

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

BRANDON LIVAS, RICHARD BUSWELL,	)	
DEWAYNE CORBETT, JOHNNY SMITH,	)	
CARLOS LORENZO MARTIN and	)	CIVIL ACTION NO. 20-cv-00422
GAINES ANDREWS, on behalf of	)	
themselves and those similarly situated	)	
	)	
	)	JUDGE DOUGHTY
VERSUS	)	
	)	
RODNEY MYERS, Warden of Oakdale	)	MAGISTRATE JUDGE KAY
Federal Correctional Institutions; and	)	
MICHAEL CARVAJAL, Federal Bureau of	)	
Prisons Director, in their official capacities	)	
	)	

DECLARATION OF JUAN A. SEGOVIA

In accordance with 28 U.S.C. § 1746, I, JUAN A. SEGOVIA, make the following declaration, under penalty of perjury, pertinent to the above styled and numbered cause:

1. I have been employed by the United States Department of Justice, Federal Bureau of Prisons (BOP) since 1991. I am currently an Associate Warden at the Federal Medical Center, in Fort Worth, Texas. From December 2018 through February 2020, I was an Associate Warden at the Federal Correctional Complex in Oakdale, Louisiana (FCC Oakdale). As of April 5, 2020, I have temporarily reported back to FCC Oakdale to assist with the COVID-19 emergency. The statements I make hereinafter are made on the basis of my review of the official files and records of the BOP, my own personal knowledge, or on the basis of information acquired by me through the performance of my official duties.
2. FCC Oakdale is a complex of separate BOP men's prison facilities. The complex includes FCI Oakdale I and FCI Oakdale II, both low security facilities; and the Satellite Prison Camp (the "Camp"), a minimum security facility. The complex is run by a Complex Warden, who has ultimate authority over all of the facilities.
3. The BOP's response to the COVID-19 emergency at FCC Oakdale has been swift and now appears to be proving effective. In the two weeks immediately following FCC Oakdale's first positive COVID-19 test, new potential COVID-19 cases were being identified and isolated daily, often with multiple cases each day. Following the implementation of the control measures described below, the last new isolation cases were identified on April 2, 2020 and April 7, 2020. A decline from multiple daily new cases to two new cases in over a week is a positive sign.

Conditions at FCI Oakdale I

4. FCI Oakdale I has faced the brunt of FCC Oakdale's COVID-19 emergency, with 49 positive COVID-19 inmates, 18 hospitalizations, and 6 fatalities. The facility has been locked down since the first positive COVID-19 test result was received on March 21st. FCI Oakdale I houses approximately 970 inmates in six housing units. Three of these housing units are traditional cell housing units, with separately secured cells. Each of these cells has its own commode and sink. Shower stalls are separate from the cells, small groups of inmates are being released to shower, with orderlies disinfecting the showers between each use. The remaining three housing units are dormitory style, with sleeping bunks arranged in cubicles. These dormitory-style housing units share communal bathroom facilities. In these units, inmate orderlies have been deployed on a 24-hour basis to disinfect, using appropriate cleaning chemicals, all such facilities after each use. This is in addition to daily surgical mask, soap, and disinfectant cleaning supplies being available to every inmate in the complex. The commissary has recently opened for once-weekly purchases, with a \$25.00 spending limit. A variety of additional soap and other hygiene items have been and remain available for inmate purchase. Orderlies are also assigned to disinfect all other communal use items, such as telephones and computers, after each use by the inmates. All inmates are also being monitored by medical staff daily, including temperature checks.

5. One housing unit at FCI Oakdale I is currently being used for both quarantine and isolation related to COVID-19. One floor is being utilized for isolation inmates, and the other for inmates in quarantine. In addition to correctional staff, this unit is being staffed by special medical teams, including medical doctors, mid-level practitioners, and nurses, brought in from other BOP facilities. Inmates who exhibit symptoms of COVID-19 are placed on the isolation floor and tested for the virus. Once placed in isolation, the inmates are housed in single occupancy cells to avoid cross-contamination and will remain in such housing until they are deemed cleared or recovered by medical staff acting pursuant to CDC guidelines. To date, seven Oakdale inmates have recovered from COVID-19 and been cleared to return to the population from isolation or the hospital.

6. Identifiable inmates who were directly exposed to someone symptomatic or a positive COVID-19 patient are being placed in quarantine. For example, the cell or cubicle mates of an isolation inmate would be placed on quarantine status. The quarantine floor has inmates celled with other inmates who shared the same potential exposure, avoiding cross-contamination/exposure to others. Inmates are held in quarantine for a minimum of 14 days, with twice daily medical checks, before they can be cleared from quarantine. BOP has constructed additional tent housing within FCI Oakdale I where those cleared from quarantine may be separately housed for an additional time to monitor their condition and ensure their safety. This tent housing has, among other things, appropriate restroom facilities, solid flooring, air conditioning, telephone, and television access. Email access will be installed shortly. As of April 9, 2020, 27 inmates have moved from quarantine to this post-quarantine unit.

Conditions at the Oakdale Satellite Prison Camp

7. The Oakdale Satellite Prison Camp (SPC), is a minimum security facility operating under the umbrella of FCI Oakdale II. The Camp houses 123 inmates in a single dormitory-style unit similar to that described for FCI Oakdale I, above. The Camp has had one confirmed positive COVID-19 inmate. That inmate was removed to isolation at FCI Oakdale I when he began displaying symptoms on April 2nd, and a positive test result was received April 6th. The Camp was also placed into lock down status. One additional inmate was removed and placed in isolation on April 7, 2020 after exhibiting potential symptoms.

8. Just as in the FCI, inmate orderlies have been deployed on a 24-hour basis to disinfect, using appropriate cleaning chemicals, all common restroom facilities after each use. Camp inmates receive the same daily surgical mask, soap, and disinfectant cleaning supply availability as every inmate in the complex. The camp's lower security setting allows for heightened social distancing practices during day hours. The outdoor track area remains open to inmates, as long as they maintain recommended social distancing. Also, four outdoor television areas remain open, again permitting greater distancing. As with the rest of the complex, orderlies are assigned to disinfect all other communal use items, such as telephones and computers, after each use. All Camp inmates are also being monitored by medical staff daily, including temperature checks.

Conditions at FCI Oakdale II

9. FCI Oakdale II is a low security prison facility, housing approximately 760 inmates, all in traditional cell housing units. There was one suspected case of COVID-19 at FCI Oakdale II, but he was transferred to a local hospital and remains pending test results. FCI Oakdale II has been locked down and is following all of the complex-wide precautions including daily surgical mask, soap, and disinfectant cleaning supply availability to inmates and orderlies disinfecting all communal surface between each use.

Staff Concerns at FCC Oakdale

10. There have been 17 staff members at FCC Oakdale who have positive COVID-19 test results. Approximately 19 others are quarantined away from the complex, awaiting test results. Since March 20th, all staff entering the complex have been screened, to include temperature checks, each time they enter. Staff are also provided with gloves and surgical masks daily. In addition to the disinfectants available to the inmates, staff are also being provided alcohol-based hand sanitizer. Staff working on the isolation floor at FCI Oakdale I are provided and mandated to use the full CDC-recommended complement of personal protective equipment, including gowns and eye protection.

11. Prior to this emergency, staff at FCC Oakdale operated using a complex-wide roster, allowing staff to work at any of the three institutions. This has been changed to avoid cross-contamination and staff are now only working in one institution. For the same reason, the locations of executive staff rounds have been divided up to limit contamination and exposure opportunities.

12. The number of sick and quarantined staff has caused a number of non-custody staff to have to work in traditional custody staff roles. BOP has since dispatched additional custody and medical staff from other institutions and regional offices to assist, with over 40 such staff currently on site.

Release or Transfer of Inmates

13. As Attorney General Barr noted in his April 3, 2020 memorandum, while the Bureau of Prisons has “a solemn obligation to protect the people in BOP custody, we also have an obligation to protect the public.” Releasing inmates *en masse*, without careful individual consideration “would pose profound risks to the public from released prisoners engaging in additional criminal activity, potentially including violence or heinous sex offenses.” Thus, while the Attorney General authorized the consideration of inmates for additional home confinement beyond the previously allowed limits, he did so under the expressed condition that such determinations are made by BOP staff in a careful, individualized, and considerate basis to ensure that those “prisoners will follow the laws when they are released, that they have a safe place to go where they will not be mingling with their old criminal associates, and that they will not return to their old ways as soon as they walk through the prison gates.”

14. **Reductions in Sentence:** As a preliminary matter, the BOP is charged with the care, custody, and control of incarcerated individuals and is not empowered to reduce or modify criminal sentences imposed by courts, or to unilaterally release inmates. Congress has left such decisions, to modify or reduce inmates’ sentences, to their original sentencing courts. *See* 18 U.S.C. § 3582. The BOP’s role in sentence reduction or modification proceedings involves the potential to move the sentencing court for a reduction in sentence on an inmate’s behalf in certain circumstances. 18 U.S.C. § 3582(c)(1)(A). BOP has set forth the guidelines under which it will make such a motion in its Program Statement 5050.50, “Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§ 3582 and 4205(g).” (Available at https://www.bop.gov/policy/progstat/5050_050_EN.pdf).

15. The BOP continues to consider the use of compassionate release for appropriate inmates who have existing terminal and debilitated medical conditions, or who are elderly and nearing the end of their sentence, as provided for in Program Statement 5050.50. FCC Oakdale staff have received a number of requests for consideration for a reduction in sentence motion since this crisis began. Staff continue processing those requests and are attempting to do so quickly in light of the current circumstances.

16. Recent changes in the law also allow an individual inmate to make such a motion for reduction in sentence or compassionate release with their sentencing court for their current conviction, even if the BOP has not decided to make such motion on their behalf. 18 U.S.C. § 3582(c)(1)(A). Inmates at FCC Oakdale, and at other facilities, have recently availed themselves of this option. At least five FCC Oakdale inmates have recently filed such motions and, after their sentencing courts made the appropriate individualized decisions, have been granted their requested sentence reductions.

17. **Transfers to Residential Re-Entry Centers (RRC) or Home Confinement:** While BOP is not itself empowered to modify an inmate's sentence, Congress has provided the Attorney General and Bureau of Prisons with wide discretion in determining where to confine inmates. *See* 18 U.S.C. § 3621. Both placement in a RRC (also called a halfway house) and home confinement are forms of confinement, not actual releases from custody. *See* 18 U.S.C. § 3624(c). Placement in a halfway house and/or home confinement is discretionary. *See* 18 U.S.C. § 3621(c) ("Such conditions *may* include a community correctional facility" and "[t]he authority under this subsection *may* be used to place a prisoner in home confinement.") (emphasis added). While providing a framework of factors to consider inmate placement, Congress also affirmed the breadth of the agency's discretion in such matters, noting that even sentencing court orders regarding inmate placement in a community correction facility "shall have no binding effect," and that "a designation of a place of imprisonment under this subsection is not reviewable by any court." 18 U.S.C. § 3621(b)(5).

18. While RRC or halfway house placement is considered a beneficial pre-release custody option for appropriate inmates, it requires both significant pre-arrangement and available RRC space before it may allow an inmate to be removed from prison. Pursuant to a March 26, 2020 memorandum from the Attorney General, BOP has prioritized the consideration of home confinement, which has the potential to remove someone from the prison population faster, as a response to the COVID-19 pandemic. Inmates at FCC Oakdale were considered for home confinement under the terms of this memo. Three were thought likely to be approved and were transferred to quarantine in the special housing unit, pending final determination. As the Court is already aware, one of these three were later determined to be ineligible due to a history of sex crimes, one is waiting out his quarantine pending transfer, and one is being re-reviewed based on updated guidance discussed in paragraph 21, below.

19. Previously, BOP was limited in its authority to allow home confinement the "shorter of 10 percent of the term of imprisonment of that prisoner or 6 months." 18 U.S.C. § 3624. The recently passed Coronavirus Aid, Relief, and Economic Security Act (CARES Act) authorizes the Attorney General to expand the cohort of inmates who can be considered for home confinement upon his findings of emergency conditions which are materially affecting the function of the BOP. On April 3, 2020, the Attorney General made that finding and authorized the Director of the BOP to immediately maximize appropriate transfers to home confinement of all appropriate inmates held at FCI Oakdale and other BOP facilities where COVID-19 is materially affecting operations. Guidance on implementation of this was previously provided by BOP Central Office, recommending initial review for placement in home confinement of inmates who meet the following nine criteria: 1) Primary Offense is not violent; 2) Primary Offense is not sex offense; 3) Primary Offense is not terrorism; 4) No detainer; 5) Mental Health Care Level is less than IV; 6) PATTERN (BOP's new risk and needs assessment tool) score is MIN; 7) BRAVO (BOP's existing risk evaluation tool) score is LOW or MIN; 8) Completed at least 50% of their sentence; and 9) No Incident Reports in the past 12 months.

20. Based on this initial set of nine criteria, late on April 6, 2020, BOP's Office of Research and Evaluation identified 4,013 inmates nationwide to be the first cohort reviewed under the extended home confinement timeframe. Of these 4,013 inmates, 58 are currently housed at FCC Oakdale. This review would ordinarily be done by case management staff at FCC Oakdale.

However, circumstances made this a challenge, with a leader in this department being out under quarantine, and other staff having to perform ancillary custody functions to ensure basic needs, orderly operations, safety, and security are provided to FCC Oakdale inmates. On April 8, 2020, I began marshalling resources pulling from temporary staff with experience in case management, seeking remote assistance from other facilities, and freeing up FCC Oakdale's existing case management staff by transferring their emergent custody responsibilities to other temporary staff. We focused on the Camp and FCI Oakdale I inmates, because of COVID-19 cases from those facilities. We have since reviewed vast majority of the 58 originally-listed priority inmates. Six of these have been determined to be potentially eligible and they have already been placed in special housing or will be placed there shortly, allowing them to begin the 14-day pre-transfer quarantine. Of those reviewed, the most common reasons for ineligibility appear to be history of previous violence or sex offenses.

21. Acting upon additional guidance from BOP Regional Office Staff, on the afternoon of April 9th, the reviewing staff have also expanded the criteria, removing the eighth factor, consideration of whether inmates in low or minimum facilities have served 50% of their sentence. Accordingly, staff reviewed an additional 90 inmates for home confinement eligibility and dozens more are pending review. So far, 15 additional inmates have been determined to be potentially eligible for home confinement, and are being prepared for pre-transfer quarantine.

22. The primary factors being used to prioritize consideration by BOP staff, including prison disciplinary history, PATTERN score, violence or sex crime history, and classification level, come directly from the Attorney General's March 26th Memorandum. In his April 3rd Memorandum, the Attorney General reiterated that BOP's expanded consideration of inmates for home confinement should continue to be guided by those factors. I have checked BOP records for each of the named petitioners in this matter to determine whether they are likely to be reviewed for consideration under the Attorney General's expansion of home confinement eligibility. Individual Petitioners Livas, Martin, Andrews, and Corbett have PATTERN risk recidivism scores above minimum, removing them from priority consideration. Petitioner Smith is ineligible due to his current offenses, involving the production and possession of child pornography. Finally, based on the new April 9th expanded criteria, Petitioner Buswell appears to be eligible and will be given priority review for home confinement.

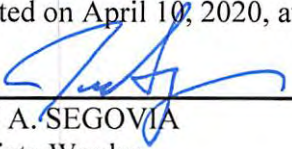
23. Staff continue to receive additional guidance on this matter and the number of inmates being given priority consideration is expanding daily. Once we complete review of the list of FCC Oakdale inmates designated for priority consideration by the Attorney General's memorandum and subsequently received guidance, I have been informed that the institution may consider expanding the criteria for review. I anticipate coordinating with medical staff at FCC Oakdale to continue additional reviews for inmates with the highest COVID-19 medical risk, per CDC guidelines, who might not have met the previous criteria.

24. **Non-Transfer Furlough:** Placement in RRC or home confinement, once approved, still requires a number of factors to be satisfied prior to implementation. For example, the release plan needs to be evaluated by the appropriate United States Probation Office. In order to facilitate faster removal of approved inmates from the prison facility, BOP has provided its Wardens with additional guidance allowing the use of non-transfer furloughs up to 30 days in length in specific

circumstances. As inmates are approved for home confinement through the above-described review process, they may also be considered for such a furlough if they meet the criteria. Furloughs are also currently being evaluated for inmates with previously approved RRC placements.

25. Keeping our duties to both the general public and to care for those ordered into our custody in mind, BOP staff currently working at FCC Oakdale, and throughout the region, are working very hard to protect all from the effects of the current pandemic. In addition to the specific COVID-19 remediation measures outlined above, BOP is continually working to reduce population at affected facilities. Within the discretion provided to the agency by Congress, BOP staff continue to identify, evaluate, and place appropriately-situated inmates in halfway house or home confinement, removing them from prison facilities. We also continue to work with sentencing courts on sentence reductions and compassionate release motions, as appropriate.

I declare under that the foregoing is true and correct to the best of my knowledge and belief.
Executed on April 10, 2020, at Oakdale, Louisiana.



JUAN A. SEGOVIA
Associate Warden

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

WILSON, ET AL,

Petitioners

v.

WILLIAMS, ET AL,

Respondents

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CASE NO. 4:20-CV-00794

JUDGE GWIN

DECLARATION OF KRISTY COLE

I, Kristy Cole, do hereby declare, certify and state as follows:

1. I am employed by the United States Department of Justice, Federal Bureau of Prisons (BOP). I currently work as the Case Management Coordinator (CMC) at Federal Correctional Institution (FCI) Elkton in Lisbon, Ohio. I have held this position since September, 2007. I have been employed by BOP since March, 1997.

2. The CMC's Office is dedicated to providing oversight of case management activities within the institution. This office works directly with the unit teams, providing training and disseminating information to insure that the institution is in compliance with Correctional Programs' policies and procedures. The CMC provides coordination and oversight of many programs within the institution, including, but not limited to, Central Inmate Monitoring, Financial Responsibility, Admission and Orientation, Inmate Performance Pay, Victim/Witness Program and Adam Walsh Act compliance. The CMC also oversees the Correctional Systems Department.

3. FCI Elkton is a low security institution designed to house approximately 2,000 inmates at the main facility and approximately 500 inmates at the adjacent Federal Satellite Low (FSL). The main FCI facility and FSL are separate facilities and the inmate populations do not interact.

For purposes of this declaration, when I refer to “FCI Elkton”, I am referring to both the main Federal Correctional Institution (FCI) facility and the Federal Satellite Low (FSL), unless otherwise specified.

4. FCI Elkton offers specialized services for sex offenders, specifically the Sex Offender Management Program.

I. COMPASSIONATE RELEASE/ REDUCTION IN SENTENCE PROCEDURES.

5. BOP does not have the authority to provide inmates with “early release.” A reduction of an inmate’s federal sentence can only be accomplished by an Article III judge, and specifically, the inmate’s sentencing judge. However, upon an inmate’s request, the Director of BOP may make a motion to an inmate’s sentencing court to reduce a term of imprisonment under 18 U.S.C. § 4205(g) and 18 U.S.C. § 3582(c)(1)(A). This process is outlined in BOP Program Statement 5050.50, *Compassionate Release/Reduction In Sentence Procedures for Implementation of 18 U.S.C. §§ 3582 and 4205(g)*. (This BOP program statement and all other program statements and operations memoranda cited herein are available at www.bop.gov via the Resources link). BOP invokes these statutory authorities in “extraordinary or compelling circumstances,” which could not have reasonably have been foreseen by the court at the time of sentencing. The First Step Act, codified at 18 U.S.C. § 3582, specifies that an inmate may file a Motion for Reduction of Sentence directly to the sentencing court after exhaustion of administrative remedies, or 30 days from the date the Warden receives such a request from the inmate, whichever is earlier. The determination of release is ultimately the decision of the sentencing court.

6. Upon information and belief, within the past 15 days, approximately 550 FCI Elkton inmates have submitted a request for Compassionate Release to BOP. Of the four named Petitioners in this case, only Mr. Nelson has submitted a request for Compassionate Release to BOP. That request is under consideration. To date, 7 inmates have been denied Compassionate Release by the Warden. Packets for another 36 inmates are currently being reviewed by Health Services to determine if they meet the criteria for Compassionate Release.

II. INMATE FURLOUGHS.

7. BOP also has the authority to temporarily release from custody (or “furlough”) an inmate pursuant to 18 U.S.C. § 3622 and BOP Program Statement 5280.09, *Inmate Furloughs*. The inmate must meet certain requirements, and the temporary release from custody is under carefully prescribed conditions. It is not a means to shorten a sentence. Emergency furloughs are only being used for those individuals who have been medically screened, considered to be at risk, and on the advice of medical professionals. The individuals then need to be quarantined for 14 days, if they have viable release residences. No FCI Elkton resident has met this criterion at this time.

III. BOP’S AUTHORITY TO PLACE INMATES ON HOME CONFINEMENT.

8. Although BOP lacks the authority to release an inmate from his sentence, BOP has the authority to transfer a prisoner to home confinement for the remainder of his or her sentence pursuant to provisions and limitations set forth 18 U.S.C. § 3624(c)(2) and 34 U.S.C. § 60541. *See also* BOP Program Statement 7320.01, *Home Confinement* and BOP Operations Memorandum, *Home Confinement under the First Step Act*, both of which are available on www.bop.gov via the Resources link.

A. BOP'S AUTHORITY UNDER 18 U.S.C. § 3624(c)(2).

9. Under 18 U.S.C. § 3624(c)(2), BOP has the exclusive authority to place a prisoner in home confinement for the shorter of 10 percent of the term of imprisonment of that prisoner or 6 months. BOP, shall, to the extent practicable, place prisoners with lower risk levels and lower needs on home confinement for the maximum amount of time permitted under section 3624(c)(2). During the inmate's incarceration, BOP institution staff are responsible for making referrals to Residential Reentry Centers (RRCs) or home confinement typically within 17-19 months of the prisoner's release date.

10. In order to appropriately evaluate an individual for home confinement, the staff assesses the risk of criminal activity in the community and determines whether there is an appropriate home where the individual can be placed. This is a time and resource intensive process. Upon receipt of the staff assessment, BOP reviews the assessment and makes the final determination regarding home confinement. If approved, absent any disciplinary infractions, the inmate would serve the remainder of his or her sentence on home confinement.

B. BOP'S AUTHORITY UNDER 34 U.S.C. § 60541.

11. Under 34 U.S.C. § 60541, BOP may release some or all eligible elderly offenders and eligible terminally ill offenders from BOP facilities to home detention, upon written request from either BOP staff, or an eligible elderly offender or eligible terminally ill offender. The statute defines "eligible elderly offender" to include an inmate who is not less than 60 years of age; who is serving a term of imprisonment that is not life imprisonment based on a conviction for an offense or offenses that do not include any crime of violence; has served two-thirds of the term of imprisonment to which the offender was sentenced; who has not been convicted in the

past of any Federal or State crime of violence, sex offense, or other offense referenced in the statute; who has not been determined by BOP to have a history of violence, or of engaging in conduct constituting a sex offense or other excluded offense; who has not escaped, or attempted to escape from a BOP institution; whose release to home detention will result in a substantial net reduction of costs to the Federal Government; and who has been determined by BOP to be at no substantial risk of engaging in criminal conduct or of endangering any person or the public if released to home detention.

12. "Eligible terminally ill offender" is defined as an offender in the custody of BOP who meets all of the above-stated criteria except the age restriction, and has been determined by a medical doctor approved by BOP (i.e., Clinical Director of the local institution) to be in need of care at a nursing home, intermediate care facility, or assisted living facility, or diagnosed with a terminal illness.

13. In order to appropriately evaluate an elderly or terminally ill individual for home confinement, BOP assesses the risk of criminal activity in the community and determines whether there is an appropriate home where the individual can be placed. As mentioned earlier, this is a time and resource intensive process.

14. If approved, absent any disciplinary infractions, the inmate would serve the remainder of his or her sentence on home confinement.

15. Pursuant to the statute, a violation by an eligible elderly or terminally ill offender of the terms of home detention (including the commission of another Federal, State, or local crime) shall result in the removal of that offender from home detention and the return of that offender to an appropriate BOP institution, as determined by BOP.

16. Inmates that do not meet the criteria for the elderly home confinement can be placed on home confinement under BOP's general authority to do so, 18 U.S.C. § 3624(c)(2).

17. In light of the COVID-19 pandemic, BOP is maximizing its authority to place inmates on home confinement and is expediting the process as much as possible in furtherance of the Attorney General's memorandum dated March 26, 2020, and BOP memoranda dated April 3, 2020, and April 15, 2020. These documents directed BOP to prioritize the use of its statutory authorities to grant home confinement for inmates seeking transfer in connection with the ongoing COVID-19 pandemic, and provided further guidance concerning criteria to be used.

C. THE CARES ACT.

18. The "Coronavirus Aid, Relief, and Economic Security Act" (CARES) Act, Pub.L. 116-136, authorizes the Attorney General to expand the cohort of inmates who can be considered for home confinement upon his finding of emergency conditions which are materially affecting the function of BOP. On April 3, 2020, the Attorney General made that finding and authorized the Director of BOP to immediately maximize appropriate transfers to home confinement of all appropriate inmates held at FCI Oakdale, FCI Danbury, FCI Elkton, and other similarly situated BOP facilities where COVID-19 is materially affecting operations.

19. Pursuant to the Attorney General's direction, FCI Elkton receives rosters of inmates to be considered for home confinement. That guidance mandates that the following criteria should be met when reviewing and referring inmates for home confinement: primary or prior offense is not violent; primary or prior offense is not a sex offense; primary or prior offense is not terrorism; no detainer for the inmate; the inmate's Mental Health Care Level is less than CARE-MH 4; the inmate's recidivism risk score is Minimum; the inmate has had no incident reports in the past 12

months (regardless of severity level); the inmate is a U.S. citizen; and the inmate has a viable release plan. As a result of FCI Elkton's higher population of inmates convicted of sex offenses, many FCI Elkton inmates are ineligible for home confinement.

20. To date, six inmates have been approved for transfers to home confinement. The inmates receiving transfers must quarantine for fourteen days prior to transfer. Five of the six approved transfers have dates for transfer next week. Two more inmates are currently being vetted by the Residential Reentry Manager. Four inmates are in the process of being sent to the Residential Reentry Manager for consideration. To date, 32 inmates have been denied home confinement as not meeting the stated criteria for a variety of reasons.

21. Concerning the four named Petitioners in this case, two have requested and been considered for home confinement. Mr. Bellamy is ineligible because he has active warrants from New Jersey. Mr. Nieves is ineligible due to a history of serious violence (assault with a baseball bat). Although he has not requested home confinement, Mr. Wilson is not a candidate because his recidivism risk score is too high; he has a Low recidivism risk score and a Minimum risk score is required. Additionally, although he has not requested home confinement, Mr. Nelson is not a candidate because he has a history of violence (unlawful discharge of a firearm) and his recidivism risk score is too high; he has a Medium recidivism risk score and a Minimum risk score is required.

IV. ELKTON FACILITY.

22. FCI Elkton consists of three buildings containing six dorm-style housing units. There are approximately 300 inmates in each housing unit. Each housing unit is divided into an A side and a B side. The A and B sides are separated and the inmates do not intermingle. The

FSL is one building with two dorm-style housing units. Each housing unit is divided into an A side and a B side. There are approximately 250 inmates in each FSL unit.

I declare that the foregoing is true and correct to the best of my knowledge and belief, and is given under penalty of perjury pursuant to 28 U.S.C. § 1746 this April 17, 2020.

RESPECTFULLY SUBMITTED,


KRISTY COLE
Case Management Coordinator
FCI Elkton

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

BRANDON LIVAS, <i>ET AL.</i>	)	CIVIL ACTION NO. 20-cv-00422
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VERSUS	)	JUDGE DOUGHTY
	)	
RODNEY MYERS, <i>ET AL.</i>	)	MAGISTRATE JUDGE KAY
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DECLARATION OF JUAN A. SEGOVIA

In accordance with 28 U.S.C. § 1746, I, JUAN A. SEGOVIA, make the following declaration, under penalty of perjury, pertinent to the above styled and numbered cause:

1. I have been asked to provide an update on the information I previously provided to the Court on April 10, 2020. The statements I make hereinafter are made on the basis of my review of the official files and records of the BOP, my own personal knowledge, or on the basis of information acquired by me through the performance of my official duties.
2. FCC Oakdale currently has 32 active confirmed inmate cases of COVID-19. Fourteen inmates have been medically determined to be cleared or recovered, and have been removed from isolation. There remain no cases at FCI Oakdale II.
3. There has been one additional death, inmate Michael Lilley, bringing the total to seven. Mr. Lilley was one of FCC Oakdale's earlier COVID-19 cases, having been transferred to the hospital on March 24, 2020. Mr. Lilley was a 55 year-old male with pre-existing long-term medical conditions who was serving a 300-month sentence for Aiding and Abetting – Sex Trafficking of Children, Conspiracy to Commit Sex Trafficking of Children, Sexual Exploitation of a Minor, and Distribution of Child Pornography, and Possession of Child Pornography. He would not have been eligible for home confinement or furlough.
4. At least eight FCC Oakdale inmates have successfully pursued reductions in sentence with their sentencing courts and since been released.
5. On April 15, 2020 we received a memorandum from BOP's Correctional Programs Division, confirming the factors to be used when reviewing and referring inmates for home confinement. These factors remain: 1) Primary or prior offense is not violent; 2) Primary or prior offense is not a sex offense; 3) Primary or prior offense is not terrorism; 4) No detainer; 5) Mental Health Care Level is less than IV; 6) PATTERN (BOP's risk and needs assessment tool) score is Minimum; 7) No Incident Reports in the past 12 months; 8) U.S. Citizen; and 9) have a viable release plan. A true and correct copy of this guidance memorandum is attached hereto.

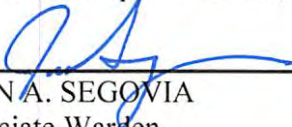
6. The review of inmates for home confinement transfer is being led by BOP case managers throughout FCC Oakdale, with the assistance and guiding of the Complex Case Management Coordinator, regional staff, staff at other BOP facilities, and some temporary staff from other institutions who are assisting at FCC Oakdale in this emergency. When an inmate is determined to be potentially eligible for home confinement, they are referred for further individualized review. Each referral is then reviewed by health services staff, as well as staff in the special investigative section to ensure they are appropriate for home confinement.

7. Currently, 27 inmates have met criteria and been referred for further home confinement processing and review. Six inmates have now been approved for early home confinement transfer under this program. All of these inmates have been placed in pre-transfer quarantine.

8. There are 68 inmates at FCC Oakdale who are aged 65 and older. A review of the roster of those inmates indicates that 53 are ineligible for the home confinement review because they have sex offenses, detainers, or exceed the minimum PATTERN recidivism score. Two remain pending review for home confinement, and eight were denied after receiving individual review for home confinement. Of the five remaining: one was recently given a halfway house date, three were approved for home confinement and are pending transfer, and one is pending a reduction in sentence motion with his sentencing court.

9. The Court also requested information on release of medically vulnerable prisoners. Rather than remove medical professionals from their front line duties to review the medical records of over 1,800 inmates assigned to FCC Oakdale, BOP staff have been reviewing all inmates who potentially qualify for home confinement under the parameters described above. However, in specific response to this query, BOP staff examined rosters for those inmates classified as severely medically impaired, requiring daily nursing care, and those requiring frequent clinical contacts, and/or who may require some assistance with activities of daily living. Eighteen inmates were identified as fitting into these parameters. Of those, one is pending a halfway house referral, and one is pending transfer to a BOP medical facility. The remaining sixteen are ineligible for the home confinement review because they have sex offenses, detainers, or exceed the minimum PATTERN recidivism score.

I declare under that the foregoing is true and correct to the best of my knowledge and belief.
Executed on April 16, 2020, at Oakdale, Louisiana.



JUAN A. SEGOVIA
Associate Warden



**U.S. Department of Justice
Memorandum
Federal Bureau of Prisons**

Correctional Programs Branch

*Central Office
320 First Street, N.W.
Washington, DC 20534*

MEMORANDUM FOR CORRECTIONAL PROGRAM ADMINISTRATORS

FROM:  David Brewer, Acting Senior Deputy Assistant Director

SUBJECT: Furlough and Home Confinement Additional Guidance

The following guidance is provided from information contained in the CARES Act, memoranda from Attorney General Barr, and the Bureau of Prisons. This memorandum rescinds guidance previously provided.

Furlough

The current pandemic is considered an urgent situation that may warrant an emergency furlough under 570.32(b)(1) and 570.33(b). These regulations authorize a non-transfer emergency furlough if the inmate is otherwise deemed appropriate, even if he/she has been submitted for Home Confinement (HC). Effective April 16, 2020, all inmates referred for an emergency furlough due to the Covid-19 pandemic should be submitted and keyed as FURL CRI.

Inmates who have been referred for a release planning furlough based on guidance issued prior to April 16, 2020, do not require a new application. These inmates should be keyed out of the facility as FURL REL. Furlough applications completed on or after April 16, 2020, should follow the updated guidance. Inmates within 12 months of his/her Projected Release Date (PRD), or those who have received Home Confinement placement and have a PRD exceeding one year, should be reviewed for furlough.

Home Confinement

In an effort to alleviate concerns and questions, the following criteria should be met when reviewing and referring inmates for HC:

- Primary or prior offense is not violent

- Primary or prior offense is not a sex offense
- Primary or prior offense is not terrorism
- No detainer
- Mental Health Care Level is less than CARE-MH 4
- PATTERN risk score is Minimum (R-MIN)
- No incident reports in the past 12 months (regardless of severity level)
- U.S. Citizen
- Viable Release Plan

If the inmate meets the criteria above, the following factors should be noted, but are not a reason for denial:

- Age
- Projected Release Date
- Percentage of time served
- Medical Care Level
- Victim Witness Program
- Arrival dated (ARSD)

Any concerns regarding an inmate's suitability for HC placement should be noted in Section 11 of the BP-210, *Institutional Referral for CCC Placement*. It is strongly encouraged to refer inmates currently housed in a facility with active Covid-19 cases.

For inmates requesting relocation, a release plan must be submitted to the USPO prior to HC referral submission. The USPO approval letter must be forwarded to the RRM, once received. Institution staff should contact the Health Service Specialist in the RRM's office with questions regarding HC placement for inmates with medical concerns.

If you have any questions, please contact David Brewer, Acting Senior Deputy Assistant Director, Correctional Programs Division, at (202)353-3638.



Taft Correctional
Institution

MEMORANDUM

Date: April 6, 2020
To: Camp Inmate Population
From: D. Patrick, Executive Assistant/Grievance Coordinator
cc:
RE: Response to Influx of Inmate Requests to Staff

A handwritten signature in black ink, consisting of several overlapping loops, is written over the "From:" and "cc:" lines.

This is in response to the multiple Requests to Staff (Cop-outs) which have been forwarded to my office for response. Due to the number of Requests to Staff received, individual responses will not be provided, nor will any future requests regarding this same matter be addressed.

Staff has not been provided guidance by the Bureau of Prisons (BOP) regarding the Attorney General's Memorandums involving any revised procedures for an inmate's placement on Home Confinement. Therefore current procedures will remain in place.

Furthermore, due to the current decision by the Bureau of Prisons to close the facility and the subsequent transfer of all inmates, each of you will have to make this request at your new facility.