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**Statement of the Council for Court Excellence
Before the Committee on the Judiciary and Public Safety
Of the Council of the District of Columbia**

**Public Oversight Roundtable on
Local Control of Parole in the District of Columbia**

May 6, 2021

Good morning Councilmember Allen and other distinguished members of the Committee. My name is Jon Jeffress. I am here testifying today in my role as a Board Director at the Council for Court Excellence (CCE) and Co-Chair of CCE's Criminal Justice Committee. I am joined by Casey Anderson, Policy Analyst for CCE. CCE is a nonpartisan, nonprofit organization with the mission to enhance justice in the District of Columbia. For nearly 40 years, CCE has worked to improve the administration of justice in the courts and related agencies in D.C. through research and policy analysis, facilitating collaboration and convening diverse stakeholders, and creating educational resources for the public. Please note that per our policy, no judicial member of CCE participated in the formulation or approval of this testimony. This testimony does not reflect the specific views of or endorsement by any judicial member of CCE.

With the sunset of the U.S. Parole Commission (USPC) slated for November 1, 2022, D.C. must establish an alternate paroling authority expeditiously to allow parole grant, parole and supervision revocation and early parole termination decisions to be made by a local authority instead. D.C. has an unprecedented opportunity to create a new parole authority entirely from scratch, re-establishing the local function in a way that ensures high-quality adjudication and due process, and recognizes the decades of damage inflicted upon the District's Black residents by a history that includes biased

policing, harsh sentencing laws, aggressive prosecutions, restrictive parole grant policies, and punitive revocation procedures, while still ensuring thoughtful consideration of public safety and the consequences of release for victims of crime.

We stand at a crossroads in the District's history and our ability to assure more humane treatment of our residents. Right now, the U.S. Congress, the Bowser Administration, and the D.C. Council have a rare – and time-restricted – opportunity to create, through legislation and policy, new parole and supervision guidelines that would reflect D.C. community values, provide meaningful due process rights, and significantly impact the current incarceration system in the District, as more than one in 10 of our currently incarcerated residents at the jail and in the federal Bureau of Prisons are there because of release violations. Most of these are only technical violations, not new crimes.

Over the years, CCE has completed substantial research on the needs surrounding parole and supervised release in D.C., and the significant limitations that have come from the vesting of parole power in an unaccountable federal agency.¹ Additionally, members of our staff, our Board, and the District Task Force on Jails & Justice that we supported, have represented clients before the USPC and have first-hand knowledge of these barriers to justice for all involved. As part of this research and evaluation, CCE has taken seriously the thoughtful debate that has been ongoing within the criminal justice reform community about where the release and revocation powers should be housed.

There would indeed be significant benefits to the fair administration of justice were this authority to be housed with our local Superior Court, as is recommended by some of D.C.'s

¹ In addition to our recent work with and for the District Task Force on Jails and Justice, *see also* Brief *Amicus Curiae* of the Council for Court Excellence in Support of Petitioner, *Bailey v. Smoot*, U.S. Supreme Court, No. 15-1217, cert. denied (Apr. 14, 2016); Aug. 31, 2015 Letter to the U.S. Court of Appeals for the District of Columbia regarding Paroling Practices in D.C., http://www.courtexcellence.org/uploads/publications/Restoring_Local_Control_of_Parole_Sign_On_Letter.pdf

experts on parole and supervised release litigation, including the Public Defender Service for the District of Columbia. Our excellent and diverse judges are trained to evaluate evidence, hear from witnesses, consider victim impact and community safety when making release decisions, and prioritize due process above all else. We recognize the merits of this preference and would want to see it considered in earnest, were the circumstances different.

Unfortunately, however, with a trial court that is currently short ten of its judges (which is 18% of its full bench), that has suffered recent cuts to its federally-established budget, and that will be reeling with the ripple effects of case delays and new filings amid and post-pandemic, CCE does not believe that the path forward can realistically involve Superior Court at this moment. CCE has analyzed correctional data for D.C. and learned that more than 600 currently incarcerated people are on parole-eligible D.C. sentences, with more than 300 of them eligible for parole right now. Additionally, there are approximately than 9,500 individuals currently on supervision in D.C. on any given day. One recent estimate suggests that delegating parole and supervised release revocation hearings to Superior Court would add an additional 1,300 or more cases to its existing docket.

Perhaps when D.C. has full budget authority over its courts and the case backlogs caused by the pandemic are behind us, the siting of this power can be revisited. With D.C. statehood or changes to the Home Rule Act, the District could ensure dedicated and sufficient resources for the additional parole and supervised release functions within Superior Court, and the merits of formal judicial review could prevail. However, the court's current lack of capacity and lack of resources to take on this new statutory obligation means there is no realistic way to resume local control of our parole authority by November 2022 unless we focus on establishing a new D.C. Parole Board right away and begin enacting legislation, providing budget authority for FY22, and developing

regulations necessary for its function. Note that for the sake of simplicity in this testimony, we refer to a Parole Board, but recognize that D.C. may seek to structure its authority differently than the traditional, and frequently criticized, model of “parole boards” in the U.S.

In addition to the vital first decision about where the new parole and supervised release authority is established, CCE is also invested in seeing the new Board embody a range of specific traits and requirements in order to ensure fair and just consideration of individual cases. Further, we were proud to support the District Task Force on Jails & Justice over the last two years. That interdisciplinary body and its committees of engaged stakeholders developed detailed recommendations outlining the critical qualifications, policies, and principles for any future paroling authority in D.C. These recommendations are all shaped by best practices in jurisdictions across the country, feedback from directly-impacted and incarcerated residents, the District’s own experiences under the USPC, and the resounding community calls for a new, restorative justice approach to paroling and decarceration.

Establishing a D.C. Parole Board will strengthen local control over the District’s justice system. Since a Board would be made up of people appointed by locally-elected officials and D.C. law would guide the qualifications of any hearing officers, administrative law judges, or decision-makers on staff, it would be significantly more accountable to District residents than the USPC. The D.C. Council would have oversight over the Board’s performance and the District would have budgetary authority over the Board. While the Board would have to be funded by local District dollars, estimates have shown that the cost is feasible. The USPC has an annual budget of \$13 million, but the Justice Policy Institute estimated in its December 2019 report, “Restoring Local Control of Parole to the District of Columbia,” that the annual budget of a Parole Board may be

around \$4 million, after initial start-up costs.² Assuming a local Board incarcerates people at a lower rate, and that DOC's overall population is reduced by 20 percent, the District could cover the annual costs of a new Parole Board. While CCE is not proposing a specific path for where to find the budget dollars, we are confident that if the District prioritizes this critical criminal justice function, this modest budgetary investment that could be identified by the Council and the Administration with relative ease. While we describe it as a modest budgetary investment, the benefits of restoring humanity and dignity to D.C. residents entangled in the parole system are significant.

It is also important to understand that the District has an opportunity to create something that is qualitatively different than previous parole models: a Parole Board that actively works to reduce incarceration and to advance the rights and opportunities of returning citizens, as part of its central mission, in addition to its public safety considerations. While the experiences of other jurisdictions are useful guideposts, the District will be able to establish its modern policies that better ensure justice. Rethink Justice D.C. and the D.C. Reentry Task Force's "[Principles for the Creation of a New Paroling Authority](#)" includes recommendations about how to ensure this happens, including the professionals needed to operate the Board. Additionally, the District Task Force on Jails & Justice, through its Local Control committee, explored the most important qualities of a new D.C. parole authority in detail and the Task Force made recommendations to guide the District this February.³ CCE believes these serve as helpful guideposts for the District as

² <http://www.justicepolicy.org/uploads/justicepolicy/documents/DCParoleStudy.pdf>

This calculation was done by comparing the caseload of comparable state Parole Boards to the needs of the District. For a detailed analysis, see JPI's report, page 72.

³ District Task Force on Jails & Justice. (2020, October 29). *Report on the Committee on Local Control*.

http://www.courtexcellence.org/uploads/publications/Local_Control_Committee_Report_to_the_Task_Force.pdf

it begins to establish a structure and regulations for a new parole authority in D.C. over the next year.

Restoration of local control of parole decision-making a first step toward reducing the population of D.C.'s incarcerated residents and people under court supervision. If designed and implemented correctly, it would introduce greater fairness into the parole grant process and create a system of release supervision that provides support for reentry, treatment for behavioral health issues, and emphasizes principles of restorative justice and reconciliation. Ultimately, a local Parole Board affords the D.C. community the opportunity to establish a new approach that reflects the interests of its justice-harmed and victimized community members, takes proactive steps to reduce incarceration in D.C., and affirms returning citizens' rights to liberty and to be made whole within their community. One essential element notably absent during the two decades under the regime of USPC is transparency in operations and accountability to the local community. This too must change and become a statutory requirement of the new local Board.

As CCE has noted in prior oversight testimony, to achieve all of this in only eighteen months will require focused leadership. It is critical that the Council work with the Mayor to quickly craft a viable plan forward to establish a local paroling authority in D.C. There must be active and immediate collaboration to make this transition a reality before next year. Fortunately, with the tools and recommendations provided by the organizations referenced in our testimony and who are surely also testifying today, D.C. can build upon the groundwork already documented. In short, we must have a locally-established option before the U.S. Parole Commission sunsets in 2022 – we cannot afford to delay this action any further.