



CARES Act Home Confinement & the OLC Memo

Summary: If the Biden administration does not rescind a legal memo issued in the final days of the Trump administration, thousands of people on home confinement will be forced to go back to federal prison

What is CARES Act Home Confinement?

- Normally, the Bureau of Prisons (BOP) can send someone to home confinement only at the very end of their sentence. People transferred to home confinement remain under heavy supervision, but serve the end of their sentence in their homes
- In March 2020, Congress passed the CARES Act to provide emergency assistance during the COVID-19 pandemic. The CARES Act allows the Attorney General to expand the amount of time people in federal prison can spend on home confinement, increasing the eligible population
- Since March 26, 2020, the BOP has placed more than 23,000 people on home confinement. Just shy of 7,500 are currently on home confinement. This total includes many who are serving extended home confinement terms due to the CARES Act

What is the OLC Memo?

- On January 15, 2021, with four days left in the Trump administration, the Justice Department's Office of Legal Counsel (OLC) issued a memo stating that the CARES Act requires the BOP to return those with extended home confinement terms back to prison
- The OLC memo's conclusion is inaccurate, and enforcing it would devastate families across the country
- People sent to CARES Act home confinement were not told that they might have to return. The vast majority of those people on home confinement today have reunited with their families and are contributing to society. Some have been home for nearly a year

Where Are We Now?

- The people on home confinement pose little to no risk to public safety. Everyone transferred was deemed "low-risk" by the BOP, meeting strict criteria from Trump's Justice Department. They are currently under significant supervision. At a recent hearing, BOP Director Carvajal said that only 21 people have violated the terms of their confinement and just one has committed a new crime. That is 22 people out of more than 23,000 who have been placed on home confinement
- The memo is wrong, and its impact would be significant if followed. Families have been waiting months for a solution, but the issue is still hanging over their heads. The Biden administration should immediately rescind it. Failure to do so would devastate families, waste tax dollars, and undermine public safety

