRESSLEY  
Member of Congress

/s/  
DAVID TRONE  
Member of Congress

/s/  
DAVID N. CICILLINE  
Member of Congress

/s/  
KELLY ARMSTRONG  
Member of Congress

/s/  
SEAN PATRICK MALONEY  
Member of Congress

/s/  
DANNY K. DAVIS  
Member of Congress

/s/  
DAVID E. PRICE  
Member of Congress

/s/  
FREDERICA S. WILSON  
Member of Congress

/s/  
CORI BUSH  
Member of Congress