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**Testimony of the Council for Court Excellence  
Before the Committee on the Judiciary & Public Safety  
of the Council of the District of Columbia**

**2023 Performance Oversight Hearing**

Wednesday, March 1, 2023

Good morning, Chairwoman Pinto and members of the Committee on the Judiciary and Public Safety. My name is Olinda Moyd and I am here in my capacity as the Co-Chair of the Council for Court Excellence's Criminal Justice Committee, as well as a member of CCE's Board of Directors. CCE is a nonpartisan, nonprofit organization with the mission to enhance justice in the District of Columbia. For over 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, convening diverse stakeholders, and creating educational resources for the public. Please note that in accordance with 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.

I am here today to testify about the D.C. Clemency Board, which is supported by the Executive Office of the Mayor's Office of General Counsel. Five years ago, D.C. Council passed the Clemency Board Establishment Act of 2017, as part of B22-0901, the Fiscal Year 2019 Budget Support Emergency Act of 2018. Once passed, this bill created the District's first ever Clemency Board. The creation and implementation of this Board is critical for Districts residents,

not only because of the difficulty that individuals convicted of D.C. Code offenses face in seeking mercy from the executive branch, but also because any final pardon or commutation relief opportunities should be considered by those in the very community where that person was convicted. In step with concepts of restorative justice, any acts of forgiveness must engage the very community that may have been harmed. While D.C. does not have the final say regarding clemency recommendations that must still be approved by the President, the current structure authorizes the D.C. Clemency Board to make recommendations for each District resident seeking such relief.

Despite the gains made by creating D.C.'s own Clemency Board, people who are convicted of D.C. Code offenses continue to experience unique barriers to accessing clemency. Unlike the 50 states, where a person convicted of a state offense can request clemency from the governor, the mayor of the District of Columbia does not possess the authority to grant clemency to people convicted in D.C. – only the President of the United States can do that. Unsurprisingly, however, the federal clemency system is designed for people convicted of federal offenses. Prior to the establishment of the D.C. Clemency Board, we had no way of knowing how many people incarcerated under the D.C. Code had applied for clemency through the federal system; we did know that they represented about 2.4% of the Federal Bureau of Prisons' (BOP) population but only accounted for .037% of clemency grants. We also know that the District's incarcerated population is overwhelmingly Black, and 95% of people incarcerated in a BOP facility because of a D.C. Code offense are Black.

Despite statutory enactment of the D.C. Clemency Board in 2018, the Clemency Board did not meet until July 2020 and did not publish proposed regulations until August 2021. These regulations were finalized in late December 2021 after receiving significant community feedback regarding board procedures and operations. The four years it took from the legislation's enactment to the D.C. Clemency Board finalizing its regulations is four years people convicted

of D.C. Code offenses, the majority of whom are Black, spent not having meaningful access to clemency.

However, we are proud of the recent progress that has been made both by the D.C. Clemency Board, and by District leaders in supporting the D.C. Clemency Board. We were heartened to see the Fiscal Year 2023 budgetary investment for a full-time staff attorney for the D.C. Clemency Board, and want to thank Councilwoman Bonds for making this investment happen and the rest of Council for their support of this investment. We hope to see this as a recurring budgetary investment. CCE, along with other advocates, has been recommending hiring a full-time staff attorney for the D.C. Clemency Board for three years, and we do believe this investment has made a difference, as the D.C. Clemency Board received its first application in July 2022. With the support of a full-time staff attorney, the Clemency Board was also able to draft and approve regulations, create a website, and publish a FY22 Annual Report, making the work of the D.C. Clemency Board more accessible to District residents. I have attended nearly every Clemency Board meeting, often as the sole public citizen, and have observed the impact that having full-time staff has made in the implementation of the Board's work.

A key pillar of CCE's work is educating and empowering community members to know and understand their rights, the legal tools available to them, and the District's civil and criminal legal system generally. We are delighted that the D.C. Clemency Board has created a Community Engagement Subcommittee and are planning a series of community events throughout the city. The first event was held on February 8, and enjoyed learning more about the outcome from that event at the most recent meeting on February 17. Educating District residents on the importance of clemency, as well as the role and function of D.C.'s Clemency Board is critical in ensuring District residents both know – and utilize – the D.C. Clemency Board as an avenue for relief either for themselves or their loved ones.

CCE has been a longstanding supporter of the D.C. Clemency Board, and remains optimistic about the progress that has been made to-date. We look forward to learning about future community education events and will continue to monitor the D.C. Clemency Board's progress in accepting and reviewing applications. This concludes my testimony. Thank you for the opportunity to testify. I look forward to answering any questions you may have.