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# The Parole Revocation Process in DC: What DC Could Accomplish with Local Control

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## EXECUTIVE SUMMARY

### INTRODUCTION

This report has been prepared by members of the New Vision: Alternatives to Incarceration Committee of the [ReThink Justice DC Coalition](#), a group of diverse individuals committed to justice reform in the District of Columbia. In alignment with the mission of the ReThink Justice DC Coalition, the New Vision Committee advocates for systemic reforms that will result in significant reductions to incarceration in the District.

This report examines the current processes by which parole and supervised release are revoked in the District of Columbia and the impact of those revocations on the District of Columbia's jail and prison population. Initially drawn to the issue by reports of policy changes which were purported to have led to an increase in the jail population, the New Vision Committee's attention turned instead to examining the substantial benefits to the District government and to its residents of creating a new D.C. Board of Parole, long a goal of justice advocates and most recently an imperative mandated by the federal government's decision to "sunset" the United States Parole Commission (USPC) which has served as the District of Columbia's parole board for more than 20 years. Benefits include: a significant reduction in incarceration of District residents in the D. C jail and in federal prison and a criminal justice system that reflects the values of District of Columbia residents.

The purposes and goals for this report include:

- Describing the parole and supervised release revocation process including the allocation of resources during periods of supervision prior to revocation;
- Supporting, with specific recommendations, a parole / supervised release revocation process that does not rely upon incarceration to achieve success; and
- Promoting, also with actionable recommendations, a parole board that acts in alignment with the principles and values recently described by the District of Columbia's Task Force on Jails and Justice, including involving impacted communities and justice-involved people in parole and supervised release revocation decisions.

In furtherance of these goals, this report summarizes the role of the Court Services and Offender Supervision Agency (CSOSA), which brings significant resources to bear on supervision and whose employees initiate revocation proceedings before the USPC. At present, the District government has no control over how these resources are used. New Vision Committee members were of the opinion that in planning to return the parole function to local control, District of Columbia officials and advocates for justice reform should consider carefully how best to integrate the parole function with CSOSA's resources.

## **FINDINGS IN THE REPORT**

An estimated 300 individuals, or 15% of the District of Columbia's Department of Corrections' resident population, are incarcerated at any one time and about 429 individuals pass through the Department of Corrections over the course of an average month because of current parole and supervised release revocation processes. According to a recent Vera Institute report for the DC Task for on Jails & Justice, **violations of probation, parole and supervised release accounted for at least one in five of all bookings into the DOC in FY 2018.** This is a population in need of services. The same report found that 84% of all individuals booked into the jail for probation, parole or supervised release violations were seriously mentally ill, substance abusers or suffered dual diagnosis.

According to CSOSA, revocations have resulted in about 635 sentences to prison per year. **The most recent available data revealed that more D.C. Code offenders have been annually returned to federal prison as a result of revocations than are sentenced to federal prison for the commission of new felony offenses.**

These individuals were supervised prior to a revocation proceeding by Community Supervision Officers (CSOs), employees of CSOSA, a federal agency. The agency's Director is appointed by the president. The agency is funded by the US Congress, currently with a budget of just above \$181 million supporting 835 full time equivalent employees.

When it comes to matters pertaining to supervision of individuals on parole or supervised release in the District, CSOSA is a powerful decision-maker.

CSO's have access to information about the social background, legal history, assets, shortcomings and needs of the individuals they supervise from multiple sources. These include presentence reports prepared by Pretrial Services Agency staff and reports prepared by the Bureau of Prisons and by CSOSA staff to guide reentry or identify special needs. CSOSA conducts periodic risk assessments and, in FY 2018, collected an average of 13,757 drug test samples each month, or three tests per month for those being tested.

As described in detail in the New Vision Committee report, **CSOSA, a \$181 million agency, is resourced with millions of dollars of programs and contractual services.** These include, for example, a residential treatment and a "Halfway Back Residential Sanctions" program. The agency provided 1,643 placements for drug treatment in FY 2018 and short term housing assistance to a portion of more than 1,100 individuals with "unstable" housing. It employs "graduated sanctions," including electronic monitoring for high-risk individuals.

But while the existence of federally-funded programs and support for individuals on the scale available to CSOSA should yield benefits to individuals under CSOSA's supervision, the way the

programs are administered bear directly on how well these individuals do for themselves and in their communities. Factors such as the strictness or rigidity of conditions of supervision and the use of graduated sanctions or alternatives to incarceration for rule-breaking violations drive jail and prison populations. And in the District of Columbia, it is CSOSA's staff, not the USPC, who largely control how these factors play out.

CSOSA does not provide much public information about the criteria which determine when an individual may be referred to the USPC for revocation. But CSOSA did report 41,000 technical violations for drug use and 44,476 additional violations for failure to submit a drug specimen in FY 2018. **The large number of technical violations associated with drug testing and the fact that 62.1% of those tested were positive for marijuana, now legal in the District of Columbia, suggest that CSOSA's model of supervision is weighted heavily in favor of enforcing compliance with rules over diagnosis, treatment and rehabilitation.** Lacking information that would explain the violations and how they translated into revocations, it nevertheless seems safe to conclude that the numbers could be reduced if CSOSA stopped automatically violating any individual who tested positive for marijuana.

Similarly, CSOSA reports any criminal arrest as a violation of parole or supervised release. However, **three-quarters of the charges involved in arrests were for non-violent property crimes, drug crimes and public order offenses.** CSOSA exercises discretion in deciding whether to initiate the revocation process for repeat drug users, public order or property offenses. There are however no guidelines or standards and published data does not reveal the types of arrests that result in incarceration instead of modifications to release conditions.

The report describes the current revocation process step-by-step to provide a foundation for recommendations for reforms which conclude the report. The New Vision Committee observes that, as independent in its decision-making as CSOSA and its Community Supervision Officers appear at the moment, USPC staff and Commissioners ultimately decide whether an individual has violated parole or supervised release, whether such an individual need be detained before a full revocation hearing, and what if any sanction is to be imposed if found in violation. **Returning the parole function to local control provides an opportunity for the District to positively influence the way in which CSOSA supervises individuals on parole or supervised release, and potentially to limit the number of people incarcerated for alleged violations of parole and supervised release.**

As an additional benefit, a locally-controlled paroling authority could use its decision-making to support the reentry needs of returning citizens by encouraging coordination and resource-sharing between CSOSA and the growing number of independent, grant-funded and non-profit reentry and community organizations serving justice-involved District residents under the umbrella of the District of Columbia-based Reentry Action Network (RAN).

## **RECOMMENDATIONS**

The Committee for a New Vision offers ten recommendations for enabling legislation or rules governing a local paroling authority. These recommendations are summarized below:

1. Enabling legislation should prohibit the paroling authority from ordering the incarceration of "technical" or rule-breaking violators except in exceptional circumstances, and should authorize the paroling authority to require that CSOSA and defense counsel vigorously

investigate all reasonable alternative sanctions, treatment or support services for the paroling authority's consideration.

2. Reduce jail incarceration for those arrested during the revocation process. A finding of probable cause should not result in an automatic detention. This recommendation ties into Recommendation #10 which proposes a hearing schedule designed to facilitate release from detention or a resolution prior to the full revocation hearing.
3. Enabling legislation should require that, for individuals found to be in violation of conditions of parole or supervision, the paroling authority should impose additional incarceration parsimoniously, favoring where possible community-based and rehabilitative sanctions and restorative justice principles.
4. The paroling authority should encourage participation in both probable cause and revocation proceedings by professional program staff including programs operated or funded by CSOSA, community-based programs including the District of Columbia's reentry programs, their membership organization, the Reentry Action Network (RAN), relevant mental health, treatment and substance abuse experts, and community representatives.
5. Decision-making in revocation matters should be informed by community-based and justice-involved staff, including Hearing Examiners who know the affected community or who have relevant expertise.
6. Enabling legislation should eliminate forfeiture of street time credit following a parole revocation or a revocation of supervised release and should prohibit the paroling authority from imposing sanctions that would extend an individual's sentence past the expiration of the maximum sentence imposed by the trial court.
7. Enabling legislation should specify that the parole authority respect local criminal court jurisdiction over newly-alleged offenses. The paroling authority should defer to a Superior Court's release decision, to dismissals and to acquittals.
8. Enabling legislation should mandate data collection and transparency, including monthly reports on status and outcomes in revocation cases.
9. Enabling legislation should confirm requirements of current law, largely ignored by the USPC, for mandated periodic reviews and reductions in time on supervision for parolees and individuals on supervised release.
10. Enabling legislation should empower the parole authority to establish a hearing schedule that facilitates release from detention and early, negotiated resolutions of individual cases. Examples provided include:
  - a. Authorize Hearing Examiners to order a review hearing within seven days of a probable cause hearing if the parties have not fully investigated all reasonable alternatives to detention or incarceration;
  - b. Authorize the equivalent of a pretrial settlement conference when one or both parties have information that might lead to a release from detention or a resolution short of incarceration; and
  - c. Authorize hearing officers to release detained individuals after a settlement conference rather than wait until the next scheduled hearing date.

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The full report may be downloaded from: <https://bit.ly/2VLVx8D>

For more information about “The Parole Revocation Process in DC: What DC Could Accomplish with Local Control,” or to speak with one of the authors, please contact the following:

Malcolm C. Young  
[youngmalcolmc@gmail.com](mailto:youngmalcolmc@gmail.com)  
773-726-8123

Phil Fornaci  
[Philip.fornaci@gmail.com](mailto:Philip.fornaci@gmail.com)  
202-215-2184

John Stanard  
202-667-6404  
[johnstanard@churchofscientology.net](mailto:johnstanard@churchofscientology.net)

Myra Woods  
202-255-0203  
[myrawoods@gmail.com](mailto:myrawoods@gmail.com)

Ann Keep  
202-360-0576  
[ann.keep@gmail.com](mailto:ann.keep@gmail.com)

For information about the ReThink Justice DC Coalition, see: <http://rethinkjusticedc.org/>