



March 26, 2020

The Honorable William Barr  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530

Director Michael Carvajal  
Federal Bureau of Prisons  
U.S. Department of Justice  
320 First Street NW  
Washington, D.C. 20534

Dear Attorney General Barr and Director Carvajal:

On March 13, 2020, President Trump declared a state of emergency due to the novel coronavirus disease (COVID-19) outbreak. On March 25, the U.S. Senate passed the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act) to provide emergency assistance to people affected by the outbreak. We expect the bill to be approved by the House and signed by the president in the coming days.

The CARES Act reflects our country's immense concern for people who have been and will be harmed by the pandemic, including people incarcerated in the Federal Bureau of Prisons (BOP). Section 12003(b)(2) of the CARES Act permits the Director of the BOP to lengthen the maximum amount of time that a prisoner may be placed in home confinement, if the Attorney General finds that emergency conditions will materially affect the functioning of the BOP.

Previous law dictated that the Director of the BOP had authority to place a prisoner in home confinement for the shorter of 10 percent of a person's term of imprisonment or 6 months, but the CARES Act greatly expands that authority to allow prisoners to be transferred to home confinement earlier in their sentence. Under the CARES Act, the Director may lengthen the maximum term of home confinement to whatever he determines appropriate during the pandemic. Given the current state of emergency, we urge you to use the CARES Act to quickly transfer prisoners who are at high risk for complications from COVID-19 to home confinement.

COVID-19 is an unprecedented crisis, with widespread harm. The Centers for Disease Control and Prevention (CDC) has issued guidance that people over 60 years old and individuals with chronic medical conditions are at a higher risk of contracting COVID-19 and of experiencing more serious complications or death as a result of the illness. The CDC has also advised these

individuals to avoid crowds, stay at home as much as possible. Similarly, the CDC has advised that all people practice heightened levels of hygiene and “social distancing,” limiting close contact with others as much as possible. People in BOP custody are unable to take any such proactive steps to protect themselves. Indeed, conditions of confinement and the needs of security are often in direct contrast with best practices for limiting contagion and promoting public health during a pandemic.

It is indisputable that COVID-19 and related emergency conditions materially affect the functioning of the BOP. The BOP has suspended visitation and imposed a 14-day quarantine on new transfers. Programming and meal schedules have been dramatically altered.

Of special concern is the fact that many facilities utilize close quarter housing and are unable to adequately distance prisoners, all but guaranteeing a rapid spread of the virus once it takes hold in a facility. That COVID-19 will further materially alter BOP’s functioning in the weeks and months to come is assured. The spread of the virus within BOP facilities puts prison staff at high risk of contracting the disease at their workplace. Staffing shortages, including of health care workers, are bound to occur as personnel fall ill and self isolate. The BOP’s medical facilities are not staffed or equipped to deal with high numbers of seriously ill people who will need critical care that could last for weeks, as serious cases of COVID-19 do.

Meanwhile, many individuals under BOP custody who are nearing release have already been transferred to residential reentry centers (RRCs). Unfortunately, conditions at RRCs have also been greatly impacted by COVID-19. Movement has been restricted, employment opportunities have halted, people are confined in tight quarters and don’t have the resources to comply with CDC guidance addressing their hygiene or freedom to practice social distancing. Individuals in home confinement would be far better equipped to prevent the spread of COVID-19, and they would be a far lower risk to the BOP or the public’s health care system.

We call on you to recognize the material effect of COVID-19 on BOP functioning, and take prompt steps to transfer individuals to home confinement. Lengthening permissible terms of home confinement and quickly transferring prisoners out of BOP facilities and RRCs will do much to mitigate harm to prison staff and prisoners in federal custody. This will especially protect the most vulnerable among them and promote public health in the process.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Kevin A. Ring". The signature is written in a cursive, flowing style.

Kevin A. Ring  
President, FAMM