



LAW ENFORCEMENT LEADERS

To Reduce Crime & Incarceration



**LAW ENFORCEMENT
ACTION PARTNERSHIP**

ADVANCING JUSTICE AND PUBLIC SAFETY SOLUTIONS



**FAIR AND JUST
PROSECUTION**

The Honorable Charles E. Schumer
United States Senate
Washington, D.C. 20510

The Honorable Mitch McConnell
United States Senate
Washington, D.C. 20510

April 8, 2024

Re: Law Enforcement Urges Senate to Oppose Senate Joint Resolution 47 and Preserve the Successful CARES Act Home Confinement Program

Dear Majority Leader Schumer and Minority Leader McConnell,

We write as individuals and on behalf of our respective national organizations — Law Enforcement Leaders to Reduce Crime & Incarceration, Law Enforcement Action Partnership, and Fair and Just Prosecution — to strongly oppose Senate Joint Resolution 47, introduced by Senator Marsha Blackburn (R-Tenn.), that would reimprison approximately 3,000¹ nonviolent, low-risk individuals who are currently serving their sentences of home confinement pursuant to the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act.² As current and former members of law enforcement, our priority is public safety. Reincarcerating these individuals is not only counterproductive for public safety but also jeopardizes their prospects for successful reentry into their communities.

In March 2020, following the enactment of the CARES Act, the Bureau of Prisons (“BOP”) under the direction of then-Attorney General William Barr selected people from the federal prison population to be placed on home confinement following an extensive review of requirements pertaining specifically to public safety. The stringent eligibility requirements restricted release to medically vulnerable individuals with no violent, sexual, or terrorism-related convictions; no disciplinary infractions within the past 12 months; no history of violence or gang involvement whatsoever while in prison; a low-risk score on BOP’s PATTERN risk assessment tool; a viable release plan to aid in reentry; and who already served a substantial amount of their sentence in a low or minimum security facility. The BOP placed 13,204 individuals on home confinement.³

The data collected in the four years since the program’s implementation reveal it to be a remarkable success. Of the 13,204 individuals released to home confinement, only 27 people — less than 0.2 percent of the total⁴ — had been rearrested for a new offense as of November 2023 — a 99.8 percent compliance rate. By comparison, the overall recidivism rate for federal offenders sits at 43 percent.⁵ Most of the offenses that led to rearrest were drug-related or minor crimes rather than acts of violence. While on home confinement, individuals are subject to various restrictions aimed at minimizing risk including ankle monitoring, adherence to curfews, approved work assignments,

random drug and alcohol screenings, and restricted movements outside of the home without permission.⁶

There is no public safety rationale to reimprison these individuals, who instead should be seen as models for a successful evidence-based approach to reentry that puts safety first. For almost four years, those released have been rebuilding their lives, engaging in their communities, enrolling in schools, securing employment, and reuniting with their loved ones. Putting them back in prison now would be devastating to their families and communities, and disrupt employment and educational activities they have been participating in, thereby hurting their prospects for successful reentry in the future.

It will also negatively impact our federal prison system more broadly. Reincarcerating these individuals, many of whom are elderly and suffering from ailments, would only further overwhelm an already burdened system that is currently struggling with staffing shortages and overcrowding.⁷ As of January 2024, according to the Federal Prison Employees Union, the BOP is down about 40 percent of the officers it needs, with 8,000 vacant positions nationwide, resulting in increased violence and misconduct behind bars.⁸ The CARES Act home confinement program can also save taxpayers money. In FY 2020, the cost of incarcerating someone in a federal facility was about \$120.50 per day, compared to home confinement which averages \$55.26 per day — less than half the cost.⁹ Taxpayers could save approximately \$23,940.30 per year, per person¹⁰ resulting in more than \$100 million in savings each year.¹¹

For the reasons stated above we respectfully urge the Senate to reject S.J. Res. 47 as it will erase the progress we have made towards a safer, smarter, and more fiscally-responsible approach to reducing incarceration and supporting reentry. As law enforcement leaders, we know that the CARES Act home confinement program has had a remarkable record in helping individuals rebuild their lives after incarceration — the best prescription for reducing recidivism and keeping our communities safe. Reversing it now and sending individuals back to prison after almost four years of successful reintegration makes no sense for public safety or for the effective and prudent management of our federal correctional resources.

Sincerely,

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cc: Members of the U.S. Senate

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¹ "CARES Act Prisoners on Home Confinement Become Political Pawns," *Forbes*, January 5, 2024, <https://www.forbes.com/sites/walterpavlo/2024/01/05/cares-act-prisoners-on-home-confinement-become-political-pawns/?sh=2b6fe2cf40a8>.

² S.J. Res. 47 (providing for congressional disapproval “of the rule submitted by the Department of Justice relating to Office of the Attorney General; Home Confinement Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act”), <https://www.govinfo.gov/app/details/BJLJS-118sjres47is/summary>.

³ “Cares Act Home Confinement: Three Years Later,” *Office of Senator Cory Booker*, June 2023, https://www.booker.senate.gov/imo/media/doc/cares_act_home_confinement_policy_brief1.pdf (“Cares Act Home Confinement Policy Brief”).

⁴ “The Senate should codify – not reject – CARES Act’s home confinement policy,” *The Hill*, November 9, 2023, <https://thehill.com/opinion/congress-blog/4303334-the-senate-should-codify-not-reject-cares-acts-home-confinement-policy/>; see also “CARES Act Shows Promise in Reducing Recidivism, Reinforcing the Benefits of Reduced Incarceration,” *U.S. Department of Justice, Federal Bureau of Prisons*, March 29, 2024, <https://www.bop.gov/resources/news/pdfs/20240329-press-release-cares-act.pdf> (discussing findings of new study of CARES Act home confinement that “suggest that the CARES Act’s provision for early and extended home confinement did not negatively impact recidivism rates” and “[i]n fact, . . . may have contributed to a reduction in post-release recidivism”) (referencing “CARES Act: Analysis of Recidivism”, *U.S. Department of Justice, Federal Bureau of Prison, Office of Research and Evaluation*, March 2024, https://www.bop.gov/resources/research_projects/published_reports/recidivism/202403-cares-act-white-paper.pdf); Cares Act Home Confinement Policy Brief, *supra* note 3, at 4.

⁵ “Federal Prison System FY 2024 Performance Budget Congressional Submission,” *U.S. Department of Justice*, March 2023, https://www.justice.gov/d9/2023-03/bop_se_fy_2024_pb_narrative_omb_cleared_3.23.2023.pdf.

⁶ Cares Act Home Confinement Policy Brief, *supra* note 3, at 7.

⁷ “The Nation’s Correctional Staffing Crisis: Assessing the Toll on Correctional Officers and Incarcerated Persons: Hearing before the Senate Subcommittee on Criminal Justice and Counterterrorism,” February 28, 2024 (Testimony of John Wetzel 1:47), <https://www.judiciary.senate.gov/committee-activity/hearings/the-nations-correctional-staffing-crisis-assessing-the-toll-on-correctional-officers-and-incarcerated-persons>.

⁸ “Inside the Bureau of Prisons, a federal agency plagued by understaffing, abuse, disrepair,” *CBS News 60 minutes*, January 28, 2024, <https://www.cbsnews.com/news/bureau-of-prisons-understaffing-abuse-disrepair-60-minutes-transcript/>.

⁹ Cares Act Home Confinement Policy Brief, *supra* note 3, at 6.

¹⁰ “Office of the Attorney General; Home Confinement Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act,” *Office of the Attorney General, U.S. Department of Justice*, April 4, 2023, <https://www.govinfo.gov/content/pkg/FR-2023-04-04/pdf/2023-07063.pdf>.

¹¹ “Safer, smarter, and cheaper: The promise of a targeted home confinement with electronic monitoring,” *Niskanen Center*, June 29, 2023, <https://www.niskanencenter.org/safer-smarter-and-cheaper-the-promise-of-targeted-home-confinement-with-electronic-monitoring/>.