

## Summary of BOP's Home Confinement Clarification Memo (dated April 22, 2020)

- A. **General criteria for determining home confinement placement priority.** Because of COVID-19, BOP is looking to send some people to home confinement. They do not have the resources to evaluate all 170,000 federal prisoners at once, so BOP has established the following factors to determine who will get priority consideration for home confinement:
1. Disciplinary record in prison over past 12 months;
  2. Verifiable release plan;
  3. Primary or prior offense history does not include violence, a sex offense, or terrorism;
  4. No current detainers;
  5. Security level of facility prisoner is in now, with priority going to camps and lows;
  6. PATTERN score, with priority going to those with a minimum score; and
  7. Age and vulnerability to COVID-19, using CDC guidelines.
- B. **Time served-related criteria for determining home confinement placement priority.** To help narrow those who meet these criteria even further, BOP is also considering the following sentence length-specific criteria when determining who gets priority:
- People who have served 50% or more of their sentence; OR  
People who have 18 months or less remaining on their sentence AND have served 25% or more of their sentence  
(e.g. If you had a 30-month sentence and already served 12 months, you would qualify even though you didn't serve 50% of your sentence. Why? Because you are within 18 months of the end of your sentence and have served more than 25 percent.)
- C. **Disqualifying Factors:**  
The memo says that "inmates must have maintained clear conduct for the past 12 months to be eligible." The memo also says the facility must review whether the inmate has engaged in violent or gang-related activity.

### What does this all mean?

- BOP is going to let some people serve the rest of their sentence on home confinement, but they are making a priority list of those they will consider first. That list is made after considering the factors in A, B, and C above.
- People who have not served half their sentence or are not within 18 months of the end of their sentence are not excluded from consideration, but they are not among the people who the BOP will look at first.
- **People DO NOT HAVE to satisfy every one of the criteria listed in A and B, but if they don't, they will not be at the top of the priority list.** Some prison staff are saying people who do not meet all of these criteria are "not eligible." What that really means is that they are not in the highest priority group for release.

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- Different facilities are going to enforce these criteria differently. We have seen that places with higher infection rates and fatalities have been more willing to relax these criteria.
- The only clear disqualification for eligibility is C above, that is, having a disciplinary infraction within the past 12 months.
- FAMM thinks these criteria are too narrow – they exclude people by offense type and do other things we think are wrong – and we will push for them to be broadened.