

Congress of the United States
Washington, DC 20515

June 1, 2020

The Honorable William Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue
Washington, D.C. 20530

Mr. Michael Carvajal
Director
Federal Bureau of Prisons
320 First Street NW
Washington, DC 20534

Dear Attorney General Barr and Director Carvajal:

We write to express our concern about the process for transferring incarcerated individuals to home confinement.

On May 13, President Trump's former campaign chairman Paul Manafort was transferred from prison and cleared to serve the rest of his sentence at home because of COVID-19. Mr. Manafort had been in a minimum security prison serving a sentence of seven and a half years for financial and lobbying violations related to his work for a Ukrainian politician.¹ BOP has confirmed that there were no known cases of COVID-19 at the facility where Mr. Manafort was located.² On May 21, Michael Cohen, President Trump's former personal lawyer, was cleared for transfer to home confinement. Mr. Cohen asked for release due to health concerns tied to the coronavirus. He pleaded guilty in 2018 to campaign finance violations and other crimes and had been serving his sentence at a minimum security facility.³

As President Trump's associates are cleared for transfer, tens of thousands of low-risk, vulnerable individuals are serving their time in highly infected prisons. Lompoc FCI in California had the worst outbreak of COVID-19 in the entire Bureau of Prisons, with over 900 inmates and 18 staff testing positive for the virus. Early this month, 30-year-old Andrea Circle Bear died of COVID-19 at a federal women's prison in Fort Worth, Texas. She was pregnant

¹ Eileen Sullivan, *Paul Manafort, Trump's Ex-Campaign Manager, Released to Home Confinement*, THE NEW YORK TIMES (May 13, 2020), <https://www.nytimes.com/2020/05/13/us/politics/paul-manafort-released-coronavirus.html>.

² Tom Winter, Michael Kosnar, and Ben Kessler, *Paul Manafort Released from Prison to Home Confinement Amid Coronavirus Concerns*, NBC NEWS (May 13, 2020), <https://www.nbcnews.com/politics/politics-news/paul-manafort-released-prison-home-confinement-amid-coronavirus-concerns-n1206026>.

³ Benjamin Weiser, Katie Benner, and William K. Rashbaum, *Michael Cohen, Ex-Trump Lawyer, Leaves Prison Early Because of Virus*, THE NEW YORK TIMES (May 20, 2020), <https://www.nytimes.com/2020/05/20/nyregion/michael-cohen-coronavirus-prison-release.html>.

when she entered prison, was serving a two-year sentence on a non-violent drug charge, and she died approximately three weeks after having an emergency C-section while on a ventilator.⁴ On May 21, 62-year-old Fidel Torres also died of COVID-19 in federal custody. Mr. Torres was incarcerated at the Lexington Federal Medical Center in Kentucky, where 212 people have tested positive for COVID-19 and four have died. Mr. Torres had less than two years left on an 18-year sentence for a marijuana offense. He died on the same day that Mr. Cohen was released.⁵

On May 22, the House Judiciary Committee held a roundtable about the inadequate response to the COVID-19 pandemic in our federal prisons. One of the panelists, Angela Caldwell is the daughter of Thomas Balsiger who is incarcerated at the La Tuna BOP camp. Mrs. Caldwell explained that while her father is 67 years old, has advanced coronary artery disease and suffered a heart attack last year, they have been unable to secure his release to home confinement. While Mr. Balsiger was informed in April that he would be released, a few weeks later that decision was reversed. According to Mr. Balsiger, he was told that new guidelines require 50% of sentences be served before anyone can be released. Mr. Balsiger has served 3 ½ years of his 10-year sentence for a non-violent financial crime. He was one of 47 other inmates who had their release orders rescinded because they allegedly failed to qualify for release.

These examples make clear that there are two systems of justice in our country—one for President Trump and his associates, and another for everyone else. These examples also heighten our concern about the politicization of the Department of Justice. Accordingly, we write to request answers to the following questions:

1. Did anyone at the White House ask or suggest that BOP approve Paul Manafort for transfer to home confinement?
2. Please list each official at DOJ and BOP who considered and/or cleared Paul Manafort's transfer to home confinement.
3. Did anyone at the White House ask or suggest that BOP approve Michael Cohen for transfer to home confinement?
4. Please list each individual at the DOJ and BOP who considered and/or cleared Michael Cohen's transfer to home confinement.
5. How many individuals has BOP recommended for transfer to home confinement since March 26, 2020?
 - a. Please provide a breakdown of those recommendations by age, gender, race, and crime of conviction.

⁴ Holly Harris, *Blame the Justice Department for Andrea Circle Bear's Death*, THE NEW YORK TIMES (May 3, 2020), <https://www.nytimes.com/2020/05/03/opinion/andrea-circle-bear-coronavirus-prison.html>.

⁵ Ryan J. Reilly, *Man Serving 18 Years on Marijuana Charges Just Died in Federal Prison COVID-19 Outbreak*, The Huffington Post (May 22, 2020), https://www.huffpost.com/entry/covid-federal-prison-marijuana_n_5ec6c5fcc5b6cbe70930a988.

- b. How many of these requests have been granted, how many are under evaluation, and how many have been denied?
 - c. How many of the individuals recommended for transfer have left BOP and entered home confinement?
6. How many individuals have requested transfer to home confinement since March 26, 2020?
- a. Please provide a breakdown of those requests by age, gender, race, and crime of conviction.
 - b. How many of these requests have been granted, how many are under evaluation, and how many have been denied?
7. How many individuals have been deemed ineligible for transfer under the CARES Act since March 26, 2020?
- a. Please provide a breakdown of each person deemed ineligible by age, gender, race, and crime of conviction.
 - b. Please provide the basis for each denial of transfer to home confinement.
8. Does BOP review data on transfers to home confinement to ensure consistency across facilities?
- a. If yes, how often is data reviewed? What findings have been made to date?
9. Does DOJ review data on transfers to home confinement to determine whether to provide additional or revised guidance?
- a. If yes, how often is data reviewed? What findings have been made to date?
10. How many BOP-initiated requests for compassionate release have been made from March 26, 2020 to present?

Sincerely,



Kamala D. Harris
United States Senator



Hakeem Jeffries
Member of Congress