



# NEW PAROLE AUTHORITY FOR THE DISTRICT OF COLUMBIA

Prepared by Members of the D. C. Reentry Task Force  
and the New Visions - Alternatives to Incarceration Committee  
of the ReThink Justice DC Coalition



*April 7, 2021*

With the upcoming expiration of the United States Parole Commission (USPC), the District of Columbia has an unprecedented opportunity to design and put in place a new, unique parole authority. In anticipation, members of the D. C. Reentry Task Force and the New Visions - Alternatives to Incarceration Committee of the ReThink Justice DC Coalition have undertaken research, closely reviewed the work of others, prepared reports, and articulated [guiding principles for a new parole authority](#). In this paper, we describe the structure and staffing, key decision-making processes, the application of restorative justice and community healing practices, and the costs of a local parole authority capable of achieving goals recently articulated by the District Task Force on Jails and Justice.<sup>1</sup> Those goals include reducing incarceration, increasing public safety, and ensuring local control, transparency, and accountability.

## **STRUCTURE AND STAFFING: OVERVIEW**

We envision a fully staffed District of Columbia Parole and Supervised Release Authority led by an intentionally diverse five member Release Review Panel, one of whom is designated Chief. As a body, the Release Review Panel is responsible for promulgating policies, regulations and rules governing its decisions in four types of cases: (1) parole grant decision-making; (2) parole and supervised release revocations; (3) parole termination; and (4) grants of medical parole.

All cases are initially heard by a single assigned Hearing Officer. The Hearing Officer prepares initial findings and recommendations which are then reviewed in consultation with two additional Hearing Officers. Their findings and recommendations are then presented to three randomly assigned members of the review panel. If the three panel members agree, their findings and recommendations are the decision of the parole authority. If the three panel members do not agree, the case will be referred to the full five-member Release Review Panel. The decision of the five-member Release Review Panel will be decided by majority vote, with the Chair making a final decision in the event of a tie.

The Release Review Panel and Hearing Officers are supported by legal counsel, an executive director, administrative assistant, Parole Release Investigators (PRI's) assisting Hearing Officers in parole matters, Field Investigators (FI's) assisting in revocation matters, document specialists, data entry clerks, schedulers, an IT Administrator, and an office manager. Hearing Officers and Investigators include individuals with backgrounds in human services, corrections, substance abuse, mental health, and several individuals with lived experiences with the criminal system. Provisionally, and depending on actual caseloads, we estimate a Release Review Panel and staff complement of approximately 36.

## **OPERATIONS**

To illustrate the proposed operation of the new parole authority, we summarize the process for parole grant decisions and parole and supervised release revocation proceedings.

**Parole grant decisions** will affect up to approximately 660 DC residents sentenced to indeterminate sentences in a sentencing system that was replaced by a determinate sentencing scheme under the D.C. Revitalization Act of 1997 and implemented in August 2000. Each of these individuals has been incarcerated no less than 21 years. The parole authority will prioritize parole release decisions for the approximately 340 who have been denied parole release by the USPC, 129 of them for more than nine years.

The new parole authority will be specifically constituted to approach parole release decisions very differently from the USPC and other parole boards in the country. It will operate under a legally defined presumption that an applicant for parole should be released when the parole-eligible date for the sentence has been reached. This presumption can be overcome only by clear and convincing evidence that the applicant poses a risk of harm that cannot be safely managed in the community.

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<sup>1</sup> "Building on a robust stakeholder and community engagement process, the District should establish a mechanism for parole grants and parole and supervised release revocations that will process cases beginning not later than November 1, 2022. That mechanism must: a) reduce incarceration consistent with public safety, b) strengthen due process and other protections for people seeking a grant or facing revocation, and c) ensure local control, transparency, and accountability over process and decisions." District Task Force on Jails and Justice report, *Jails and Justice: Our Transformation Starts Today - Phase II Findings and Implementation Plan* (February 2021), Recommendation 9-10 at p. 72.

The new parole authority will consider the applicant's prison record, progress toward rehabilitation, reentry plans, ties to family and community and victims' concerns in determining appropriate parole supervision terms. It will go farther, however, facilitating the development of release plans by assigning a Parole Release Investigator (PRI) to parole-eligible individuals six months in advance of their scheduled parole hearing. The PRI will help the applicant connect with family and community-based resources including reentry programs that can address identified needs such as housing, family reunification, social services, life skills, access to government assistance and employment. The PRI will refer individuals with medical, mental health or disabilities to specialized legal, clinical and reentry services. When appropriate, the PRI may educate the applicant on the opportunity to engage in a restorative justice process.

About one month prior to the scheduled parole release hearing, the PRI will report to the assigned Hearing Officer on the parole applicant's history, strengths and challenges, and release plans.

Parole release hearings are intended to be non-adversarial. In advance of the hearing, the assigned Hearing Officer will review the PRI's report and may consider statements and information from: the applicant's attorney or advocate; representatives of community-based programs supporting the applicant's reentry; representatives from the Court Services and Offender Supervision Agency (CSOSA) or other supervising agencies, and individuals harmed by or concerned about the applicant's actions. Participants in the hearing will normally be the Hearing Officer, the applicant, his or her legal counsel or advocate, and the PRI.

The Hearing Officer prepares findings and recommendations. The case is assigned to two Hearing Officers for review and moves through the decision process described above, in Structure and Staffing: Overview.

When the parole authority grants parole release, one member of the Release Review Panel shall notify any victims or survivors who participate in the process of the consideration given to their expressed concerns. When the parole authority denies parole, the Release Review Panel shall recommend to the BOP remedial action to address the reasons for the denial. The parole authority shall set a progress check date within six months, and a full rehearing no more than one year following, denial of parole release.

**Violations of conditions of parole or supervised release** are initiated when CSOSA's Community Supervision Officers (CSO's) submit an "Alleged Violation Report" (AVR) to the parole authority -- currently the USPC. While CSO's may ask the USPC to issue a summons (ordering the individual to appear for a probable cause hearing), far more frequently they request an arrest warrant. The USPC generally agrees to issue a warrant, instructing the United States Marshal's office to take the individual into custody.

Once the individual is arrested, the parole authority holds a hearing to determine if there is probable cause to detain the individual. In a matter of months, the parole authority holds a full revocation hearing to determine whether the subject committed the alleged violation and, if so, what sanction or penalty it will impose. In FY 2018, the USPC revoked 635 individuals to reincarceration in the BOP. Detention during the pendency of hearings averaged 91 days and accounted for approximately 300-320 beds, or 15% of the jail's bed space.

The new parole authority will operate differently. It will issue a summons for alleged violations of supervision rules or for alleged new misdemeanor offenses in most cases. The use of arrest warrants will be limited to instances when the CSO's are unable to locate an individual, when an individual fails to respond to a summons, or where there are serious public safety concerns.

When the AVR alleges a felony offense, the new parole authority may issue an arrest warrant. However, the parole authority will defer to the pre-trial detention decision of the criminal court having jurisdiction over the alleged criminal case.

The new parole authority will provide individuals arrested and detained on a warrant a probable cause hearing within 72 hours unless the individual waives a hearing on the advice of counsel. The individual may be further detained only if the Hearing Officer finds both (1) probable cause to believe that the individual violated a condition of release, and (2) that the individual poses a substantial threat to the safety of another person or that there is a strong likelihood the individual will flee the jurisdiction or otherwise avoid supervision.

When a Hearing Officer finds probable cause, the parole authority will assign a different Hearing Officer to conduct a full revocation hearing within 75 days for individuals who are not detained and 30 days for detained individuals, extended for cause or by agreement for no more than 15 additional days.

The Hearing Officer conducts the revocation hearing in two steps. For the first step, the Hearing Officer determines whether CSOSA or the moving party has proven a violation by clear and convincing evidence.

The second step, which occurs only if the Hearing Officer finds that the individual violated conditions of release, is a non-adversarial, problem-solving dispositional hearing in which the applicant's attorney or advocate, community representatives, representatives from CSOSA or other supervising agencies, and those harmed or concerned about the individual's actions may participate. The goal is to adjust the individual's supervision plans to better address persistent supervision compliance problems rather than to exact additional punishment. In any case, the parole authority may impose incarceration for a misdemeanor conviction only if there is clear and convincing evidence that the individual poses a verifiable and substantial threat to the safety of another person or where there is a strong likelihood the person will flee the jurisdiction to avoid supervision.

In cases where a person under supervision is convicted of a new felony offense, the parole authority will schedule a revocation hearing prior to the expiration of the new felony sentence. The focus of this hearing will be on the development of enhanced supervision requirements after the person's release from the felony sentence. There will be a presumption against adding additional incarceration unless there is clear and convincing evidence that the individual is unlikely to comply with reasonable conditions of parole or supervised release and that no reasonable option other than additional incarceration is adequate to insure the individual's future compliance with supervision terms.

As soon as the Hearing Officer enters findings and recommendations, the case is assigned to two Hearing Officers for review and moves through the decision process described in Structure and Staffing: Overview.

### **RESTORATIVE JUSTICE AND COMMUNITY HEALING**

The new parole authority will encourage restorative justice and victim-offender reconciliation processes led by facilitators in or outside the parole authority when situationally appropriate and when both the person or community harmed and the parole applicant agree. The parole authority may adopt a consensus agreement endorsed by all involved at a parole release or parole or supervised release violation hearing.

### **TRANSPARENCY AND ACCOUNTABILITY**

The new parole authority is subject to oversight by the D. C. Council and the Mayor. The five-member release review panel will be appointed by the Mayor and the D. C. Council to staggered five-year terms.

To assure accountability the parole authority will publish a calendar of hearings and monthly and annual public reports describing numbers of cases heard and decided, participants by category, and outcomes.

To enhance accountability to the community, the parole authority is advised by a six-person part-time, compensated Community Advisory Council with the authority to review records and decisions and to make recommendations to the parole authority, City Council, and the Mayor.

**Appellate review:** individuals for whom the parole authority denied parole or who were found to have violated conditions of parole or supervised release and whose prison sentence was extended as a result and who present a factually supported claim of either (1) a denial of due process as defined by the enabling legislation, or (2) that the evidentiary findings were against the manifest weight of the evidence, have a right to a rehearing before the full five-member Release Review Panel. The full five-member Release Review Panel decision may be appealed to the D. C. Court of Appeals with the advice and assistance of counsel.

### **COST**

Preliminarily, we estimate a \$8,400,000 budget based on a salary schedule modeled after standard GSA job and salary levels. Numerous variables for which information is limited will change this estimate: the actual number of parole-eligible individuals; the actual number of parole and supervised release violations; the amount of travel which depends upon hearing locations; adjustments in the number of positions and salary levels; and rent and occupancy. The District should anticipate budget reductions in future years as the number of individuals incarcerated in the BOP with indeterminate sentences decreases due to releases and attrition.

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(Revised 20 April 2021)

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**For further information:** visit *ReThink Justice DC's* website <https://rethinkjusticedc.org/category/local-control-of-parole> or contact: Myra Woods, 202-255-0203, [myrawoods@yahoo.com](mailto:myrawoods@yahoo.com) or Louis Sawyer, Jr. at [louisawyerjr@aol.com](mailto:louisawyerjr@aol.com).