



DECEMBER 2016

BEYOND SECOND CHANCES

RETURNING CITIZENS' RE-ENTRY STRUGGLES AND
SUCCESSSES IN THE DISTRICT OF COLUMBIA



About the Council for Court Excellence

Formed in the District of Columbia in 1982, the Council for Court Excellence (CCE) is a nonprofit, nonpartisan civic organization that envisions a justice system in the District of Columbia that equitably serves its people and continues to be a model for creating stronger and more prosperous communities.

CCE's mission is to enhance the justice system in the District of Columbia to serve the public equitably. CCE identifies and proposes solutions by collaborating with diverse stakeholders to conduct research, advance policy, educate the public, and increase civic engagement.

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ON THE COVER

Returning citizens pictured: Kawan McCoy, Trevor Dixon, Sakenia Hammond, Vedo Hall, James LeBlanc, Chearie Phelps-El, and Victor Blanco.

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In consultation with CCE's Criminal Justice Committee, chaired by **Carol Elder Bruce**, Esq., and its Re-entry Subcommittee, chaired by **Theodore C. Whitehouse**, Esq., this report was written by CCE staff members **June Kress**, D.Crim.; **Ben Moser**, MPA; **Emily Tatro**, Esq., and former senior policy analyst **Tracy Velázquez**, MPA. Several CCE interns also contributed to this report: **Sylvia Ashley**, **Samantha Farish**, **Fleming Farrell**, **Kirsten Flicker**, **Indira Galvez Guzman**, **Devon Hays**, **Ellen Hornsby**, **Christian Lake**, **Abigail Mitchell**, **Elias Schultz**, **Kimberly Soy**, **David Weinraub**, and **Alejandra Whitney-Smith**. CCE staff members **Sarah Medway**, J.D., LL.M., and **Danny Reed** contributed editing and production support.

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Portraits of Re-entry

The black-and-white portraits on the cover and throughout *Beyond Second Chances* are people who have returned home to D.C. from incarceration. They have shared their struggles and successes, and they lend their faces and voices to *Beyond Second Chances* to help convey the collective story of many more just like them.

These wonderful photographs are generously provided pro bono by **Kristin Adair**.

PHOTO CREDIT FOR PORTRAITS THROUGHOUT REPORT:

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CCE's History of Criminal Justice Reform Efforts

For the last 34 years, the Council for Court Excellence has made criminal justice a major reform priority and has worked to improve the efficiency and effectiveness of criminal justice processes in the District of Columbia. We have engaged in sentencing reform, pushed for the creation of two community courts to divert people from prison and jail, and advocated for the rights of crime victims and their families with the enactment of a D.C. crime victim bill of rights.

But it was not until 2005 that CCE began a more serious and focused examination of the issue of re-entry and the prospects of removing the collateral consequences of conviction for D.C. residents who have a criminal record. Collaborating with a diverse group of stakeholders representing the local and federal government, direct service providers, the D.C. Chamber of Commerce, lawyers, judges, and others, CCE conducted a survey of expungement statutes nationwide, because the District did not have one in place, and produced a report and legislative proposal that resulted in the D.C. Council passing the Criminal Record Sealing Act of 2006.

From there, we began to explore the relationship between unemployment and recidivism. By conducting surveys of returning citizens and the business community, as well as research into legislative best practices elsewhere, we published *Unlocking Employment Opportunity for Previously Incarcerated Persons in the District of Columbia* in 2011.

Less than a year later, CCE worked with the D.C. Council to adopt a bill, the Re-entry Facilitation Act of 2012, that contained two of our report's five recommendations: (1) Address employers' liability concerns about hiring a person with a criminal record by offering a method that would ban the revelation of the employee's criminal record in a civil negligent hiring lawsuit and (2) Establish a certificate of good standing program, available to persons with a criminal conviction upon completion of their sentence, probation or community supervision. The bill also amended the 2006 Criminal Record Sealing Act, such as reducing the amount of time a person must wait to seal eligible convictions.

In June 2013, the D.C. Re-entry Facilitation Act became law, and we set out to talk with the business community about our report's findings and the subsequent legislation. We addressed the Workforce Investment Council in the fall of 2013; a year later, we sponsored a forum for the business community, *Hiring People with a Criminal Record*, moderated by PNC Bank regional president Michael Harreld. The forum featured Harry Wingo, then-CEO of the D.C. Chamber of Commerce, and business leaders and experts on re-entry and employment. D.C. Council chair, Phil Mendelson, presented on legislative reform efforts.

Since then, CCE has examined the subject of parole and how we might change the course of people who remain incarcerated long after they presumptively would have been paroled at the completion of the low end of their

indeterminate sentence (e.g., 10 to 30 years). D.C. has not used indeterminate sentencing since passing the Sentencing Reform Amendment Act of 2000. Some people sentenced prior to the act, however, have remained incarcerated beyond their parole eligibility because of how the D.C. Board of Parole used its discretion in applying its guidelines.

CCE is also committed to removing, or at least lessening, the many obstacles to expungement that have inadvertently arisen since the passage of the Criminal Record Sealing Act of 2006. Simultaneously, we are attempting to unpack the issue of certificates of good standing that have not been implemented by the D.C. government in any meaningful way. Finally, we are working with the Community Justice Project at Georgetown University Law Center to research appropriate options for a clemency process for D.C. Code offenders that will be more accessible and fair.

In 2014, CCE revisited the District's re-entry system to expand on our previous re-entry work that focused on obstacles to employment for returning citizens. This work has culminated in the report that follows, which is the most extensive, comprehensive examination of re-entry in the District to date. We are optimistic that the findings and recommendations we present will lead to reforms that will reunite families, strengthen communities and raise the quality of life throughout the District.

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Executive Summary

The path home from time in the criminal justice system is a rocky one, no matter who has to walk it or where they are headed. But here, in our nation's capital, that path is incredibly complex and laden with obstacles, such as overlapping local and federal jurisdictions, a lack of resources to help returning citizens, and systems that do not always serve the unique needs of specific populations.

In a city where 1 in 22 adults is under some form of correctional control on any given day,ⁱ simplifying that path will benefit thousands of District of Columbia residents, their families, and the entire city by helping returning citizens move beyond second chances to fulfill their full potential.

Through a review of previously unreleased data and a series of in-depth interviews with returning citizens and service providers who see firsthand the obstacles that these people too often confront, this report provides the most complete picture to date of the unique challenges that returning citizens face in D.C. The report also includes examples of promising re-entry service models from jurisdictions around the country and from the District of Columbia. Finally, the report outlines the Council for Court Excellence's (CCE) recommendations to improve our neighbors' reintegration into the community.

Main Findings

In compiling this report, CCE first sought to identify the challenges that returning citizens face nationally and in the District of Columbia. While each of these has a variety of contributing elements that must be addressed—and CCE's recommendations to do that are detailed in the report—these are the top-line findings:

- D.C.'s criminal justice system is unique compared to the rest of the nation with its mix of local and federal jurisdictions. Different standards and procedures between these jurisdictions can complicate the re-entry process.
- D.C. Code offenders are often sent to facilities throughout the country, including as far away as the West Coast, despite the Bureau of Prisons' (BOP) policy to attempt to place them within 500 miles of D.C.ⁱⁱ This distance isolates offenders from the support systems of family, friends, and local service providers that are crucial to their successful return.

i U.S. Census data show that there are about 504,242 adults in the District of Columbia as of 2015. The population under correctional control in D.C. on a given day (excluding average daily arrests) was 22,999, equivalent to approximately 456 out of every 10,000 adults, or 1 in 22 adults.

ii CSOSA. (2014). *Re-entry in Washington, D.C.* Washington, D.C.: CSOSA.

- The population of D.C. Code offenders is starkly homogeneous. Although slightly less than half of all D.C. residents are black, more than 96 percent of D.C. Code offenders incarcerated at BOP facilities are black. The struggles that result from a criminal record are experienced almost entirely by D.C.'s black community.
- The U.S. Parole Commission (USPC) uses its own guidelines for granting parole, despite the existence of D.C. rules.ⁱⁱⁱ In fact, the entire process for granting or revoking parole or supervision under the USPC does not effectively serve D.C. Code offenders.
- The D.C. Mayor's Office on Returning Citizen Affairs (MORCA) has not been able to achieve its mission—to coordinate and monitor service delivery to returning citizens, and make policy recommendations regarding returning citizens to the mayor—due to limited funding and resources.
- Lack of affordable housing is a persistent problem: 90 days into community supervision, 22 percent of employed returning citizens, 32 percent of unemployed returning citizens, and 38 percent of unemployable returning citizens face housing instability. D.C. is consistently ranked as one of the most expensive cities for housing in the U.S.^{iv} and public housing options are extremely limited, complicating returning citizens' search for stable, long-term housing.
- Employment is a major problem for returning citizens. Among employable returning citizens entering supervision during 2015, 71 percent reported they were unemployed.^v Unfortunately, D.C.'s job market poses special challenges for the city's returning citizens. In 2012, nearly half of all job openings in the D.C. metro area required a college degree,^{vi} a rate 10 percent higher than other metro areas. It is projected that by 2020, 76 percent of all jobs in the D.C. metro area will require postsecondary education.^{vii}
- Access to care for physical and mental health issues is greatly lacking. For example, offenders incarcerated locally in D.C. and on Medicaid are able to have their coverage suspended instead of revoked while they serve their sentence. But D.C. Code offenders in BOP custody around the country do not have a process to renew their Medicaid coverage before their return and consequently may face gaps in health care access.
- D.C. does not have enough high-quality, re-entry-specific programming, and the gaps are greatest for programs designed to accommodate the needs of special populations, including women, youth and members of the lesbian, gay, bisexual, transgender and queer (and/or questioning) (LGBTQ) community.

Top Recommendations

Identifying the obstacles for returning citizens was just the first step. CCE's next goal was to develop remedies to change official policies and practices and to improve the enforcement of existing policies and practices.

iii Brief for Council for Court Excellence as Amici Curiae Supporting Petitioner, *Bailey v. Smoot*, cert. denied, 2016 WL 4524368 (U.S. Apr. 14, 2016) (No. 15-1217).

iv See, for example, Elkins, K. (2016). The 11 most expensive cities in America. *Business Insider*.

v CSOSA. (2015). *Employment at 90 days and educational attainment of 2015 CSOSA entrants*. Unpublished raw data analyzed by authors and on file with CCE.

vi Rothwell, J. (2012). *Education, job openings, and unemployment in metropolitan America*. Washington, D.C.: The Brookings Institution.

vii Carnevale, A. P., Smith, N., & Strohl, J. (2013). *Recovery: Projections of jobs and education requirements through 2020*. Washington, D.C.: Georgetown Public Policy Institute at Georgetown University.

While the report outlines in detail numerous recommendations for reform, the following are likely to have the most significant impact:

1. **MORCA FUNDING:** MORCA should be fully funded in the next budget cycle so that it can implement the recommendations included in the D.C. Inspector General’s report and the University of Maryland’s assessment of the agency and better serve D.C.’s returning citizens by operating as a re-entry hub, coordinating referrals to service providers and helping to develop and implement policy ideas.
2. **BOP LEADERSHIP:** CCE reiterates the D.C. Re-entry Task Force’s recommendation that the BOP should create an ombudsman position focused specifically on D.C. correctional issues.
3. **HOUSING:** Correctional facilities and housing providers should permit and assist returning citizens to apply for and reserve housing up to 90 days prior to release.
4. **EMPLOYMENT:** Research should be conducted to determine incentives that would encourage employers to hire returning citizens; such incentives should then be developed, implemented and evaluated.
5. **HEALTH:** D.C. government agencies responsible for health care-related benefits should ensure that people who have disabilities and chronic illnesses—including serious and persistent mental illness—face no gap in service coverage for either Medicaid or disability benefits. Furthermore, the BOP should send a weekly list of people being released from their facilities to the Department of Healthcare Finance to prevent gaps in Medicaid coverage and allow for medication and medical services not to lapse.
6. **HALFWAY HOUSES:** The BOP should not renew Hope Village’s contract. Instead, it should use the updated statement of work to hold a new halfway house provider accountable for offering high-quality services, including workforce engagement, connection to behavioral and physical health services, securing housing, family support and offense-specific issues, by tracking outcomes such as employment, engagement in treatment, and recidivism.

Conclusion

CCE’s research clearly reveals that D.C.’s returning citizens face a variety of challenges that returning citizens elsewhere simply do not confront. Overlaps in federal and local jurisdictions, along with a lack of support systems and services, combine to create daunting obstacles to successful re-entry for thousands of people coming home to the District of Columbia.

It does not have to be this way. Many best practices, programs, and approaches described in this report can be adapted for use by the D.C. government and by federal agencies to increase returning citizens’ chances for successful reintegration.

The issues CCE identifies and the solutions this report recommends will go a long way to alleviate many challenges returning citizens face in D.C. This report, however, should not be considered the end of this process. Indeed, it is a blueprint. Policymakers, service providers, and returning citizens have the opportunity to work together to tackle the most pressing issues of our re-entry system. Our community should ensure that returning citizens have the tools and resources they need to successfully come home. For their sake and for the sake of our city, we must take substantive, corrective action now.