

**Congress of the United States**  
**Washington, DC 20515**

November 22, 2021

The Honorable Joseph R. Biden, Jr.,  
President of the United States  
The White House  
1600 Pennsylvania Avenue  
Washington, D.C. 20500

Dear President Biden,

In September, your administration began requesting applications for commutations from a limited number of incarcerated individuals who were released to home confinement due to the COVID-19 pandemic under authority granted by Congress in the Coronavirus Aid, Relief, and Economic Security Act (CARES).<sup>1</sup> We applaud this important effort to address the incarceration crisis in America and prevent the inhumane reincarceration of individuals who have proven to pose no public safety risk during home confinement. It is our hope that your administration will continue to pursue just and necessary criminal legal reform by allowing all of those released to home confinement under the CARES Act to apply for a commutation of their sentence.

When Congress passed the CARES Act in March 2020, it granted, in part, the Bureau of Prisons (BOP) greater authority to move people in their custody to home confinement to mitigate and prevent the spread of COVID-19 in BOP facilities.<sup>2</sup> Individuals considered for home confinement were thoroughly vetted under guidelines set forth in a March 26, 2020, Department of Justice memo.<sup>3</sup> Those prioritized for consideration for release were primarily older, low-security detainees who had not engaged in violent behavior or incurred BOP violations within the last year. Further, BOP considered the extent to which individuals considered for home confinement had a re-entry plan to reduce the likelihood of recidivism and promote public safety.<sup>4</sup>

Due to the strict scrutiny of those considered for release, home confinement under the CARES Act has proven not to be more dangerous for public safety. Michael Carvajal, the BOP Director, testified before the Senate Judiciary Committee in April 2021 that only three of the 7,000

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<sup>1</sup> Sam Stein, *Biden starts clemency process for inmates released due to Covid conditions*, POLITICO (Sept. 13, 2021), <https://www.politico.com/news/2021/09/13/biden-clemency-covid-inmates-511658>.

<sup>2</sup> Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-236, 134 Stat. 281 (2020).

<sup>3</sup> Memorandum from the Att’y Gen. to Director of the Bureau of Prisons (Mar. 26, 2020), [https://www.bop.gov/coronavirus/docs/bop\\_memo\\_home\\_confinement.pdf](https://www.bop.gov/coronavirus/docs/bop_memo_home_confinement.pdf).

<sup>4</sup> *Id.*

individuals released for home confinement under the CARES Act had committed new crimes.<sup>5</sup> Almost all of those released to home confinement under the CARES Act have demonstrated their ability to abide by their re-entry plans and avoid recidivism.

The Trump administration, however, enacted a policy that would inhumanely require these individuals to return to incarceration once the health risk from the pandemic was reduced,<sup>6</sup> ultimately sending detainees who had successfully assimilated back into their communities back to the dehumanizing conditions of our carceral system. Your administration has taken steps to prevent that result for at least some individuals by requesting and considering applications for commutations for a limited number of individuals released to home confinement.<sup>7</sup> We applaud your administration's efforts to decarcerate our federal criminal justice system and commute the sentences of those that have proven to pose no additional public safety risk. Simply put, no public interest would be served by reincarcerating these individuals.

However, according to public reporting, your administration is only requesting applications for commutations from drug offenders released to home confinement with four years or less remaining in their sentence.<sup>8</sup> Although this is an important step, we urge you to use the authority vested in you to extend invitations to all individuals released to home confinement under the CARES Act to apply for a commutation of their sentence. It is important that we learn from the lessons brought by the pandemic and allow these individuals who have proven to pose no additional threat to public safety to remain with their families and communities.

Thank you for your attention to this important matter.

Sincerely,



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Steve Cohen  
Member of Congress



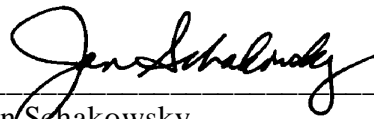
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Bonnie Watson Coleman  
Member of Congress



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Rashida Tlaib  
Member of Congress



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Jan Schakowsky  
Member of Congress

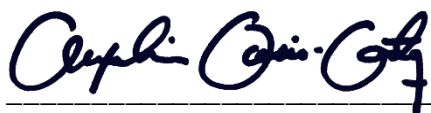
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<sup>5</sup> Zolan Kanno-Youngs & Maura Turcotte, *Thousands of Prisoners Were Sent Home Because of Covid. They Don't Want to Go Back*, N.Y. TIMES (Jun. 27, 2021), <https://www.nytimes.com/2021/06/27/us/politics/biden-prison-coronavirus.html>.

<sup>6</sup> Home Confinement of Federal Prisons After the COVID-19 Emergency to Federal Bureau of Prisons, 45 Op. O.L.C. \_\_\_\_ (Jan. 15, 2021).

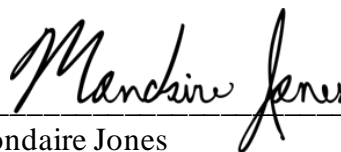
<sup>7</sup> Stein, *supra* note 1.

<sup>8</sup> *Id.*



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Alexandria Ocasio-Cortez  
Member of Congress



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Mondaire Jones  
Member of Congress



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Ayanna Pressley  
Member of Congress