

Analysis of BOP Data Snapshot from July 4, 2020 for the District Task Force on Jails & Justice

September 30, 2020

Introduction

This memo describes a point-in-time snapshot of the District of Columbia (D.C.) Code offender population in federal Bureau of Prisons (BOP) custody on July 4, 2020. BOP shared a de-identified data file, with 24 variables for each D.C. Code offender.¹ It includes each individual who was in the custody of BOP on July 4 serving a sentence imposed by the D.C. Superior Court, whether they were housed in a prison, at a halfway house, or on home confinement.

Demographics

There were 3,221 individuals in the dataset. This is a lower one-day population count than we have seen recently. In April 2020, BOP reported 3,399 D.C. Code offenders, but that count has been as high as 4,600 D.C. Code offenders within the last two years.² Figures 1 and 2 show that D.C. Code offenders in BOP custody were overwhelmingly male and Black: 3,150 were male (97.8%) and 3,073 individuals in BOP custody were Black (95.41%).

¹ Variables in the dataset provided by BOP include: age, race, ethnicity, sex, date of commitment to BOP, sentence in months, projected release date, top charge, security level, Mental Health Care Level, Physical Health Care Level, GED or equivalent, disability, RDAP program completion, NRDAP program completion, drug education program completion, CBT program, UNICOR employment, ACE course completion, GED course completion, parenting course completion, tech course completion, vocational education course completion, and date of first BOP incarceration. Not all individuals in our dataset had observations for each variable.

² Data on file with CCE.

Figure 1: D.C. Code Offenders by Sex

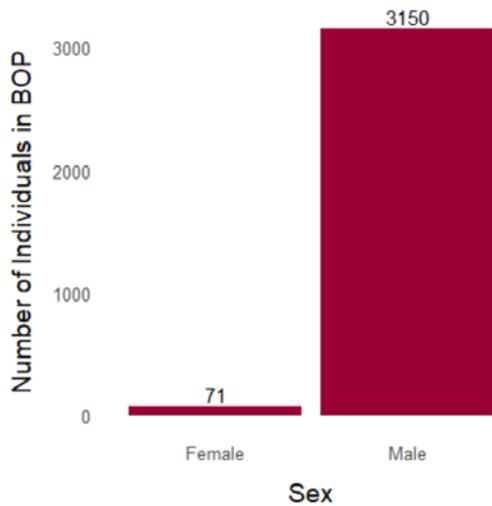
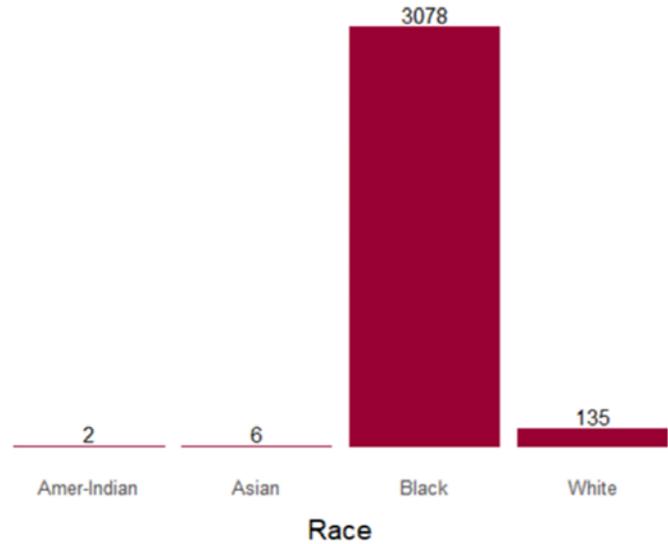
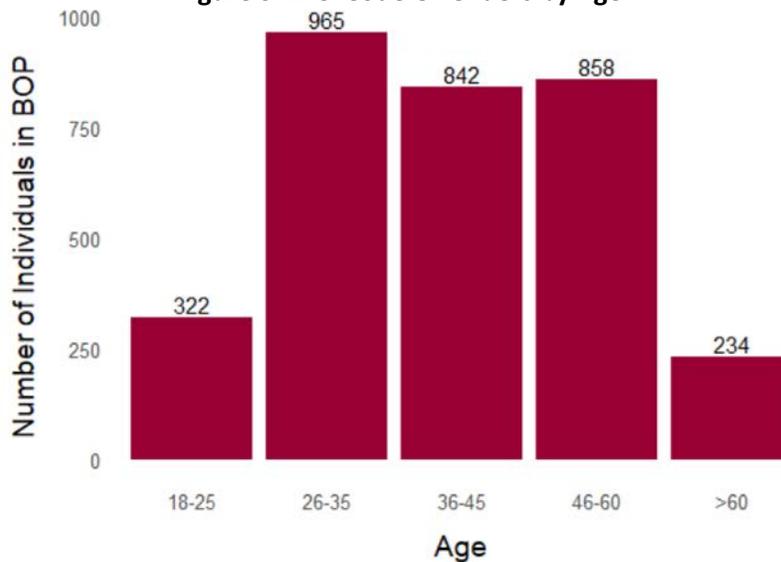


Figure 2: D.C. Code Offenders by Race



As is shown in Figure 3, the most common age category of individuals in the dataset was 26-35 and around 85% of the individuals in the dataset were between 26 and 60.³

Figure 3: D.C. Code Offenders by Age

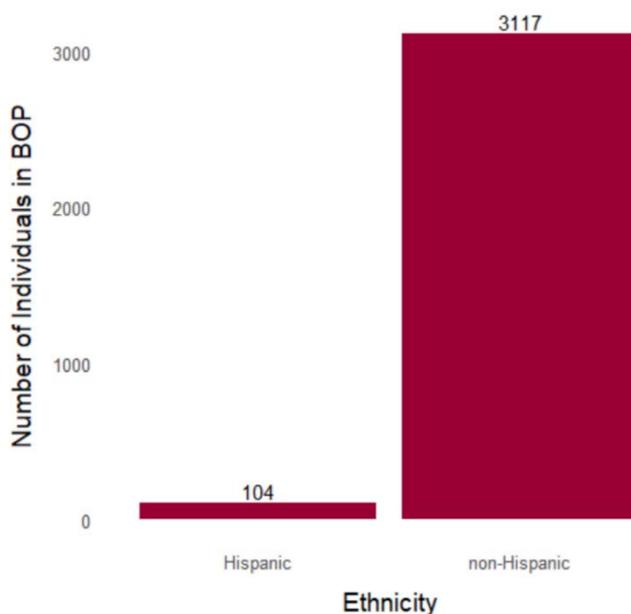


³ The time bands that we used for our analysis are not all equal – we used an age-bin from 18-25 because of the policy significance of individuals between the age of 18-25 for proposed IRAA 3.0 petitions. We also use an age-bin of >60 because of the significance of individuals aged over 60 for compassionate release consideration. For the remaining age categories, we chose to create two ten-year age categories and one fifteen-year age category in order to follow the more common convention of reporting on individuals aged 26-35 and 36-45.

BOP allows individuals to identify with a racial group (American Indian, Asian, Black, and White) as well as an ethnic group. Figure 4 shows that there were only 104 Hispanic individuals in the dataset and 96 of those identified as White. The most common racial/ethnic groups in the data were non-Hispanic Black (3071), Hispanic White (96), and non-Hispanic White (39).

Because the overall population is overwhelmingly Black, the characteristics of Black D.C. Code offenders were necessarily similar to the overall population in our dataset. The Hispanic White population had an age distribution similar to that of the overall population with 82% of the population falling between 26 and 60. The most common age categories for Hispanic Whites were 26-35 (30.21% of Hispanic Whites) and 36-45 (31.25% of Hispanic Whites). In contrast, non-Hispanic Whites skewed somewhat older, with just under 50% of the population in the 46-60 age category.

Figure 4: D.C. Code Offenders by Ethnicity



Security Levels

D.C. Code offenders in BOP were classified into one of five security designations, four of which were represented in our dataset.⁴ The four levels of security in our dataset range from Minimum Security to High Security. Individuals in BOP custody were assigned security levels based on their programming

⁴ The fifth security designation is “Administrative,” a catch-all for institutions with special missions, “such as the detention of pretrial offenders; the treatment of inmates with serious or chronic medical problems; or the containment of extremely dangerous, violent, or escape-prone inmates.” “Federal Bureau of Prisons: About Our Facilities” (Federal Bureau of Prisons, n.d.), https://www.bop.gov/about/facilities/federal_prisons.jsp#:~:text=Administrative%20Security,%2C%20or%20escape%2Dprone%20inmates. There were no D.C. Code Offenders with an Administrative security level

needs and the level of security and supervision that BOP believes they require. Minimum Security represents the lowest security level and can imply either community placements or placement in a Federal Prison Camp. In contrast, high security requires placement at certain high security facilities with high staffing ratios, close control of movement, and minimal contact with other incarcerated individuals.⁵

As Figure 5 shows, most of the D.C. Code offenders in our dataset were classified as either Medium or High Security. The average length of term of incarceration among the 2,622 individuals not serving life sentences increased predictably with their security level, from an average of 12 months among those with Minimum Security designations to an average of 269 months among those with High Security designations.

Figure 5: Security Level by Term of Incarceration

<i>Security Level</i>	<i>Count</i>	<i>Term (Months)</i>
Minimum	12	12
Low	527	192
Medium	1417	225
High	1265	269

Figure 6 shows that the distribution of security levels among D.C. Code offenders skews higher than the overall BOP population. Whereas over half of all people (including federal offenders) incarcerated at BOP had a Low or Minimum Security designation, less than 17% of the D.C. Code offender population had a Low or Minimum Security designation.

Figure 6: Security Level by D.C. Code Offender and Overall BOP Population

<i>Security Level</i>	<i>DC Count</i>	<i>DC Code Offender %</i>	<i>Overall BOP %</i>
Minimum	12	<1%	16%
Low	527	16%	37%
Medium	1417	44%	31%
High	1265	39%	12%

⁵ Kathleen Sawyer, “Inmate Security Designation and Custody Classification,” 2019, https://www.bop.gov/policy/progstat/5100_008cn.pdf, see also, “Federal Prison Security Levels” (Federal Prison Time, 2019), <https://www.federalprisonstime.com/federal-prison-security-levels>.

Top Charge Categories and Length of Sentences

The BOP categorizes all offenses under one of eight labels: Burglary/Larceny, Drugs, Homicide/Aggravated Assault, Robbery, Sex Offenses, Violation of Supervision/Parole, Weapons/Explosives, and Miscellaneous.

The majority of D.C. Code offenders in BOP custody have a top charge categorized as Homicide/Aggravated Assault. The next most frequent charging categories were Robbery, Sex Offenses, and Violations of Supervision/Parole. There were only 33 people serving time for Drug offenses. In addition to being the most common top charge, Homicides/Aggressive Assaults also had the second longest average term of incarceration among the 2,622 individuals who were not serving life sentences.

Figure 7: D.C. Code Offenders by Top Charge

Charge	Count	%	Term (Months)
Homicide/ Agg Assault	1612	50%	329
Robbery	429	13%	154
Sex Offenses	324	10%	343
Violation of Spv/Parole	323	10%	72
Weapons/Explosives	290	9%	89
Burglary/Larceny	175	5%	177
Miscellaneous	35	1%	263
Drugs	33	1%	95

Figure 8 shows life sentences by top charge. The vast majority of D.C. Code offenders who were serving life sentences had a top charge of Homicide/Aggravated Assault. Sex Offenses and Robbery were the next most common top charges among individuals who were serving life sentences. There were 19 individuals serving life sentences for violations of the terms of their supervision or parole. Of the 599 individuals with life sentences, 584 were Black (97%), making Black people slightly over-represented among those who were serving life sentences relative to their overall share of the BOP population (95%) among D.C. Code offenders. Figure 9 shows that individuals who were serving life sentences were, on average, older than the general population. The most common age group among individuals serving life sentences was those 46-60 whereas the most common age group among the general population was 26-35. There were no individuals under the age of 26 with a life sentence in our dataset and only four individuals aged 26-35.

Figure 8: Life Sentences by Top Charge **Figure 9: D.C. Code Offenders by Life Sentence and Age**

<i>Charge</i>	<i>Count</i>	<i>Age</i>	<i>Count</i>
Homicide/Agg Assault	468	26-35	4
Sex Offenses	67	36-45	157
Robbery	22	46-60	336
Violation of Spv/Parole	19	60+	102
Weapons Explosives	8		
Miscellaneous	7		
Burglary/Larceny	5		
Drugs	3		

We also considered the number of individuals in our dataset who had life sentences by the decade during which they were committed to BOP. Figure 10 contains information about life sentences based on the decade during which that person was committed to the BOP to serve the life sentence. In our dataset, there were successively fewer people with life sentences in each decade from 1970-2000. This is to be expected, as individuals with life sentences will slowly be released on parole or die in custody over time. Notably, there were still 22 individuals who were serving life sentences from the 1970s and 1980s, all of whom have served at least 30 years in prison. The data also shows that beginning in 2010s, the number of individuals committed to the BOP on a life sentence declined sharply from the previous decade; although there were 483 individuals serving life sentences committed during the 2000s, there were only 37 individuals serving life sentences committed during the 2010s.

Figure 10: Life Sentences by Decade of Commitment*

<i>Decade</i>	<i>Count</i>
1970s	1
1980s	21
1990s	55
2000s	483
2010s	37

*2 missing commitment dates

Among the 323 individuals in BOP custody for parole revocations, 19 had life sentences and the remaining 304 did not; the mean length of term of incarceration for the remaining 304 was 72.24 months, and the median length of term was 24 months.

Physical and Mental Health

We received two indicators of the level of physical and mental health among D.C. Code offenders in BOP: a “Mental Health Care Level” indicator and a “Physical Health Care Level” indicator. These indicators have outcomes that range from One (1) to Four (4), where One (1) represents generally good health and Four (4) represents an individual who needs services only available at a BOP Medical

Referral Center (MRC) which can provide enhanced medical services and limited inpatient care.⁶ Figure 11 contains a description of Physical and Mental Health Care Levels.

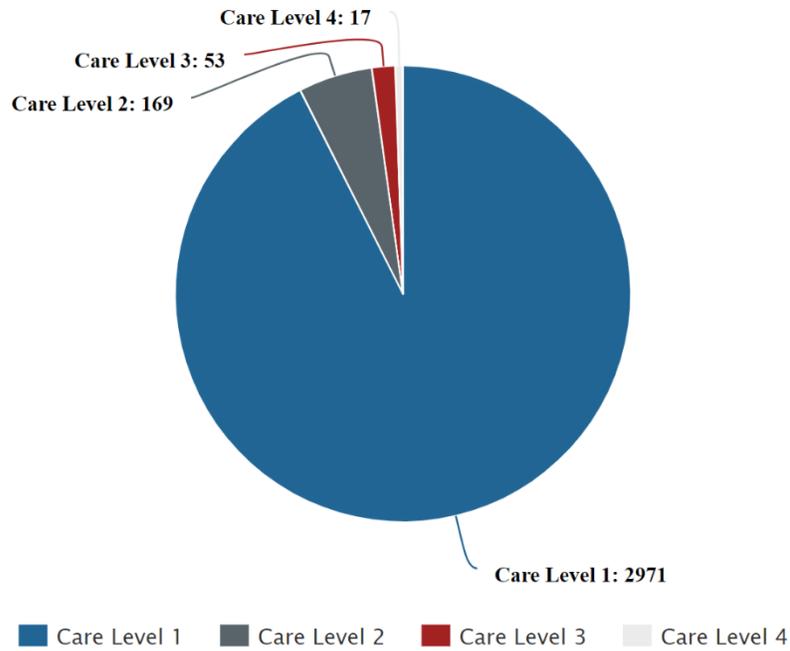
Figure 11: Description of Care Levels in BOP

<i>Care Level</i>	<i>Description</i>
1	General health; may have limited medical needs that can be easily managed by clinical evaluations
2	Stable outpatient; medical and mental health condition can be managed through routine care and regularly scheduled appointments; specialists may be needed from time to time
3	Outpatient; individual may have complex and usually chronic medical or mental conditions that require frequent contacts from care providers; some daily assistance may be needed and periodic hospitalization may be needed
4	Required services at a BOP Medical Referral Center Functioning may be so severely impaired as to require 24-hour skilled nursing care or nursing assistance

In our dataset, the majority of D.C. Code offenders – 2,971 of 3,221 individuals (92.24%) – had a Mental Health Care Level 1. The distribution of Mental Health Care Levels by age and security level was similar to that of the overall population. The majority of individuals with Level 1 care were in the 36-45 age group, followed closely by those aged 46-60 and 60+. Similarly, Medium Security was the most common security level among those with Level 1 care needs followed by High Security. Individuals with a Level 2 care skewed slightly younger than the overall population – the most common age group among those with Level 2 care needs were those aged 26-35. 58 of the 169 individuals with a Level 2 care need were in the 26-35 age group and 50 were in the 46-60 age group. Those with Level 2 mental health care needs were also slightly less likely to have medium security levels than the overall population and were slightly more likely than high-or-low level security levels. Figure 12 shows the distribution of D.C. Code offenders by their Mental Health Care Level.

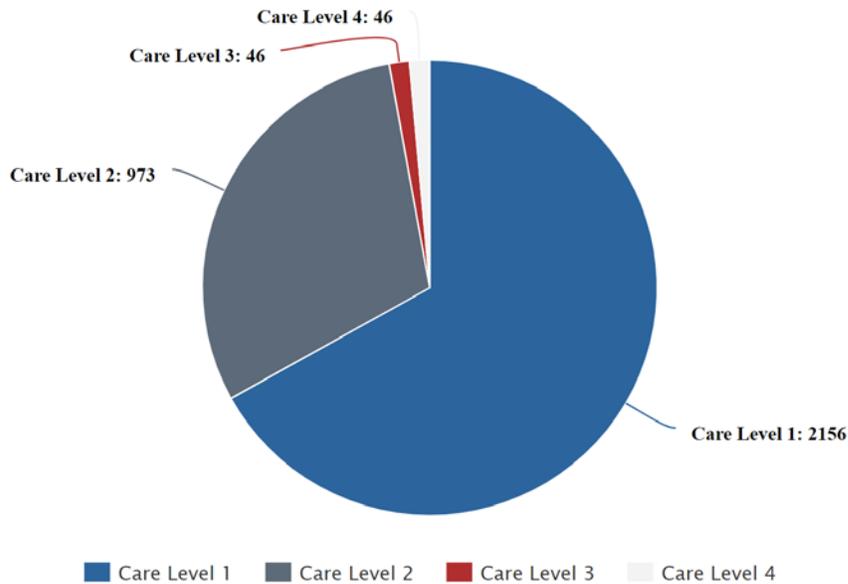
⁶ “Care Level Classification for Medical and Mental Health Conditions or Disabilities” (Bureau of Prisons, May 2019), https://www.bop.gov/resources/pdfs/care_level_classification_guide.pdf.

Figure 12: D.C. Code Offender by Mental Health Care Level



Overall, the D.C. Code offender population was reported to have slightly higher physical care levels than mental care levels. Figure 13 shows the distribution of D.C. Code offenders by their Physical Care Level. Thirty percent of the individuals in our dataset were assigned a Physical Health Care Level 2 whereas only 5% had a Mental Health Care Level 2. As was the case for the Mental Health Care Levels, the prevalence of more serious Physical Health Care Levels was relatively low: just over two percent (2%) of individuals in the dataset had a Physical Health Care Level of 3 or 4, roughly the same prevalence of individuals who had a Mental Health Care Level of 3 or 4.

Figure 13: D.C. Code Offenders by Physical Care Level



Behavioral Health Education and Programming

We received data regarding three BOP programs related to substance use in our dataset: Residential Drug Abuse Program (RDAP), Nonresidential Drug Abuse Treatment (NRDAP), and Drug Education Program (Drug Ed). RDAP is the most intensive substance use treatment program available at the BOP. RDAP is a voluntary substance use treatment program for individuals within 24 months of release who had a pattern of substance use in the twelve months preceding their arrest for the underlying offense, and who do not have any serious mental or cognitive impairments.⁷ RDAP participants live in a separate unit from the general population and participate in a mix of programming as well as work, school, or vocational activities.⁸ NRDAP, in contrast, is a 12-week cognitive-behavioral therapy (CBT) program designed for individuals with short sentences or who do not meet RDAP’s more stringent criteria. Similarly, individuals who were waiting to begin RDAP or who were waiting to hear whether or not they were eligible for RDAP may also participate in NRDAP. Finally, Drug Ed is the least intensive form of substance use education and programming available at the BOP. Drug Ed consists of a series of classes

⁷ Allen Ellis and Todd Bussert, “Residential Drug Abuse Treatment Program,” *Criminal Justice* Winter (2016), <http://alanellis.com/wp-content/uploads/2016/08/aba-rdap.pdf>.

⁸ “Substance Abuse Treatment” (BOP, 2020), https://www.bop.gov/inmates/custody_and_care/substance_abuse_treatment.jsp.

that provide, “education regarding substance abuse and its effects, and serves to offenders with a need for further programming.”⁹

Figure 14 contains information about the number of D.C. Code offenders who have completed substance use classes and programs at BOP (individuals who complete a given class more than one time were only counted once). Drug Ed classes were by far the most completed form of programming among D.C. Code offenders in the BOP – 41% of individuals in our dataset had taken at least one Drug Ed class. NRDAP programming had also been completed by more than 15% of D.C. Code offenders. Finally, relatively few individuals in our dataset had completed RDAP programming; however, because of the requirement that an individual be within 24 months of release before they begin the RDAP course, we would anticipate that individuals who take RDAP would do so in the months immediately before their release and disappearance from our dataset, so the low prevalence of RDAP completion in our dataset may reflect bias caused by the nature of point-in-time counts.

Figure 14: D.C. Code Offenders by Substance Use Course Completed

<i>Drug Courses and Ed</i>	<i>Count</i>	<i>%</i>
RDAP	40	1%
NRDAP	478	15%
Drug Ed	1287	40%

BOP also provides care through its Challenge Program, “a residential, evidence-based, cognitive-behavioral therapy [(CBT)] program,”¹⁰ designed to improve reintegration into the community and adjustment to living in an institutional setting. In our dataset, 154 individuals (4.78%) had completed the Challenge Program and 3,067 had not. 146 of the 154 individuals who had completed the Challenge Program were designated Mental Health Care Level 1.

Figure 15: D.C. Code Offenders by CBT Course Completion

<i>CBT</i>	<i>Count</i>
Completed	154
Not Completed	3067

Programming and UNICOR

There were few individuals in the BOP dataset who had completed programming not related to drug education or treatment. Figure 16 shows the count of individuals who have completed at least one of each kind of program or were employed at UNICOR (a resident who completed a program more than one time is only counted once). Just over 20 individuals had completed at least one parenting class, tech

⁹ “Substance Abuse Treatment” (BOP, 2020), https://www.bop.gov/inmates/custody_and_care/substance_abuse_treatment.jsp.

¹⁰ Harley Lappin, “Psychology Treatment Programs” (Federal Bureau of Prisons, 2009), https://www.bop.gov/policy/progstat/5330_011.pdf.

class, or vocational education class. Parenting classes at BOP are designed to produce “positive relationships, family values, and mutual support and nurturing.”¹¹ Vocational education and technical training classes at BOP vary, and “are based on the needs of the inmates, general labor market conditions, and institution labor force needs,”¹² but they are generally designed to, “teach inmates about generally employment skills or skills needed for specific jobs and industries.”¹³

Individuals who had completed programming classes tended to be older than the general population. The 22 individuals who completed parenting classes were evenly distributed between the 46-60 age group and the 60+ age group. Similarly, 15 of the individuals who completed vocational education were 60+ while 11 were 46-60. All individuals who completed vocational education were also either 46-60 or 60+. In contrast, individuals working for UNICOR had age distributions that more closely matched that of the overall population, but still skewed older than the non-UNICOR population. The most UNICOR employees were in the 46-60 age group and the second most were in the 36-45 age group. In contrast, in the overall D.C. Code offender population, the 26-35 age group was the most common age group followed by the 46-60 age group.

Figure 16: D.C. Code Offender Count by programming and UNICOR

<i>Program</i>	<i>Count</i>
UNICOR	181
Parent	22
Tech	21
Voc	26

People Nearing Release

In addition to the descriptive analyses of the overall population, we also considered how the individuals who were going to be released within the next few months were similar or dissimilar to the general population of D.C. code offenders in BOP custody. To perform these analyses, we considered those who were going to be released within 0-6 months, 0-12 months, and 0-24 months. Figure 18 contains information about the number of individuals who were going to be released within six months, one year, two years, and two plus years of August 31, 2020. There were 542 individuals who were going to be released from incarceration within six months, 750 individuals who were going to be released within 12 months, and 1,069 individuals who were going to be released within two years.¹⁴

¹¹ “Program Statement 5355.03, Parenting Program Statement,” 1995,

https://www.bop.gov/policy/progstat/5355_003.pdf.

¹² “Education Programs” (Federal Bureau of Prisons, n.d.),

https://www.bop.gov/inmates/custody_and_care/education.jsp.

¹³ “National Institute of Justice: Crime Solutions,” n.d.,

<https://crimesolutions.ojp.gov/practicedetails?id=24&ID=24#pd>.

¹⁴ 557 individuals had missing values for their predicted release date. Individuals in the 0-6 month range are included in the counts for those in the 0-12 month range, similarly, individuals in the 0-6 and 0-12 month ranges are included in the 0-24 month range.

Figure 17: D.C. Code Offenders by Time until Release

<i>Time Until Release</i>	<i>Count</i>	<i>%</i>
0-6 months	542	17%
0-12 months	750	23%
0-24 months	1069	33%
2+ years	1595	50%

Security Level by Time to Release

Figure 18 shows counts of D.C. Code offenders broken down by the time until their release. Individuals to be released within six months had slightly higher security levels relative to those who were going to be released within two years, but overall the differences within this population were negligible. The populations to be released within the next six months, one year, and two years were only slightly different than the overall population. For example, 39% of the overall population of D.C. Code offenders had a high security level in contrast to 33% among those soon to be released.

Figure 18: Security Level by Time until Release

Under 6 Months			Under 1 Year			Under 2 Years		
<i>Security Level</i>	<i>Count</i>	<i>%</i>	<i>Security Level</i>	<i>Count</i>	<i>%</i>	<i>Security Level</i>	<i>Count</i>	<i>%</i>
Minimum	3	1%	Minimum	5	1%	Minimum	7	1%
Low	94	17%	Low	136	18%	Low	212	20%
Medium	266	49%	Medium	365	49%	Medium	499	47%
High	179	33%	High	244	33%	High	351	33%

Whole Population		
<i>Security Level</i>	<i>Count</i>	<i>%</i>
Minimum	12	<1%
Low	527	16%
Medium	1417	44%
High	1265	39%

Mental Health Care Level by Time to Release

Figure 19 shows Mental Health Care Levels broken out by time until release. All three time-to-release groups had essentially the same distribution of care levels. The individuals to be released within six months, one year, or two years did have slightly fewer individuals assigned to Mental Health Care Level 1 and slightly more individuals with Level 2 care than the overall population, but these differences amounted to no more than a few percentage points.

Figure 19: Mental Health Care Levels by Time until Release

Under 6 Months			Under 1 Year			Under 2 Years		
Care Level	Count	%	Care Level	Count	%	Care Level	Count	%
1	478	88%	1	663	89%	1	948	89%
2	47	9%	2	65	9%	2	88	8%
3	12	2%	3	15	2%	3	21	2%
4	5	1%	4	5	1%	4	7	1%

Whole Population*		
Care Level	Count	%
1	2971	93%
2	169	5%
3	53	2%
4	17	1%

*11 missing records

Physical Health Care Level by Time to Release

Figure 20 shows Physical Health Care Levels by time until release. Similar to the Mental Health Care Levels and the security levels, Physical Health Care Levels were not meaningfully different between those who were going to be released in six months, one year, and two years. However, Physical Care Levels were on average slightly lower among those to be released within six months, one year, or two years compared to individuals in the overall population, which contrasts with Mental Health Care levels and security levels, which were slightly higher among the soon-to-be-released population on average. However, these differences were still quite small and amounted to no more than a few percentage points differences in each direction.

Figure 20: Physical Health Care Levels by Time until Release

Under 6 Months			Under 1 Year			Under 2 Years		
Care Level	Count	%	Care Level	Count	%	Care Level	Count	%
1	377	70%	1	520	69%	1	737	69%
2	153	28%	2	217	29%	2	309	29%
3	9	2%	3	9	1%	3	15	1%
4	3	1%	4	4	1%	4	8	1%

Whole Population		
Care Level	Count	%
1	2156	67%
2	973	30%
3	46	1%
4	46	1%

Behavioral Health Education and Programming by Time to Release

Figure 21 shows substance use course programming and CBT completion rates by time until release. Individuals soon to be released had a higher rate of RDAP completion than did the overall population. Individuals set to be released between six months and two years had an RDAP completion rate of around 2% while the RDAP completion rate in the overall population was only 1%. NRDAP completion was also slightly lower among the almost-to-be-released population – around 10% of individuals had completed an NRDAP course among those to be released within six months, one year, or two years while around 15% had completed an NRDAP course among the overall population. Drug Ed course completion levels were not meaningfully different among the soon-to-be-released population or between the soon-to-be-released population and the overall population. BOP also provided CBT to D.C. code offenders through its Challenge Program.

Figure 21: Drug Course Programming and Challenge Program Completion Rates by Time until Release

Under 6 Months			Under 1 Year			Under 2 Years		
<i>Drug Courses and Ed</i>	<i>Count</i>	<i>%</i>	<i>Drug Courses and Ed</i>	<i>Count</i>	<i>%</i>	<i>Drug Courses and Ed</i>	<i>Count</i>	<i>%</i>
RDAP	11	2%	RDAP	18	2%	RDAP	23	2%
NRDAP	52	10%	NRDAP	77	10%	NRDAP	112	10%
Drug Ed	160	30%	Drug Ed	224	30%	Drug Ed	352	33%
Challenge	15	3%	Challenge	17	2%	Challenge	24	2%

Whole Population		
<i>Drug Courses and Ed</i>	<i>Count</i>	<i>%</i>
RDAP	40	1%
NRDAP	478	15%
Drug Ed	1287	40%
Challenge	154	5%

Programming and UNICOR by Time to Release

Figure 22 shows parenting and UNICOR programming by time until release. Because of the small numbers of individuals who had completed any programming or participated in UNICOR among those who were about to be released, it is of little use to make comparisons between groups. However, as Figure 23 below shows, in general, very few people completed programming courses at BOP. Among the 1,024 individuals who were coming home within the next two years, there were only ten courses completed, and because four of those completions involved one person completing multiple programs, there were only seven (7) individuals among the 1,024 individuals returning in the next two years who had completed at least one parenting, technology, or vocational education program. UNICOR participation was noticeably lower among those returning in the next six months, one year, or two years, in contrast to those in the overall population.

Figure 22: Parenting and UNICOR Programming by Time until Release

Under 6 Months			Under 1 Year			Under 2 Years		
Program	Count	%	Program	Count	%	Program	Count	%
UNICOR	6	1%	UNICOR	15	2%	UNICOR	32	3%
Parent	3	1%	Parent	3	<1%	Parent	3	<1%
Tech	1	<1%	Tech	1	<1%	Tech	2	<1%
Voc	3	1%	Voc	3	<1%	Voc	5	<1%

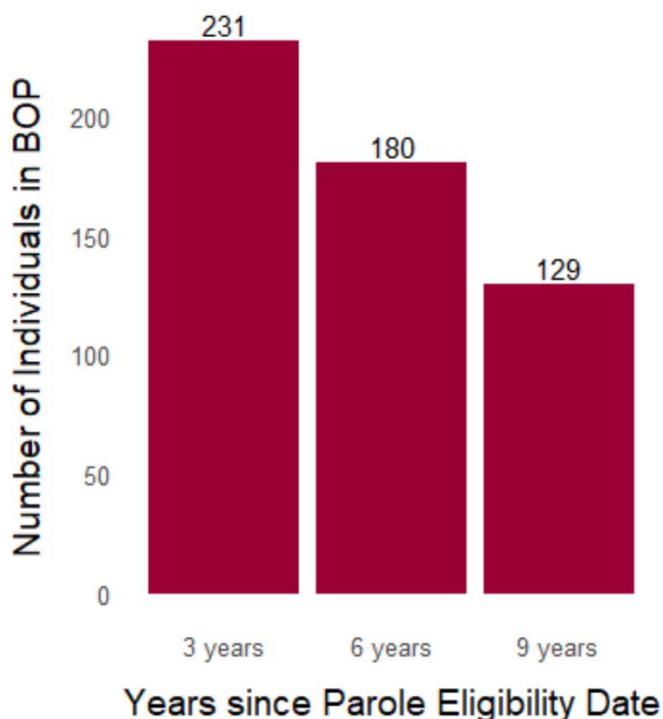
Whole Population		
Program	Count	%
UNICOR	181	6%
Parent	22	1%
Tech	21	1%
Voc	26	1%

Mechanisms for Release

Indeterminate Sentences & Parole Eligibility

Figure 23 shows a count of D.C. Code offenders by the amount of time that has passed since they became eligible for parole. There were 661 D.C. Code offenders in the dataset with indeterminate (paroleable) sentences; and as of August 31, 2020, 345 of those had passed their parole eligibility date. We also recalculated the number of individuals who were parole eligible and whose parole eligibility date had passed at least three, six, and nine years ago. We found that there were 231 individuals for whom at least three years had passed since their parole eligibility date, 180 individuals for whom at least six years had passed since their parole eligibility date, and 129 individuals for whom at least nine years had passed since their parole eligibility date.

Figure 23: D.C. Code Offenders by Years Passed Since Parole Eligibility Date



Of the total 661 people with indeterminate sentences, 522 had life sentences. Among the 139 individuals who did not have life sentences, the mean length of sentence was 750.52 months.

Incarceration Reduction Amendment Act (IRAA)

IRAA is a D.C. law that allows individuals to petition a judge for resentencing if they committed their offense before their 18th birthday and have served at least 15 years of their prison sentence.¹⁵ D.C. Council is also considering legislation,¹⁶ dubbed “IRAA 3.0,” that would amend the current eligibility requirements by raising the age to allow individuals who committed crimes before their 25th birthday to petition for resentencing.

The dataset provided by BOP does not include a date at which offenses were committed, so we cannot accurately calculate the number of people eligible for IRAA. Instead, we produced two estimates: the first used the date of commitment to BOP, though we know commitment happens much later than an offense. Using this proxy, we found two (2) individuals eligible under IRAA 2.0 in the dataset that we received. There were 251 individuals who would be eligible under the proposed IRAA 3.0 criteria.

We also ran a second analysis after adding a two-year lag to our custody date to account for possible time passed between the date at which an offense was committed and the date at which a person

¹⁵ D.C. Code § 24–403.03, <https://code.dccouncil.us/dc/council/code/sections/24-403.03.html>

¹⁶ Charles, “Second Look Amendment Act of 2019 (Proposed)” (D.C. Council, February 2019), <https://lims.dccouncil.us/Legislation/B23-0127>.

entered BOP custody. With that two-year lag included, we identified 26 individuals who we estimate may be eligible for resentencing under current law and 345 who may be eligible under IRAA 3.0.

We considered characteristics of individuals who were eligible for potential resentencing under current law and IRAA 3.0 using our two-year lagged estimates. Even using the two-year lags, we identified very few people who may be eligible for resentencing under current law. Eighteen (18) of the 26 individuals that we identified were between the ages of 36 and 45, six (6) were in the 26-35 age group and two (2) were in the 46-60 age group.

The 345 individuals that may be eligible under IRAA 3.0 were also primarily in the 26-35 age group but skewed older than those who would be eligible under current law – 60 individuals may be eligible for resentencing under IRAA 3.0 among the 46-60 age range, while only seven (7) of the 26-35 group may also qualify for resentencing.

Nearly all individuals who may be eligible under current law and IRAA 3.0 for resentencing were assigned Mental Health Care Level 1. However, around 25% of the individuals who may be eligible for IRAA 3.0 have a Physical Health Care Level 2 and around 40% of the individuals who may be eligible under current law have a Physical Health Care Level 2. Physical and Mental Care Levels among individuals who may be eligible under current law and those who may be eligible under IRAA 3.0 were therefore generally similar to the overall population.

Individuals who may be eligible under current law generally had higher security levels: 24 of the 26 had a Medium or High security level. Similarly, 302 of the 345 individuals who may be eligible under IRAA 3.0 had a Medium or High security level.

Compassionate Release

Finally, we considered individuals who are eligible for compassionate release under the emergency coronavirus legislation, which came into effect on June 8, 2020.¹⁷ The legislation identifies several criteria for determining whether an individual is eligible for compassionate release. The court must find that an individual is not a danger to the safety of another person or the community and find evidence of the individual's rehabilitation while incarcerated. We do not have data for these criteria and therefore do not include them in our analysis. If the initial criteria regarding safety and rehabilitation is met, an individual is eligible for compassionate release if they meet one of the three following criteria.

First, an individual may qualify for compassionate release if they have a terminal illness. We do not have an exact measure for terminal illness, but we do have the Physical Care Level of individuals in BOP custody. We use Care Levels 3 and 4 as our best proxy for those who may have terminal illnesses. There were 46 individuals with Care Level 3 and 46 individuals with Care Level 4.

The second criterion is related to age and years served. This criterion is met if the defendant is 60+ years of age or older and has served at least 25 years in prison. We identified 30 individuals who were 60+ years old and had served at least 25 years in prison. There have been proposals to change this criterion

¹⁷ D.C. Act 23-328, Title VII, 706, 3(d). [https://code.dccouncil.us/dc/council/acts/23-328.html#%C2%A7706\(b\)\(2\)](https://code.dccouncil.us/dc/council/acts/23-328.html#%C2%A7706(b)(2))

such that anyone who was at least 55+ years old and had served 20+ years would be eligible for release. We identified 244 such individuals in the dataset.

The final criterion is slightly more complicated. It stipulates that an individual can be considered for compassionate release if they had a debilitating medical condition involving incurable, progressive illness or were at least 60 years old, had served at least 20 years in prison or the greater of 10 years or 75% of their sentence, and have a chronic or serious medical condition.

Our best proxy for debilitating medical condition involving incurable, progressive illness is the same as our proxy for terminal illness. There were 46 individuals with a Physical Care Level of 3 and 46 individuals with a Physical Care Level of 4.

Regarding the next component of the criterion, we identified 40 people who were at least 60 years old and had served at least 20 years. As we do not have an indicator for serious medical condition, we again use Physical Care Level as a proxy. Of the 40 individuals identified, six (6) were a Care Level 1, 29 were a Care Level 2, two were a Care Level 3, and three were a Care Level 4. We also identified five (5) individuals who were at least 60 years old and had served the greater of 10 years or 75% of their sentence. Two of these individuals were a Care Level 1 and three were a Care Level 2. It is not clear whether any of the individuals with Physical Care Levels of 1 or 2 have a medical condition serious enough to qualify for compassionate release consideration. Figure 24 summarizes the compassionate release criteria described above.

Figure 24: Compassionate Release Criteria and Counts

<i>Criteria</i>	<i>Count</i>
Care Level 3	46
Care Level 4	46
60+ (age) and 25+ (served)	30
55+ (age) and 20+ (served)	244
60+ (age) and 20+ (served)	40
<i>above</i> with Care Level 1	6
<i>above</i> with Care Level 2	29
<i>above</i> with Care Level 3	2
<i>above</i> with Care Level 4	3
60+ (age) and > of 10 years or 75% of sentence	5
<i>above</i> with Care Level 1	2
<i>above</i> with Care Level 2	3

Conclusion

While the conclusions we can draw from a one-day snapshot are limited, this first-ever analysis of data on D.C. Code offenders in BOP custody sheds some light on who we incarcerate and who will return home to D.C. CCE will continue to use this data to inform the work of the Task Force and its committees as you develop your Phase II Implementation Plans.