



April 21, 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 26, I wrote on behalf of the 40,000 people who are incarcerated in federal prisons and their family members who are members of FAMM and urged you to use the CARES Act to act swiftly to transfer prisoners at high risk for complications from COVID-19 to home confinement. That day, the Attorney General issued a directive to the Bureau of Prisons (BOP) to expand home confinement for a limited number of people. Since that time, despite the many disturbing reports we received from incarcerated people and their families, we remained hopeful that the Justice Department (DOJ) and BOP were committed to doing everything possible to either keep those in their custody safe or send them home. That hope was extinguished yesterday.

Yesterday, we received reports from dozens of people around the country that their loved ones, quarantined with the explicit understanding that they would move to home confinement in two weeks, were instead returned to general population and told that the rules had changed and that they were no longer going home. At some facilities, family members had already arrived to pick up their loved ones whose quarantine period was ending. These families were turned away. Many more families received phone calls from crying loved ones informing them that their release date had been revoked because of the abrupt change in rules.

If this were the first time something like this had happened, I might have found it heartbreaking but also a sign that the BOP was still finding its way in dealing with this crisis. But, because we have received identical accounts on multiple occasions over the past couple of weeks, I find myself baffled at the ineptness, if not the downright cruelty displayed by the BOP. Families with loved ones in BOP facilities are already worried and anxious because of the rising number of COVID-19 infections and deaths. They are desperate to get their loved ones home, especially



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those who are medically vulnerable. To have the promise of early release snatched away under these circumstances is simply inexcusable. They deserve to know what is happening.

Even before yesterday's outrageous bait-and-switch, we were growing concerned with the BOP's response to this crisis. We have received numerous reports about case managers and counselors giving incorrect information and contradictory answers to people exploring early release options. We struggled to understand the basis for the many limitations the Attorney General put on home confinement eligibility in his March 26 memo. While we were glad to see eligibility expanded in his April 3 memo, we remain unclear about who qualifies, who decides, and how releases to home confinement are conducted. Based on yesterday's actions, it appears that the BOP was equally unclear.

Transparency would go a long way to allaying confusion and fear. Neither the DOJ nor the BOP has held a single press conference to answer questions about how they are handling this extraordinary challenge. The BOP posted on its website a document titled "Correcting Myths and Misinformation about the BOP and COVID-19" that addresses none of the concerns and questions we hear from the thousands of families with whom we communicate weekly. Their many questions include the following:

1. Why do so many BOP counselors and case managers refuse to accept legitimate and lawful requests for compassionate release? In one case, an elderly prisoner was told by his case manager not to bring "that shit" to him because he would not do anything with it. While most staff use less colorful language, many have discouraged prisoners from applying and often refuse to accept written requests.
2. Why is the Attorney General requiring people designated for home confinement to spend 14 days in quarantine when most facilities do not have the space to effectively isolate them? This requirement, however well-intentioned, has created a bottleneck that prevents people from getting out. The Attorney General's April 3 memo states that the BOP may allow people to complete their quarantine at home. Why is that option not being used more, especially since the same memo notes that "time is of the essence" because of the speed at which the disease is spreading?
3. Why is the BOP quarantining people slated for home confinement in the same units (segregated housing units or others) in which it is holding people who are demonstrating symptoms of COVID-19? We have been hearing from terrified family members who are worried that their loved ones are going to be infected because of this arrangement, which a federal judge recently called "illogical" and "Kafkaesque." The judge noted that the 14-day period unsurprisingly has to be restarted every time a prisoner in this non-quarantine arrangement tests positive, endangering the very people the CARES Act home confinement program aimed to protect.
4. Why did the BOP represent in court that it would extend eligibility for home confinement to people who served less than 50 percent of their sentence? Has the BOP decided to reinstate the 50 percent requirement everywhere, or is eligibility being expanded only for people in facilities that have experienced the highest rate of COVID-19 infections?
5. Why isn't the BOP following the CDC's guidance regarding quarantine time for staff who were exposed to COVID-19? And why isn't the BOP requiring and issuing personal protective equipment (PPE) to prevent further exposure to staff and incarcerated people,

as we have heard from many family members and as detailed in the grievance filed by the Council of Prison Locals?

6. Where does the Attorney General's announced number of home confinement placements come from? How many of those people are actually on home confinement today, as opposed to just being approved for placement at some future point? How many of these placements were for people in prisons, as opposed to people residing in halfway houses?

Tens of thousands of families across the country are deeply and understandably frightened for the health and safety of their incarcerated loved ones. The people inside BOP's facilities are confused, frightened, and vulnerable. They deserve maximum transparency from the BOP. Above all, they deserve that you act as Congress intended in the CARES Act: to protect vulnerable people in your care or send them home.

Sincerely,

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

Kevin A. Ring  
President, FAMM