

Statement of Gwendolyn Levi

Hearing on “The First Step Act, The Pandemic, and Compassionate Release:
What are the Next Steps for the Federal Bureau of Prisons”

U.S. House Judiciary Committee’s Subcommittee on Crime, Terrorism, and Homeland Security
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Good morning, Chair Jackson Lee, Ranking Member Biggs, and members of the subcommittee. My name is Gwen Levi and I live in Baltimore, Maryland.

In March 2020, when the first wave of the Covid-19 pandemic hit, I was 16 years into a 24-year prison sentence for a nonviolent drug offense. I was 74 years old and had just survived a bout with lung cancer. Like so many other people in prison at the time, I was worried about the deadly virus spreading through the prisons. There was no vaccine yet and being in prison made physical distancing and proper hygiene impossible.

Fortunately, Congress passed the CARES Act in March. The law included a provision that allowed the Bureau of Prisons (BOP) to send people to home confinement for longer periods of time to save lives and limit the spread of Covid-19. Attorney General Barr established strict criteria for home confinement, limiting it to people who (1) served more than half their sentence, (2) had a clean disciplinary record for the past year, (3) had no history of violence, (4) had a “minimum” score on the PATTERN risk assessment, and (5) were among those considered high risk for suffering complications from COVID-19.

I met those criteria, and I was approved for home confinement the day before my 75th birthday. It was a blessing to be able to return home to my 94-year-old mother. My incarceration was especially difficult for her.

When I left prison, I was fitted with an ankle monitor that tracked my every move. I could not leave my house to go anywhere – even the grocery store – without permission from my case manager at the halfway house. Being on home confinement is much better than prison, but it is still worlds away from being free.

When I got home, I began advocating for criminal justice reform, especially for women, people of color, the elderly, and those without a lot of money — people like me. I wanted to make a positive contribution to my community.

I signed up for a four-session computer class administered by the Maryland Justice Project, which was being held in a building owned by the Baltimore City Police Department. I didn’t know the building was designed to prevent GPS and other signals as a security measure, so the ankle monitor I was required to wear lost its signal. While I was in the second class on June 12th, my phone was turned off. Apparently, the halfway house tried calling me, then later pinged my ankle bracelet. I didn’t hear either device.

That afternoon, I was told I had committed an “escape,” which the BOP defines as being out of touch for four hours. I was told to pack a bag and return to the halfway house. While at the halfway house, I was questioned and told to sign a statement so that I could go home. My attorney asked to be present while I was questioned, but they refused her request.

The day after I signed the statement, I wasn’t sent home. Instead, the U.S. Marshals came to the halfway house and arrested me. They put me in the D.C. jail on June 16th, telling my lawyer they would expedite my return to a federal correctional facility to complete my sentence.

As awful as that was, I was luckier than most. My family, though devastated, sprang into action. So did the organizations I had been working with. The media picked up the story, and it struck a nerve with the public. People across the country were outraged that during a pandemic, the BOP sent me – a 75-year-old lung cancer survivor – to jail because I attended a computer class in the hope of finding paid work.

By that point, my request for a sentence reduction—through compassionate release—had been sitting in the court for more than a year. The Justice Department opposed my motion, just as they did nearly every motion for compassionate release that was filed. But I was lucky. Thanks to the overwhelming support I received, my judge granted me compassionate release on July 6, 2021, reducing my sentence to time served. My long ordeal was finally over.

My work to help others, however, goes on. And I’d like to share with this subcommittee that there are three things the administration and Congress can do right now to help those in my position – people who are trying their best to make amends.

First, President Biden should commute the sentences of everyone on CARES Act home confinement so that they can move forward with their lives. We received good news last month when the Attorney General announced that he was revising the Office of Legal Counsel memo that would have required people to return to prison at the end of the pandemic. But many of these people already have been confined at home, with severe restrictions and with an ankle monitor tracking their every move, for nearly two years. And I continue to hear about these people being re-incarcerated for technical violations (like turning a phone off during class). President Biden should stop the Ferris wheel of reincarceration and commute their sentences. Congress can help by supporting H.R. 6234, the FIX CLEMENCY Act, which aims to remedy the commutation process. Until then, Attorney General Garland should make clear that the Justice Department will not return to prison anyone on home confinement who is following the rules.

Second, as the latest COVID-19 variant makes its way through the prisons, the BOP and Justice Department should use their authority to bring compassionate release motions on behalf of at-risk people – or, at the very least, to rely on the CARES Act to move them to home confinement. Between January 2020 and January 2021, 20,000 people sought compassionate release. Of those motions, less than 1% -- 32 in total—were filed by the BOP, even though that agency has struggled mightily to keep people safe. The situation is dire. Over the past two weeks, three women at the prison camp in Alderson, West Virginia, died from COVID-19. None was serving a

life sentence. In other facilities, people who test positive are not being separated from those who test negative.

Finally, Congress must pass legislation establishing independent oversight of federal prisons. Long before COVID-19, our federal prisons were in crisis. For the most part, what I witnessed – physical and mental abuse, inadequate medical care, and lack of programming – has been hidden from the public because there is no meaningful oversight. The situation poses a continuing danger to the safety and well-being of inmates and correctional officers alike.

The Justice Department’s Office of Inspector General (OIG) inspected some BOP facilities during the pandemic, though these inspections were limited in number and relied primarily on BOP staff reports. But even the limited information gathered showed significant failures, including inadequate staffing and supply shortages. The BOP needs transparency and accountability—things that can only come from independent oversight.

Thank you for allowing me to testify this morning, and I look forward to answering your questions.