

# **Report of the Committee on Local Control to the District Task Force on Jails & Justice**

*October 29, 2020*

## **Background**

In 2019, the District Task Force on Jails & Justice published its Phase I report, with seventeen recommendations, including these four sourced from the Committee on Local Control:

- Recommendation 8: Congress should abolish the U.S. Parole Commission’s authority over people convicted of D.C. Code offenses with the Revitalization Act’s 2020 sunset provision, and the District should plan now to localize parole and supervised release decision-making.
- Recommendation 9: All people convicted of D.C. Code offenses, including those incarcerated in the federal BOP, should serve their sentences under local control, beginning with a plan to allow vulnerable populations to serve the last 6-12 months of their sentences here.
- Recommendation 10: Any halfway house for D.C. Code offenders must be in D.C., of high quality, and directly accountable to the District.
- Recommendation 11: The District should immediately begin operations of the local Clemency Board.

In Phase II, the Committee on Local Control is now tasked with developing an implementation plan to guide the District in actualizing these recommendations. The plan should answer the following questions:

- What is the recommended action?
- What is the intended outcome?
  - Number of people impacted
  - Type of impact (e.g. fewer people held at MPD stations and CCB awaiting arraignment, fewer people admitted to jail, shorter stays, more people released, less probation/parole time)
  - Size of impact (e.g. 10% of people admitted to jail, 5% reduction in average jail time)
  - Analysis of racial inequities
  - Analysis of impact on special populations:
    - People with physical health issues
    - People with serious mental illness and/or substance use disorders
    - People with intellectual disabilities
    - Young adults (18-25 years old)
    - Single parents with custody of minor children
    - Elders (60+ years old)
    - “Short Stayers” (people who are in and out of jail within a week)

- People not charged with a crime against another person
  - People who pose no risk of violence to the community
  - People who identify as women or are members of the LGBTQ+ community
- How will the outcome be measured?
  - Including how to evaluate the effectiveness of agencies and programs with the mission of reducing recidivism and/or increasing public safety (well-being outcomes: employment, education, etc.)
- What is the trigger of change? (law, regulation, policy, practice, and local or federal body with power to make that change)
- What are the steps required to achieve the outcome?
  - Actors
  - Deadlines
- How much will it cost? (budget and whether/how funded)
- How much of a priority is this? (based on impact, feasibility, community support, and ripeness - scored high, medium, low)

This memo identifies actions that will lead to local control of the District’s criminal justice system. The Committee acknowledges this process will be complicated, political, and come with substantial costs. However, the Committee believes that these changes are necessary to serve D.C.’s justice-involved residents better; reduce the harm caused by D.C. Code offenders being housed hundreds, if not thousands, of miles away, consistently denied parole, petitioning for clemency before the President of the United States, and not having a high-quality halfway house to reside in when they return home; and ultimately make our communities safer. Given that the overwhelming majority of the District’s justice-involved residents are Black, restoring local control is just as much a racial justice issue as it is an issue of access to a humane, transparent, and dignified justice system.

The Committee’s work has taken on a new sense of urgency during the coronavirus pandemic. The District’s only halfway house for men, Hope Village, permanently closed on April 30, 2020.<sup>1</sup> Hope Village had previously held a contract to provide residential reentry services for the federal Bureau of Prisons (BOP) for more than 20 years. Upon its closure, Hope Village residents were released on home confinement or transferred to one of three other BOP contracted facilities in Maryland, Delaware, or Virginia. For six months, returning citizen men have not had a halfway house in the District through which to return home. Because the halfway house operated through a federal contract with the BOP, the District government had no control over where residents of Hope Village were sent. The District did not secure a temporary halfway house space or provider or take other actions to keep the residents of Hope Village in the District. Having a high-quality, accountable halfway house in the District helps returning citizens remain better connected to services, their families, and the community.

---

<sup>1</sup> Moyer, Justin and Hsu, Spencer. “D.C.’s only halfway house for men is ‘winding down’ amid coronavirus concerns.” *The Washington Post*. April 16, 2020. [https://www.washingtonpost.com/local/D.C.s-only-halfway-house-for-men-is-winding-down-amid-coronavirus-concerns/2020/04/16/c49be3fc-8007-11ea-8de7-9fdff6d5d83e\\_story.html](https://www.washingtonpost.com/local/D.C.s-only-halfway-house-for-men-is-winding-down-amid-coronavirus-concerns/2020/04/16/c49be3fc-8007-11ea-8de7-9fdff6d5d83e_story.html)

D.C. faced a similar challenge with D.C. Code offenders housed in the BOP during the pandemic. The District had no control over the conditions of confinement or precautions taken by the BOP during the public health emergency. Lack of oversight, accountability, and control over D.C. Code offenders in the BOP severely limits the District's ability to rapidly respond to crises like the pandemic and diminishes the quality of response the District can provide. The challenges created by not having full local control of the District's criminal justice system were exacerbated during COVID-19.

Finally, depending on the November 2020 election outcome, the District could see statehood votes in Congress as early as next year. The Committee supports regaining local control of all aspects of the District's criminal justice system and achieving statehood. Achieving statehood will require the District to assume all functions of its criminal justice system, and the Committee urges the D.C. government to ensure that it is poised to do so. The recommendations listed below are intended to serve as a guide for the District Task Force on Jails & Justice as it determines how D.C. should regain local control of its criminal justice system and ultimately prepare for statehood. However, were statehood to be achieved, other agencies not mentioned in this report, including Court Services and Offender Supervision Agency (CSOSA), Pretrial Services Agency (PSA), the Public Defender Service for the District of Columbia (PDS), D.C. Superior Court and the D.C. Court of Appeals, and aspects of the work of the U.S. Attorney's Office for the District of Columbia (USAO-DC) and the U.S. Marshall Service (USMS) would also need to transition to local control. If statehood is achieved, local policymakers should look at what successful agencies fulfilling these functions in other jurisdictions look like, and modify these agencies accordingly, including removing any Presidential appointment power.

## **A New Paroling Authority in the District**

### *Background*

If Congresswoman Norton's proposed two-year U.S. Parole Commission (USPC) sunset provision is enacted, D.C. will need an alternate paroling authority to begin making parole grant and parole and supervision revocation decisions beginning November 1, 2022.

The USPC currently has jurisdiction over several different populations of individuals sentenced under the D.C. Code.

Any person whose offense occurred on or before August 4, 2000, received an indeterminate sentence (e.g., 15 to 45 years, where 15 years less any good time is the minimum term of years a person must serve before they are eligible for release on parole, and 45 years is the maximum a person can serve before they must be released). There are 661 individuals sentenced under the D.C. Code still serving indeterminate sentences in the Bureau of Prisons (BOP).<sup>2</sup> This accounts for about 20% of the total number of individuals sentenced under the D.C. Code in the custody

---

<sup>2</sup> CCE received updated parole eligibility markers from the BOP on August 3, 2020. All data in this memo is based upon this new analysis.

of BOP. Their parole eligibility dates range from July 13, 1988 to June 23, 2214. About half of these people (342) have hit their minimum dates and are parole eligible.

Any person whose offense occurred on or after August 5, 2000 received a determinate sentence (e.g., 15 years of incarceration and 5 years of supervised release). They are not eligible for parole.

People sentenced under both schemes are supervised by CSOSA once they are released from prison. If CSOSA files an alleged violation of release (AVR) against a person, they have a hearing before the USPC and the USPC can revoke their parole or supervised release and send them back to prison. There are 317 individuals sentenced under the D.C. Code in BOP custody (about 10%) who are currently in custody because of a violation of supervised release or parole. As of October 26, another 145 people were detained at the D.C. Department of Corrections (DOC) by the USPC, either awaiting hearings or serving sentences for alleged violations of parole or supervised release.<sup>3</sup>

Last year, CSOSA's average daily population was approximately 9,500 supervisees—parolees, supervised releasees, and probationers (who are not the subject of this memo).<sup>4</sup> 14,830 people were supervised by CSOSA throughout FY19. Of the yearly total, 1,173 people were on parole: their revocation to incarceration rate was 5.5%, 12.8% were arrested in D.C. on a new charge, and of those completed that year, 54% were successful.<sup>5</sup> 3,236 people were on supervised release: their revocation to incarceration rate was 16.5%, 20.7% were arrested in D.C. on a new charge, and of those completed that year, 39% were successful. By comparison, 10,421 people were on probation, and this population has their revocation hearings at D.C. Superior Court. Their revocation to incarceration rate was 7.5%, 15.4% were arrested in D.C. on a new charge, and of those completed that year, 73% were successful.<sup>6</sup>

In its 2019 [report](#), the District Task Force on Jails & Justice issued three recommendations relevant to parole and supervised release decision making:

6. The District should reduce the number of admissions and length of stay for people in its secure detention facilities, using incarceration only when an individual poses a specific risk of violence or harm that no community-based resources may mitigate.

---

<sup>3</sup> CJCC Daily Population Count.

<sup>4</sup> Tischner, Richard. "Fiscal Year 2019 Agency Financial Report." *Court Services and Offender Supervision Agency for the District of Columbia*. November 19, 2019. <https://www.csosa.gov/wp-content/uploads/bsk-pdf-manager/2019/11/FY2019-CSOSA-AFR-20191119.pdf>

<sup>5</sup> Please note that completions describe whether terms of supervision have terminated, and successful describes how terms of supervisions terminated. Revocations are always "unsuccessful" closures.

<sup>6</sup> The revocation and re-arrest rates noted above are offender-level estimates. The successful completion rates are case-level estimates. In FY19, CSOSA closed 1,563 supervised release cases. Of those, 612 (39%) were successful, 665 (43%) were revoked, 145 (9%) closed in another unsuccessful manner (e.g., pending a USPC institutional hearing), and 141 (9%) were closed for 'other' reasons (e.g., administrative or death).

7. The Task Force should evaluate the range of policy and practice changes at each decision point along the criminal justice continuum, with the goals of reducing harm, racial disparities, and incarceration, and increasing safety and accountability.

8. Congress should abolish the U.S. Parole Commission's authority over people convicted of D.C. Code offenses with the United States Parole Commission's 2020 sunset provision, and the District should plan now to localize parole and supervised release decision-making.

The Task Force has asked its Committee on Local Control to draft a plan for implementing a new paroling authority in D.C. according to these recommendations.

### *Desired Qualities*

The Committee developed a list of qualities<sup>7</sup> desired in the new paroling authority, designed to align with the recommendations from the full Task Force listed above.

1. The paroling authority will reduce incarceration while increasing public safety and accountability.
  - a. No expansion of the criminal legal system;
  - b. Ensure that grants of parole and revocations are tied to public safety, while reducing incarceration and focusing on rehabilitation;
  - c. Second-look sentencing for all individuals regardless of age at the time of offense and applicable sentencing scheme, compassionate release, and clemency functions should all exist in addition to the opportunity for parole; and
  - d. Presumption of release for those who have completed their minimum sentence.<sup>8</sup>
2. The paroling authority will be legally established and capable of processing cases by November 1, 2022.
  - a. Capacity of authority to process cases;
  - b. Cost effective for D.C.;
  - c. Achievable federal legislative changes; and
  - d. Achievable D.C. legislative changes.
3. There will be strong local control over the way paroling decisions are made, with decisions reflecting the values of District of Columbia residents.
  - a. There will be strong local control of paroling authority and accountability to D.C. without threatening or superseding the liberty interests of supervisees;
  - b. D.C. will write new guidelines embedded with due process safeguards;
  - c. D.C. will write new legislation to reform the supervision system, including eliminating incarceration for technical supervision violations and incarceration

---

<sup>7</sup> Renaud, Jorge. "Grading the parole release systems of all 50 states." *Prison Policy Initiative*. February 26, 2019. [https://www.prisonpolicy.org/reports/grading\\_parole.html#principles](https://www.prisonpolicy.org/reports/grading_parole.html#principles)

<sup>8</sup>ReThink Justice DC & Reentry Task Force. "Establishing Principles for the Creation of a Local Paroling Authority in Washington, D.C." <https://rethinkjusticedc.org/rethink-justice-report-principles-for-a-parole-entity>

- prior to a revocation hearing, and reducing the length of time that individuals serve on supervision;
- d. The paroling authority will be directly accountable to the District through a variety of means, including but not limited to: direct D.C. government control, MOUs, or other legally binding mechanisms or documents;
  - e. Paroling guidelines and values are reflective of the D.C. community; and
  - f. The paroling authority will be reflective of and work in partnership with the District community, especially to ensure the people under its jurisdiction have adequate, realistic release plans.<sup>9</sup>
4. There will be strong protections for people seeking a parole grant or facing revocation of parole or supervised release.
- a. Presumption of release for parole grants focused on rehabilitation and not solely on the original offense;
  - b. Guaranteed due process protections at all hearings;
  - c. In-person hearings with attorney representation;
  - d. Timely decisions from the same actor who presided over the case;
  - e. Ability to prepare with case manager and/or attorney, especially for those housed at the BOP;
  - f. Confidentiality protections surrounding information that is being considered by the paroling authority;
  - g. Transparency, including public guidelines, accurate and consistent data collection and reporting on the paroling authority's activities (e.g., percentages of parole grants vs denials, number of revocations and nature of revocations, timeliness of decision-making) and annual reports, potentially with review by a Citizens' Oversight Committee or Review Panel;<sup>10</sup>
  - h. Ending incarceration for technical violations of parole or supervised release;
  - i. Ending additional incarceration for minor misdemeanor convictions during supervision;
  - j. Reduction or elimination of additional incarceration for parole/supervised release revocations after serving sentences for felonies committed while on parole/supervised release;
  - k. Elimination of arrests on parole warrants based solely on new criminal arrests when the criminal case is still unresolved in D.C. Superior Court;
  - l. Elimination of revocation based solely on new charges when the criminal case is resolved by acquittal, dismissal by the court or the prosecutor, the completion of a diversion program, or a decision by the prosecutor not to prosecute the case at any point prior to conviction;
  - m. Modify the D.C. Code to end the rescission of street time after parole under any circumstances;

---

<sup>9</sup> ReThink Justice DC & Reentry Task Force. "Establishing Principles for the Creation of a Local Paroling Authority in Washington, D.C." <https://rethinkjusticedc.org/rethink-justice-report-principles-for-a-parole-entity>

<sup>10</sup> ReThink Justice DC & Reentry Task Force. "Establishing Principles for the Creation of a Local Paroling Authority in Washington, D.C." <https://rethinkjusticedc.org/rethink-justice-report-principles-for-a-parole-entity>

- n. Right to direct appeal;
  - o. Set off of no more than one year in the parole grant context; and
  - p. Comprehensive approach to reentry.
5. The paroling authority in D.C. should embody the humane, equitable approach to criminal justice articulated by the full Task Force, including a public health approach to community safety and incarceration, fairness in administration, treating all with dignity and encouraging restorative practices and trauma-informed<sup>11</sup> healing-centered<sup>12</sup> practices.<sup>13</sup>

The Committee, unable to reach a consensus and recommend a paroling authority model for the District, has included two memos in support of two paroling authority models. The first [memo](#) argues that the Superior Court of the District of Columbia should assume all parole grant and parole and supervision revocation functions. The second [memo](#) argues that the District should create a new Board of Parole to take on those authorities. Both memos are included as supplemental documents to this report, and were drafted by proponents of each model. The Committee hopes that these memos are helpful in assisting the Task Force in its deliberations on this issue.

### *Community Engagement*

In October 2020, the District Task Force on Jails and Justice’s gave the public an opportunity to submit written or video testimony regarding the development of a new paroling authority in the District and the issue of local control. The committee received eight testimonies in total. Of those eight submissions, five recommended that the new parole authority be accountable to D.C. residents via officials directly elected by D.C. residents; one recommended that parole authority be transferred to the D.C. Superior Court; and three made no specific recommendation. One submission argued on behalf of local control: “The only way the residents of the District can have some say into the practices of a District of Columbia Parole Commission is for it to be appointed by elected officials.” Another respondent who supported a non-D.C. Superior Court solution explained: “Placing the function within the court will not provide accountability by the community or our elected officials as neither have control over the D.C. Superior Court or its [sic] judges.” By contrast, a supporter of placing parole authority within the D.C. Superior Court indicated that judges are accountable because they “are appointed only after vetting by the local D.C. Judicial Nomination Commission (JNC) and must live in D.C.” Furthermore, six testimonies specifically emphasized the importance of developing a transparent and accessible

---

<sup>11</sup> Institute for Trauma and Trauma-Informed Care. “What is Trauma-Informed Care?” *University of Buffalo Center for Social Research*. 2015. [http://socialwork.buffalo.edu/social-research/institutes-centers/institute-on-trauma-and-trauma-informed-care/what-is-trauma-informed-care.html#:~:text=Trauma%2DInformed%20Care%20\(TIC\),individual's%20life%2D%20including%20service%20s](http://socialwork.buffalo.edu/social-research/institutes-centers/institute-on-trauma-and-trauma-informed-care/what-is-trauma-informed-care.html#:~:text=Trauma%2DInformed%20Care%20(TIC),individual's%20life%2D%20including%20service%20s)  
[taff](http://socialwork.buffalo.edu/social-research/institutes-centers/institute-on-trauma-and-trauma-informed-care/what-is-trauma-informed-care.html#:~:text=Trauma%2DInformed%20Care%20(TIC),individual's%20life%2D%20including%20service%20s)

<sup>12</sup> Healing-centered refers to practices focused on restorative justice practices, as opposed to traditional punitive forms of punishment or accountability.

<sup>13</sup> ReThink Justice DC & Reentry Task Force. “*Establishing Principles for the Creation of a Local Paroling Authority in Washington, D.C.*” <https://rethinkjusticedc.org/rethink-justice-report-principles-for-a-parole-entity>

system, regardless of which entity commanded paroling authority. Five major themes were identified in these testimonies and are discussed below.

### *Theme 1: Transparency and Accessibility*

As noted above, a majority (six) of testimonies cited transparency and accessibility as major priorities in reimagining parole. No submission explicitly advocated against these priorities. Four submissions recommended a community review board to provide public oversight over the new paroling authority. Four submissions also recommended that the new parole authority be mandated to collect and publish accurate data on its operations. One submission called for the D.C. Superior Court to assume parole authority in order to guarantee public hearings: “Hearings would be open and fully accessible to the public – promoting a fairer process and more scrutiny.”

### *Theme 2: Representation*

Representation of community members and experts was another prominent theme among submissions. Five submissions recommended that the leadership and staff of the new paroling authority include members of impacted communities, and four of those submissions specifically requested that returning citizens and residents of every Ward of the city be represented. One respondent explained their stance: “Creating a local parole authority...infused with members of our community is the right thing to do.”

Additionally, many submissions recommended expert representation. Five submissions referenced the importance of expertise, however, some respondents defined “expert” differently. One respondent specified the need for process experts, arguing that judges “are expert decision makers. Judicial training and experience in understanding, interpreting, and applying the law mean the forum is a fairer one.” The other four respondents who called for expert representation argued for *subject-matter* experts: “Paroling authority staff should include investigative or assisting staff familiar with the communities in which individuals reside and those with appropriate subject matter expertise.”

### *Theme 3: Ease and Feasibility*

A third major theme that respondents considered in their submissions was the ease and feasibility of implementing and operating different parole authorities. Four respondents referenced the ease and/or feasibility of potential solutions. One indicated that the D.C. Superior Court solution would be more feasible because parole and supervised release “are logical extensions of the court's existing probation functions including grant, review, and revocation.” On the opposing side, three indicated that a separate authority would be more feasible. One of these three respondents stressed that the D.C. Superior Court may not be willing to undertake parole authority, which would therefore render the option infeasible. A second respondent defined their parole authority principles and concluded, “The principles outlined therein imply staffing, administration, organizational, problem-solving and data collecting functions that, while not difficult to build into a small government agency, might not be compatible with a traditional court structure with independent judges whose time and resources are focused on legal adjudication in civil and criminal cases.”

#### *Theme 4: Due Process*

Multiple respondents expressed concerns about due process in making parole decisions. Five submissions emphasized the importance of due process. One respondent argued that the D.C. Superior Court would ensure constitutional due process. Other respondents generally stated that returning citizens and incarcerated individuals should receive due process rights, including a presumption of innocence prior to adjudication and the presence of an attorney, regardless of the type of parole authority.

#### *Theme 5: Community Alternatives to Incarceration*

Nearly all testimonies mentioned community organizations. Five testimonies stressed the importance of utilizing community resources to help returning citizens as an alternative to reincarceration. One respondent summarized their position: “All of the individuals leaving incarceration are grown enough to make their own decisions but may need help in making these decisions happen. There is a world where parole staff could collaborate with the individuals as teammates, rather than overseeing them as supervisors.”

#### *Other Concerns*

Although not recurrent themes, other pressing issues that respondents raised included:

- Sources of funding for a new parole authority;
- Reforming D.C. Code to turn “indeterminate sentences” into “determinate sentences” for incarcerated individuals who were sentenced under outdated law to allow parole eligibility for those offenders regardless of the parole authority decision;
- Possible political pressure on the D.C. Mayor and D.C. Council that would impact parole board appointees and rulemaking; and
- The creation of a new D.C. Board of Parole as a step toward statehood.

### **Bringing D.C. Code Offenders Home from the Federal BOP**

The Committee on Local Control’s Phase I report discussed several different special populations of D.C. Code Offenders who the District should consider transferring to the DOC. The Committee used a dataset acquired from BOP<sup>14</sup>, which gave a snapshot of the D.C. Code offenders, to estimate who might be in these special populations and added other populations to its consideration. It is important to note that this data is a point-in-time snapshot of the D.C. Code offender population on July 4, 2020, which included 3,221 people. Of those people who:

1. Have less than 12 to 24 months to serve;
  - a. In total, there were 1,069 D.C. Code offenders within 24 months of release on July 4, making up 33% of the D.C. Code offender population in BOP custody. Of

---

<sup>14</sup> Council for Court Excellence. “Analysis of BOP Data Snapshot from July 4, 2020.” September 30, 2020. <https://courtexcellence.app.box.com/file/727081027068?s=rgxkm869c0cb2edtjx52b5epphe9wirt>

those 1,069 individuals, 542 were within 6 months of release, 750 within 12 months of release, and 319 individuals within 12-14 months of release.<sup>15</sup>

2. Are housed in a dedicated medical unit;
  - a. We do not have an exact count, but as a proxy looked at the number of people BOP classifies as needing the highest level of care. As of July 4, this included 63 people, or 2% of the population. 17 D.C. Code offenders were classified as requiring Mental Health Care Level 4 and 46 were classified as requiring Physical Health Care Level 4.
  - b. It is worth noting that a 2018 investigation by the Marshall Project found that the BOP was routinely undercounting incarcerated individuals with serious mental illness,<sup>16</sup> meaning the number of individuals who actually require Mental Health Care Level 4 is likely much higher.
3. Who have minor children;<sup>17</sup>
4. Are parole-eligible and have indeterminate sentences (i.e., were sentenced before the law changed in 2000);
  - a. There are 661 D.C. Code offenders with indeterminate, parole-able sentences, and as of August 31, 2020, 345 of those individuals had passed their parole eligibility date.<sup>18</sup>
5. Have been incarcerated for more than 20 years and were 18 years old or younger when they were first convicted (i.e., are potentially Incarceration Reduction Amendment Act (IRAA) eligible);
  - a. The memo to the Task Force on the data received from the BOP includes two estimates of D.C. Code offenders who may be eligible for IRAA. Under the first analysis, two individuals were eligible under IRAA 2.0, and 251 individuals would be eligible under proposed IRAA 3.0 criteria. The second estimate found 26 individuals who may be eligible under IRAA 2.0 and 345 who may be eligible under proposed IRAA 3.0 criteria.<sup>19</sup>
6. Have identified special education needs and/or are required to receive services under the Individuals with Disabilities Education Act (IDEA); and
  - a. While we do not have any data here, we can identify how many people are under the age of 22, which is the age IDEA covers an individual until. There were 94 people at the BOP ages 18-21, roughly 3% of the population.
7. Have been diagnosed with Serious Mental Illness (SMI), Intellectual or Developmental Disabilities (IDD), or Traumatic Brain Injury (TBI).

---

<sup>15</sup> Council for Court Excellence. "Analysis of BOP Data Snapshot from July 4, 2020." September 30, 2020. <https://courtexcellence.app.box.com/file/727081027068?s=rgxkm869c0cb2edtjx52b5epphe9wirt>

<sup>16</sup> Thompson, Christine and Eldridge, Elizabeth Taylor. "Treatment Denied: The Mental Health Crisis in Federal Prisons." *The Marshall Project*. November 21, 2018. <https://www.themarshallproject.org/2018/11/21/treatment-denied-the-mental-health-crisis-in-federal-prisons>

<sup>17</sup> The data the Task Force received from the BOP did not include information on the number of D.C. Code offenders with children.

<sup>18</sup> Council for Court Excellence. "Analysis of BOP Data Snapshot from July 4, 2020." Page 16. September 30, 2020. <https://courtexcellence.app.box.com/file/727081027068?s=rgxkm869c0cb2edtjx52b5epphe9wirt>

<sup>19</sup> Council for Court Excellence "Analysis of BOP Data Snapshot from July 4, 2020". Page 17 -18. September 30, 2020. <https://courtexcellence.app.box.com/file/727081027068?s=rgxkm869c0cb2edtjx52b5epphe9wirt>

The Committee recommends that the District request the above special populations of D.C. Code offenders be transferred from BOP custody to serve the remainder of their sentence in the DOC, as space permits.

As it currently stands, the BOP would pay the District a rate per day for each D.C. Code offender it transfers back to DOC supervision. Previously, the District has refused to accept the rate the BOP pays, which is around \$80/day per person. The DOC's current rate is between \$120-\$130/day per person, a rate which the BOP is not willing to pay. The DOC and BOP would need to agree upon a rate before D.C. Code offenders are brought home. For context, in 2016 Fairview Halfway House, the District's halfway house for women, charged the BOP about \$100/day per person. The Committee would also like to note that the District does not have full control over which populations are transferred back to the District, and needs the BOP to agree to these transfer requests before D.C. Code offenders can come home to the DOC.

The recommendation of these transfers is dependent on the BOP transferring these individuals to the Central Treatment Facility (CTF), as opposed to the Central Detention Facility (CDF or "D.C. Jail"). The D.C. Jail is not equipped to provide these individuals with the treatment they require, especially considering the facility's age and general conditions. The CTF is more equipped to handle the unique needs of D.C. Code offenders requiring higher levels of care, who are within six months of release, or have children. The Committee wants to ensure that these special populations are returning to humane, dignified conditions in the District and that they receive the necessary programs, support, reentry planning, and medical care. The Committee's recommendations regarding transferring the above populations to the DOC are also conditional on creating or maintaining safe population levels during COVID-19. The population decrease seen at the DOC during the pandemic creates the bed space necessary to bring the above populations back to the District. If the District is able to maintain or decrease its levels of incarceration, the Committee would recommend D.C. begin to bring home individuals who require Care Level 3.

## **Halfway House**

Hope Village, the District's only halfway house for men, permanently closed on April 30, 2020 amid two class-action lawsuits and during the COVID-19 pandemic. Residents of Hope Village were released on home confinement or transferred to Volunteers of America, a halfway house in Baltimore, Maryland or to halfway houses in Delaware and Virginia. Unfortunately, the information on how many residents were sent to each facility is not publicly available. As men continue to be released from BOP custody, there is still no men's halfway house in the District for them when they return home. Not having a men's halfway house in the District causes great harm to both those returning home from incarceration and the community. Having D.C. residents reside in halfway houses outside of the District makes receiving services, connecting to community-based organizations, and reuniting with family more difficult. The pandemic compounds these difficulties.

The BOP awarded a contract to CORE DC to open and operate a replacement for Hope Village. CORE DC procured a property in Ward 7 to erect a suitable men's facility. CORE DC recently

applied for a permit to raze the structure currently on that property in order to build the new halfway house facility. However, the building's construction has been opposed by ANC 7F, the Advisory Neighborhood Commission (ANC) representing the neighborhood in which the new halfway house would operate. ANC 7F recently filed an application to designate the existing warehouse building on the property owned by CORE DC as a historic landmark<sup>20</sup> in a move to prevent the opening of the halfway house. The longer the District does not have a halfway house for men, the more harm will be done.

To eliminate the harm caused by not having a halfway house in the District, the Committee on Local Control recommends:

1. The District should do everything within its power to prioritize quick and safe approval of CORE DC's application to raze the current structure and any permits required to open the new facility, with a goal of supporting the new halfway house being open to residents by the end of April 2021.

To ensure that a new men's halfway house in the District is of high quality and directly accountable to the District, the Committee recommends:

1. CORE DC should negotiate MOUs with community-based organizations, supporting access to resources and supports for their residents while in the new facility and on home confinement; and
2. CORE DC should negotiate a community benefits agreement (CBA) with ANC 7F and other organizations based in the neighborhood surrounding the new halfway house to support cooperation with nearby residents and community safety.

## **Implementation of the District's Clemency Board**

During Phase II, the Committee on Local Control created an implementation timeline for the District's Clemency Board. The Clemency Board has made significant progress in completing the items specified by the Committee for July and August. Prior to the Clemency Board's first meeting in July, the Mayor appointed five individuals to the Board. As required by statute, these individuals included a member with a background in returning citizen issues, a mental health professional, a member with a background in victim's rights, a member of the District of Columbia Bar in good standing (with experience in criminal law), and one D.C. resident community member. Additional members include the Attorney General for the District of Columbia (or designee), Chairperson of the D.C. Council Committee on the Judiciary & Public Safety (or a designee), the Director of the Public Defender Service for the District of Columbia (or designee), and the United States Attorney for the District of Columbia (or designee).

The Board has been meeting since August and has selected a chairperson from the five members appointed by the Mayor; drafted and adopted bylaws, including rules on what constitutes a quorum for the transaction of businesses; and adopted a work plan. Additionally, the Clemency

---

<sup>20</sup> Gathright, Jenny. "Historic Designation Request Could Delay New D.C. Halfway House." *The DCist*. October 18, 2020. <https://DCist.com/story/20/10/08/historic-preservation-D.C.-halfway-house-benning-road/>

Board is receiving assistance drafting its regulations and an application form from the Howard University School of Law Reentry Clinic.

Between September and November, the Clemency Board should:

1. Draft regulations, including rules to conduct board business and rules to govern applications for clemency, consideration of applications, and recommendations for clemency;
2. Draft internal policies;
3. Develop a system for managing and tracking applications, and publishing outcomes;
4. Draft MOUs with other agencies (D.C. Superior Court, Bureau of Prisons, White House Counsel);
5. Draft application forms and materials;
6. Work with the Corrections Information Council to plan dissemination of information about clemency eligibility and application procedures to all D.C. Code offenders in Bureau of Prison custody;
7. Work with the legal community to build capacity for representation of clemency applicants; and
8. Work with IT specialists to develop secure methods for storing and transferring PII.

During December 2020, the Clemency Board should:

9. Publish public notice of rulemaking; and
10. Finalize the clemency application.

During January 2021, the Clemency Board should:

11. Publish and publicize the clemency application;
12. Schedule recurring meetings for the review of clemency applications; and
13. Develop a meeting plan.

Between February and June 2021 the Clemency Board should:

14. Begin receiving applications for clemency; and
15. Review each complete application and vote, within six months, on whether to recommend the applicant for clemency.

Finally, by July 2021 the Clemency Board should:

16. Send the first set of recommendation for clemency to the President of the United States