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Congress of the United States
House of Representatives
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HOUSE COMMITTEE ON THE JUDICIARY

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**HOUSE COMMITTEE ON OVERSIGHT
AND REFORM**

SUBCOMMITTEE ON ECONOMIC AND CONSUMER
POLICY

SUBCOMMITTEE ON THE ENVIRONMENT

September 17, 2021

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

Dear President Biden,

We write today to urge you to quickly address the growing clemency crisis, with special attention to the more than 4,000 people currently on home confinement who are eligible for freedom through a commutation, and the over 15,000 people who have filed a petition for clemency over the last several years, creating a historic backlog. As our country continues to work to address racial and systemic injustices in our prison system, we must make a reality of our nation's founding principles of liberty and justice for all. As such, we urge you to use your authority as President to immediately commute the sentences of the 4,000 people who, under the Coronavirus Aid, Relief, and Economic Security ("CARES") Act, are currently on home confinement and at risk of being sent back to federal prison, and further, to create an independent clemency board to review the more than 15,000 pending clemency petitions. This moment in history can be a defining one for criminal-legal reform, and following actions by Congress last year, granting clemency for thousands of people will move us closer to our ideals of liberty and justice.

In March 2020, Congress passed the CARES Act, which included a provision expanding the Bureau of Prison's (BOP) authority to move people in federal custody to home confinement in an effort to keep people safe and mitigate the spread of COVID-19 in our federal prisons. All of the individuals who were placed on home confinement were rigorously vetted by the Bureau of Prisons, thus already providing the background work needed in commuting their sentences. Nearly all of those released have thrived since returning home by reconnecting with their families and communities,¹ and by engaging actively in civic life. Many, like Gwen Levi, have even worked endlessly to protect the livelihoods and freedom of those released pursuant to the CARES Act. However, on January 15, 2021, the Department of Justice quietly issued a memo, stating that all those released to home confinement under the CARES Act would be required to return back to prison once the emergency declaration is lifted.² This will undoubtedly upend the lives of thousands of people, including the

¹ Kristine Phillips, *ACLU, NAACP Among Those Pressing Biden to Grant Clemency to Inmates Sent Home During COVID-19*, USA Today (Jul. 19, 2021), <https://www.usatoday.com/story/news/politics/2021/07/19/biden-pressed-grant-clemency-inmates-sent-home-during-covid/7980882002/>.

² Dep't of Justice, Office of Legal Counsel, *Home Confinement of Federal Prisoners After the COVID-19 Emergency* (Jan. 15, 2021), <https://www.justice.gov/olc/file/1355886/download>.

family members and communities they came from. As government officials who care deeply about ending cycles of incarceration, we urge your administration to save lives by not returning people on home confinement back to prison.

Moreover, following the urging of formerly incarcerated and directly impacted people, advocates, and lawmakers, we are deeply encouraged by the recent steps the administration is taking to review cases and identify individuals for clemency.³ We implore your administration to extend compassion to each person currently on home confinement under the CARES Act and to refrain from placing arbitrary categorical restrictions on who deserves to remain home. Each of these individuals has been vetted by the Bureau of Prisons and not a single one of them deserves the trauma of being sent back to prison. Mr. President, with a stroke of your pen you could remove the threat of reincarceration that looms over thousands of people who have already demonstrated their commitment to being productive members of their communities.

In addition to the 4,000 people who have been released to home confinement, there are another 15,752 people who, in the midst of this infectious and deadly pandemic, have pending clemency petitions with no real insight on the best way forward for their case.⁴ Thousands with pending clemency petitions have been waiting for a response for years as their cases have languished during previous administrations, including most recently the Trump administration. While the Trump administration made an effort through home confinement to reduce the number of people inside of BOP facilities, thousands more have been ignored. The dismissal of their petitions serves only to demonstrate just how ambiguous and broken our clemency system has become. We, therefore, implore you to establish an advisory board — independent of the Department of Justice — to streamline and modernize the decades-old clemency process, and provide expeditious review of the thousands of cases awaiting answers to their clemency petitions. This advisory board must address the racially disproportionate impacts of our criminal-legal system. There is no reason to wait.

In your Proclamation on Second Chance Month, you said that “America’s criminal justice system must offer meaningful opportunities for redemption and rehabilitation” for people who are “committed to rejoining society and making meaningful contributions.”⁵ By granting commutation to the 4,000 on home confinement and committing to restructuring the clemency process at-large, your administration has an opportunity to fulfil a campaign promise to reduce our nation’s prison and jail population and improve the lives of the people and communities across the country who have been most harmed by a punitive and racially biased criminal-legal system. In the words of Ms. Levi, you could bring “peace of mind” to thousands of families who brace for the day when their loved ones will be recalled to prison.⁶

Clemency is a constitutional imperative. Granting commutations to those on home confinement and restructuring the clemency process demonstrates genuine compassion, while ensuring that our country continues to mitigate the risks of COVID-19, particularly in the populations that are most vulnerable to its spread. As Members of Congress who care deeply about ending systemic and racial

³ Sam Stein. *Biden Starts Clemency Process for Inmates Released Due to Covid Conditions*. Politico: September 13, 2021. <https://www.politico.com/news/2021/09/13/biden-clemency-covid-inmates-511658>

⁴ Rachel E. Barkow and Mark Osler. *We Know How to Fix the Clemency Process. So Why Don't We?* The New York Times: July 13, 2021. [Opinion | Biden Must Reform the Clemency Process - The New York Times \(nytimes.com\)](https://www.nytimes.com/2021/07/13/opinion/biden-clemency-process.html).

⁵ A Proclamation on Second Chance Month, 2021. The White House: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/03/31/a-proclamation-on-second-chance-month-2021/>.

⁶ Id.

injustice in our criminal legal system, and who are willing to do everything possible to ensure every community is safe from the deadly consequences of this pandemic, we stand ready to work with you.

Sincerely,



CORI BUSH
Member of Congress



BONNIE WATSON COLEMAN
Member of Congress



PRAMILA JAYAPAL
Member of Congress



DAVID TRONE
Member of Congress

KAREN BASS
Member of Congress

MONDAIRE JONES
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