

Testimony Submitted by Malcolm C. Young for the ReThink Justice DC Coalition  
To the Public Oversight Roundtable on Local Control of Parole  
in the District of Columbia

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Committee on the Judiciary and Public Safety  
Councilmember Charles Allen, Chairperson,  
Thursday May 6, 2021

Good morning Chairperson Allen, Councilmembers, staff and participants and observers in this public oversight roundtable.

My name is Malcolm C Young. I am an attorney in the District of Columbia. I appear before you today as co-chair of the New Visions – Alternatives to Incarceration Committee of the ReThink Justice DC coalition. Together with members of the DC Reentry Task Force, we are responding to the invitation to “chart a path forward for the district parole authority” with a proposal for a new District of Columbia Parole and Supervised Release Authority.

We describe our proposal in a concept paper, “New Parole Authority for the District of Columbia,” which is attached to my written statement and which we ask to be entered into the record. This concept paper is also [available on the ReThink Justice website](#).<sup>1</sup>

Our proposal grew out of months of research, discussion and a review of the work of many others. When we started, we had no preconceived structure in mind. We developed and then applied, a set of “[Principles for the Creation of a new Paroling Authority](#).” Ultimately, we settled on a structure that we believe has the capacity to make decisions consistent with DC values in parole release cases.

The parole authority’s decisions potentially affect upwards of 600 persons sentenced to indeterminate sentences under the old law and many more individuals who are the subject of revocation proceedings initiated by Community Supervision Officers (CSO’s) of the Court Services and Offender Supervision Agency (CSOSA). In addition to the numbers of individuals directly affected, the parole authority exerts an outsized influence on the way justice is administered in the District of Columbia. Consequently, assuming local control over the parole function is even more important than it might at first seem.

To summarize, we propose a parole authority led by a diverse five member Release Review Panel (all DC residents), one of whom is designated Chief. The Review Panel is, by majority vote, the ultimate decision-maker in all parole release and revocation proceedings.

Directly under the Release Review Panel there are Hearing Officers who are responsible for fact finding and the initial decisions in both parole release and revocation proceedings. We propose that Hearing Officers have diverse professional backgrounds and include persons from the most heavily justice-involved wards in the City, assuring a connection to the city and the affected populations.

Hearing officers are assisted by Parole Release Investigators assigned to each parole case, and by Field Investigators assigned as needed in revocation proceedings. These positions should be filled by individuals with diverse experience and expertise in DC’s social services, reentry programs, faith and other local communities. They should certainly include returning citizens who have experienced the system.

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<sup>1</sup> Alternative link: <https://bit.ly/33fgkEa>

We propose a parole authority whose processes and decisions are transparent – a matter of public record – and which is accountable to the community through a compensated Community Advisory Counsel.

We propose a parole authority with a staff sufficient to support its decision processes and administrative and reporting requirements: an executive director, legal counsel, office manager and administrative assistants, document specialists, data entry clerks, schedulers, and an IT administrator.

The parole authority we propose will take a dramatically different approach to parole release than at present. For starters, it will operate under a presumption favoring release and the requirement that parole decisions will be based on factors that reflect the parole applicant's progress and own efforts while incarcerated, not the original crime, which all acknowledge were often profoundly serious.

As one important innovation, the parole authority we propose will assign staff to parole applicants at least six months in advance of a scheduled parole hearing to encourage their preparation for reentry and to facilitate the parole applicant's reentry planning with the Bureau of Prisons (BOP), CSOSA, the Mayor's Office for Returning Citizens Affairs (MORCA), DC's funded or volunteer reentry programs, the parole applicant's legal counsel or the applicant's advocate, and the parole applicant's family or community. Additionally, when there are victims, survivors or community concerns, the parole authority will use this six month period to help the parole applicant address them, including by inviting a restorative justice approach if agreed to by both the parole applicant and persons harmed by the parole applicant's actions.

When it is necessary to deny parole release, we propose that the parole authority schedule follow-up hearings no more than one year after the denial, ending the three, four and five year hiatus imposed on parole applicants today.

We also propose a different approach to violations of conditions of parole or supervised release. For example, the Alleged Violation Reports (or "AVR's") with which CSOSA's Community Supervision Officers initiate violations, will no longer trigger arrest warrants for missed or positive drug tests and other "technical," rule-breaking violations or for alleged misdemeanor offenses. Instead, the new parole authority will issue a summons to appear, avoiding jail incarceration, unless there is a showing of a risk to the individual's family or the community or that the individual is likely to leave the jurisdiction or refuse to appear.

We propose a parole authority that provides full due process protections, including access to counsel, during the first step of the Constitutionally-mandated two step violations hearing, held to determine by clear and convincing evidence whether the individual violated conditions of release.

But to engage the community and assure all alternatives to incarceration have been utilized before the parole authority orders incarceration, the second step, conducted only after a Hearing Officer finds a violation occurred, is to be 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 of the second step of a hearing is to

adjust the individual's supervision plans to better address supervision compliance problems, and to assure that all available resources have been utilized, and not to exact purposeless punishment by imposing extensive incarceration.

Our proposal establishes limits on punishment: no incarceration for a technical violation or a misdemeanor conviction unless 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.

For these and other reasons, the parole authority propose by the New Visions Committee of ReThink Justice DC and the Reentry Task Force moves away from needless punishment, will encourage restorative justice and community healing, and is transparent and accountable to the DC Government and to DC residents.

The parole structure and innovations intended to humanize parole release and revocation decisions can only be assured through enabling legislation passed by this Council. That is the opportunity, and the obligation, of assuming "local control."

We have estimated a staff structure and the need for an \$8.4 million budget. But here's the catch: funding must be provided in this FY 2022 budget cycle. That's because staffing, rule-making and organizational tasks must be underway by early calendar 2022 if the new parole authority is to pick up the reigns of the sunseting United States Parole Commission on November 1, 2022.

The Rethink Justice DC coalition and the Reentry Task Force recognize that a three page concept paper and five minutes of testimony doesn't answer all questions nor instruct the DC Council on the enabling legislation it must enact, and the Mayor must sign, if we are to gain local control of parole. To move in that direction, we offer today two new documents, "Concerns and Frequently Asked Questions about a new Parole Authority in the District of Columbia: Parole Release Decision Making," and "Concerns and Frequently Asked Questions about a new Parole Authority in the District of Columbia: Revocation of Parole and Supervised Release," which address concerns and frequently asked questions about how the new parole authority conducts parole release proceedings and parole and supervised release revocation proceedings, and ask that they be made a part of the record of today's hearings.

Mr. Chairman, thank you for your time and your commitment to the important and extremely time-sensitive task of establishing a new, locally controlled parole authority for the District of Columbia.

Respectfully submitted,

  
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