



U.S. Department of Justice
Federal Bureau of Prisons

Office of the General Counsel

Washington, DC 20534

The Honorable Brian Schatz
The Honorable Mike Lee
United States Senate
Washington, D.C. 20510

Dear Senators Schatz and Lee:

I write in response to your request dated December 18, 2020, for data on compassionate release and CARES Act home confinement during the COVID-19 pandemic. This letter lists your specific requests and provides the responsive data to the extent it is currently available.

Compassionate Release

- 1) Since the start of the COVID-19 pandemic, please provide the total number of compassionate release requests, categorized by the criteria relied on as the grounds for the reduction in sentence, received by BOP wardens. In addition, please provide the total number of compassionate release requests, categorized by criteria, received by federally contracted private prisons. How many were forwarded with recommendations to the Office of the General Counsel (also categorized by criteria)? Of those, how many were granted and how many were denied by the Bureau of Prisons Director? How many motions did BOP initiate in federal court after granting internal approval for compassionate release? How many petitioners contracted the coronavirus while waiting for a response to their request for compassionate release, or while exhausting their appeals? How many died before receiving a response to their request or exhausting their appeals? For all requests, whether disposed of by the warden, private prison, or the Office of the General Counsel, and for both denials and grants, what reasons did BOP give for its decisions?

Since March 1, 2020, BOP wardens have received the following compassionate release requests:

Medical-Terminal	629
Medical-Debilitated	12,511
Non-Medical	17,829

Total	30,969
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The BOP lacks reliable data concerning the number of compassionate release requests received by federally contracted private prisons.

Of the 30,969 compassionate release requests received by BOP wardens since March 1, 2020, wardens recommended approval of the following:

Medical-Terminal	118
Medical-Debilitated	185
Non-Medical	71
Total	374

Of the 374 compassionate release requests of which BOP wardens recommended approval, the BOP's Director approved the following:

Medical-Terminal	27
Medical-Debilitated	9
Non-Medical	0
Total	36

Of the 374 compassionate release requests of which BOP wardens recommended approval, the BOP's Director/Office of General Counsel (OGC) denied the following:

Medical-Terminal	53
Medical-Debilitated	142
Non-Medical	35
Total	230

Of the 36 compassionate release requests approved by the BOP's Director, the following resulted in motions filed by United States Attorney's Offices (USAOs) on the Director's behalf:

Medical-Terminal	25
Medical-Debilitated	9
Non-Medical	0
Total	34

The BOP does not track the number of inmates who contracted the coronavirus while their compassionate release request remained under review or while exhausting their administrative remedies.

Thirty-five inmates died while their compassionate release requests remained under review. The BOP does not track the number of inmates who died before exhausting their administrative remedies.

The BOP does not track the specific reasons a warden recommended approval of a compassionate release request, as a warden ordinarily recommends approval of a request only when the warden is of the opinion the inmate meets the applicable BOP compassionate release criteria. However, the BOP does, to some extent, track the reasons for a warden's denial of a compassionate release request. Of the 30,969 compassionate release requests received by wardens since March 1, 2020, wardens denied 27,725, as follows:

Reason	Medical-Terminal	Medical-Debilitated	Non-Medical
Does Not Meet Criteria	443	10,455	11,940
Meets Medical Criteria But Other Issues Exist	17	193	N/A
Not Enough Information	14	408	438
Insufficient Documentation	0	0	350
Meets Criteria But Correctional Concerns	0	0	4
Non-Medical Circumstance Is Not Extraordinary and Compelling	0	0	3,269
Other Issues	0	0	190

The BOP does not track the specific reasons for approval or denial of a compassionate release request at the Central Office level, as there can be several reasons for a particular decision. For example, with regard to denials at the Central Office level, a request may be denied because the inmate is found not to meet BOP compassionate release criteria, the U.S. Attorney's Office which prosecuted the case objects to a RIS, the inmate lacks a release plan approved by the United States Probation Office, the inmate has an unresolved detainer or pending charges, or, in light of factors such as the nature and circumstance of the inmate's offense, the inmate's criminal history, or the inmate's institutional adjustment, the inmate's release would minimize the severity of the inmate's offense or pose a danger to the community.

- 2) Since the start of the COVID-19 pandemic, please provide the total number of compassionate release requests – categorized by criteria – that were denied by BOP but granted by a federal court upon the motion of an individual seeking compassionate release. In addition, please provide the total of compassionate release requests – categorized by criteria – that did not receive a response from BOP in 30 days.

The BOP does not track the number of compassionate release requests denied by the BOP but granted by a federal court upon the motion of an individual seeking compassionate release. However, the BOP does track the number of compassionate releases generally, and distinguishes between compassionate releases resulting from motions filed by USAOs on the BOP Director's behalf and compassionate releases resulting from motions filed directly by inmates. The BOP is aware of 3,221 compassionate releases occurring since March 1, 2020. Of those, 37 resulted from USAO-filed motion and 3,184 resulted from inmate-filed motion.

With regard to compassionate release requests received since March 1, 2020, wardens acted on 22,297 within 30 days of the date the warden received the request, as follows:

	Warden Recommended Approval within 30 Days	Warden Denied within 30 days
Medical-Terminal	89	415
Medical-Debilitated	104	8,030
Non-Medical	41	13,618
Total	234	22,063

This data suggests wardens did not recommend approval of, or did not deny, 8,672 compassionate release requests within 30 days of the date the warden received the request. These remaining requests likely resulted in other outcomes, such as the release of the inmate via good conduct time release, the placement of the inmate on home confinement or at a Residential Reentry Center (RRC), the inmate's death, or further review of the request.

In addition, the BOP's Director or OGC rendered a final decision on 48 compassionate release requests within 30 days of the date the warden received the request, as follows:

	Approved by Director within 30 Days	Denied by OGC within 30 Days
Medical-Terminal	3	11
Medical-Debilitated	1	29
Non-Medical	0	4
Total	4	44

This data suggests that of the 374 compassionate release requests of which wardens recommended approval, the BOP's Director did not approve, or OGC did not deny, 326 requests within 30 days of the date the warden received the request. As noted above, these remaining requests likely resulted in other outcomes, such as the release of the inmate via good conduct time release, the placement of the inmate on home confinement or at an RRC, the inmate's death, or further review of the request.

- 3) What actions can BOP take to increase the use of compassionate release during the COVID-19 pandemic? What additional actions will BOP take to reduce the number of aging and sick people in federal prisons to avoid preventable deaths?

The BOP continues to review inmates for compassionate release in accordance with Program Statement No. 5050.50, Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§ 3582 and 4205(g), and attempts to expedite review of requests made under the terminal criteria. In addition, as a home confinement placement decision can often be made more quickly than can a compassionate release decision, the BOP continues to review inmates for home confinement under all authorities, as discussed further below.

Home Confinement (CARES Act)

- 1) Since the start of the COVID-19 pandemic, please provide the total number of home confinement requests, categorized by the criteria relied on as the grounds for home confinement, received by BOP wardens. In addition, please provide the total number of home confinement requests, categorized by criteria, received by federally contracted private prisons. How many petitioners contracted the coronavirus while waiting for a response to their request for compassionate release, or while exhausting their appeals? How many died before receiving a response to their request or exhausting their appeals? For all requests, whether disposed of by the warden, private prison, or the Office of the General Counsel, and for both denials and grants, what reasons did BOP give for its decisions?

Inmates are reviewed for home confinement in accordance with the Attorney General's memorandum dated March 26, 2020, a memorandum issued by three BOP Assistant Directors on November 16, 2020, and preexisting BOP policies. Since March 26, 2020, the BOP has placed 23,707 inmates on home confinement under all authorities. At the present time, 7,414 inmates are currently on home confinement, with 3,814 inmates having been placed on home confinement under the CARES Act emergency authority, and 323 having been placed on home confinement under the elderly offender authority.

The number of home confinement requests received by federally contracted private prisons is currently unknown.

The BOP does not track the number of inmates who contracted the coronavirus while awaiting a home confinement decision, or while exhausting their administrative remedies. Similarly, the BOP does not track the number of inmates who died while awaiting a home confinement decision or while exhausting their administrative remedies.

In addition, the BOP does not track the specific reasons for denial of particular home confinement requests. However, those reasons may include the following: the inmate has a primary or prior offense of violence, a sex offense, or a terrorism offense; the inmate lacks a PATTERN score of "minimum"; the inmate lacks a security level of LOW or MINIMUM; the inmate has engaged in violent or gang-related activities while incarcerated; the inmate has an unresolved detainer; the inmate has not maintained clear conduct during the previous 12 months; the inmate lacks a verifiable release plan; the inmate lacks one of the COVID-19 risk factors identified by the Centers for Disease Control and Prevention; or the inmate has not served at

least 50 percent of his or her sentence, or the inmate has served at least 25 percent of his or her sentence but has at least 18 months remaining on the sentence.

- 2) Since the start of the COVID-19 pandemic, please provide the total of home confinement requests – categorized by criteria – that did not receive a response from BOP in 30 days.

The BOP does not currently track the number of days elapsing between the date an inmate requested, or was referred for, home confinement and the date of the home confinement decision.

I trust this is responsive to your letter.

Sincerely,



Ken Hyle
Assistant Director/General Counsel