

THE LOCAL ROLE OF THE U.S. PAROLE COMMISSION: INCREASING PUBLIC SAFETY, REDUCING RECIDIVISM, AND USING ALTERNATIVES TO RE-INCARCERATION IN THE DISTRICT OF COLUMBIA

HEARING

BEFORE THE
SUBCOMMITTEE ON FEDERAL WORKFORCE,
POSTAL SERVICE, AND THE DISTRICT
OF COLUMBIA

OF THE
COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES

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THE LOCAL ROLE OF THE U.S. PAROLE COMMISSION: INCREASING PUBLIC SAFETY, REDUCING RECIDIVISM, AND USING ALTERNATIVES TO RE-INCARCERATION IN THE DISTRICT OF COLUMBIA

TUESDAY, SEPTEMBER 22, 2009

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL
SERVICE, AND THE DISTRICT OF COLUMBIA,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 2 p.m., in room 2154, Rayburn House Office Building, Hon. Stephen F. Lynch (chairman of the subcommittee) presiding.

Present: Representatives Lynch and Norton.

Staff present: William Miles, staff director; Aisha Elkheshin, clerk/legislative assistant; and Daniel Zeidman, deputy clerk/legislative assistant; Howie Denis, minority senior counsel; Mitchell Kominsky, minority counsel; and Alex Cooper, minority professional staff member.

Mr. LYNCH. The subcommittee is now in order. The Subcommittee on Federal Workforce, Postal Service, and the District of Columbia hearing has now come to order. I welcome all the Republican and Democratic members of the subcommittee, witnesses, and all those of you in attendance.

As you are all aware, the purpose of this afternoon's hearing is to examine a host of issues related to offender reintegration, recidivism, and overall public safety in the Nation's Capital.

The Chair, the ranking member, and the subcommittee members will each have 5 minutes to make an opening statement. All Members will have 3 days to submit statements for the record. In evidence of the absence of several of our Members, I will allow Members to submit any statements for the record during the course of this hearing and for, as I said, 3 days beyond.

Ladies and gentlemen, again, I thank you for your attendance here at the subcommittee's fourth D.C.-related Oversight Committee hearing entitled, "The Local Role of the U.S. Parole Commission: Increasing Public Safety, Reducing Recidivism, and Using Alternatives to Re-Incarceration in the District of Columbia." Today's hearing gives the subcommittee the opportunity to examine the impact of the U.S. Parole Commission and other related Federal agencies on public safety in the District of Columbia.

Currently the District of Columbia is the only jurisdiction where the control over aspects of its local criminal code offenders is determined by the policies and practices of Federal agencies such as the Parole Commission or the Court Services and Offender Supervision Agency. The National Capital Revitalization and Self-Government Improvement Act of 1997 [Revitalization Act], transferred the responsibility for and the cost of certain State criminal justice functions such as house parole and the supervised release of adult felons convicted under the D.C. criminal code from the District of Columbia to the Federal Government.

While considerable progress has been made over the past 10 years since the enactment of the Revitalization Act, the District of Columbia continues to confront the host of challenges regarding the implementation of effective felon supervision, reentry, and revocation systems and practices. With nearly 6,500 D.C. Code felons in the custody of the Federal Bureau of Prisons and over 15,000 offenders on supervised release with the CSOSA, it is critical that the subcommittee conduct the requisite oversight to ensure that the hybrid mix of Federal and local criminal justice responsibilities in the District of Columbia is being carried out as seamlessly, consistently, and effectively as possible.

This is the context in which today's hearing has been called. I thank our witnesses for agreeing to join us in conducting such a dialog.

Today's hearing is also intended to address other related policy challenges such as the difficulty of keeping D.C. Code felons who are housed in Bureau of Prisons facilities miles away from the District of Columbia connected to their families and communities, the use of graduated sanctions versus automatic revocation, and the pending agenda of the USPC given its newly appointed leadership.

I would like to again thank my colleague, Congresswoman Eleanor Holmes Norton for her tireless effort in this policy area and for recommending today's hearing topic. Again, I thank all of those in attendance this afternoon. I look forward to hearing the testimony of our witnesses.

This concludes my opening statement.

In the absence of the ranking member, Mr. Chaffetz, I now recognize Ms. Eleanor Holmes Norton of the District of Columbia for 5 minutes.

[The prepared statement of Hon. Stephen F. Lynch follows:]

**STATEMENT OF CHAIRMAN STEPHEN F. LYNCH
AT THE SUBCOMMITTEE ON FEDERAL WORKFORCE
AND POSTAL SERVICE, AND THE DISTRICT OF COLUMBIA**

**“The Local Role of the United States Parole Commission: Increasing Public
Safety, Reducing Recidivism, and Using Alternatives to Re-incarceration in the
District of Columbia”**

**Tuesday, September 22 at 2:00 p.m.
2247 of the Rayburn House Office Building**

Ladies and gentlemen, again, let me welcome you to the Subcommittee’s fourth D.C. related oversight hearing, entitled “The Local Role of the United States Parole Commission: Increasing Public Safety, Reducing Recidivism, and Using Alternatives to Re-incarceration in the District of Columbia.” Today’s hearing gives the Subcommittee the opportunity to examine the impact of the United States Parole Commission and other related federal agencies on public safety in the District of Columbia. Currently, the District of Columbia is the only jurisdiction where control over aspects of its local criminal code offenders is determined by the policies and practices of federal agencies, such the Parole Commission or the Court Services and Offender Supervision Agency (CSOSA).

The National Capital Revitalization and Self-Government Improvement Act of 1997, also known as the Revitalization Act, transferred the responsibility for, and the costs of, certain state criminal justice functions, such as the housing, parole and supervised release of adult felons convicted under the D.C. Criminal Code, from the District of Columbia to the federal government. While considerable progress has been made over the past ten years since the enactment of the Revitalization Act, the District of Columbia continues to confront a host of challenges regarding the implementation of effective felon supervision, reentry and revocation systems and practices.

With nearly 6,500 D.C. Code felons in custody of the Federal Bureau of Prisons (BOP) and over 15,000 offenders on supervised released with the CSOSA, it is critical

that this Subcommittee conduct the requisite oversight to ensure that the hybrid mix of federal and local criminal justice responsibilities in the District of Columbia is being carried out as seamlessly and effectively as possible. This is the context in which today's hearing has been called and I thank our witnesses for agreeing to join us in conducting such a dialogue. Today's hearing is also intended to address other related policy challenges such as the difficulty of keeping D.C. Code felons, who are housed in BOP facilities miles away from the District of Columbia, connected to their families and communities; the use of graduated sanctions versus automatic revocation; and the pending agenda of the USPC given its newly appointed leadership .

I'd like to thank my colleague, Congresswoman Eleanor Holmes Norton for her tireless work in this policy area and for recommending today's hearing topic. Again, I thank all those in attendance this afternoon and I look forward to hearing the testimony of our witnesses.

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Ms. NORTON. Thank you very much, Chairman Lynch. With your permission, I will simply summarize my opening statement and ask that the remainder be placed in the record.

All the thanks are due to you, Chairman Lynch, for scheduling this hearing on the U.S. Parole Commission, the first since President Barack Obama appointed former D.C. police chief, Isaac Fulwood, Junior Chair of the U.S. Parole Commission.

The unprecedented local responsibility of the U.S. Parole Commission gives this agency important responsibility for public safety in the District of Columbia today. In 2009, approximately 6 percent of the crimes have been committed thus far by offenders while on parole or supervised release, accounting for 4 percent of violent arrests, 3 percent of weapons arrests, and 6 percent of drug arrests.

While the Parole Commission is a Federal agency created and funded by the Congress since 1930, today it fits squarely within the subcommittee's jurisdiction under the 1997 National Capital Revitalization and Self-Government Improvement Act which transferred certain function to the Federal Government. And of course it is squarely within our Federal jurisdiction over Federal parolees.

This transfer of the function and the cost from the District of Columbia was made during the District's most serious financial crisis. It means that the Bureau of Prisons now has jurisdiction over 9,500 D.C. Code felons. All of them will 1 day pass through the U.S. Parole Commission. Many of them are doing so now from the U.S. Bureau of Prisons in facilities located across the United States.

I will be particularly interested to hear about, if I may say, new approaches, not just existing approaches but new approaches, that can meet the Commission's unique local responsibilities to the District of Columbia to increase public safety and reduce recidivism.

I believe what we hear today will be instructive to jurisdictions all across the United States, Mr. Chairman, because jurisdictions are releasing people from prison because they can't afford to hold them. In the good times they just took in everybody they could find who looked like he had committed a crime. Now they are putting people out on the streets without the kind of careful work that is being done by the U.S. Parole Commission and that is recommended by the experts that you have called before us.

The serious changes in the economy today mean that today's hearing, while particularly important to the District of Columbia, needs to have the attention of the Nation. Incarceration and re-incarceration are very expensive and have very poor crime reduction records. Incarceration separates and strains families and communities with little crime or recidivism reduction to show for it.

We are pleased to welcome all of today's witnesses. Mr. Chairman, I look forward as I know you do to their testimony.

[The prepared statement of Hon. Eleanor Holmes Norton follows:]

**OPENING STATEMENT OF
ELEANOR HOLMES NORTON
HOUSE SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL SERVICE AND
THE DISTRICT OF COLUMBIA**

**THE LOCAL ROLE OF THE UNITED STATES PAROLE COMMISSION:
INCREASING PUBLIC SAFETY, REDUCING RECIDIVISM, AND USING
ALTERNATIVES TO RE-INCARCERATION IN THE DISTRICT OF COLUMBIA**

September 22, 2009

I thank Chairman Lynch for scheduling this hearing on the U.S. Parole Commission, the first since President Barack Obama appointed former D.C. Police Chief Isaac Fulwood, Jr. chair of the U.S. Parole Commission. The unprecedented local responsibility of the U.S. Parole Commission gives this federal agency important responsibility for public safety in the District of Columbia today. In 2009, approximately 6% of crimes have been committed by offenders while on parole or supervised release, accounting for 4% of violent arrests, 3% of weapon arrests, and 6% of drug arrests. While the Parole Commission is a federal agency, created by Congress in 1930, today it fits squarely within this Subcommittee's federal and District of Columbia jurisdiction. The 1997 National Capital Revitalization and Self-Government Improvement Act ("Revitalization Act"), among other things, transferred to the federal government some criminal justice state costs carried by the District of Columbia to help it recover from its most serious financial crisis, at the city's request, and created new responsibilities in two federal agencies- the Bureau of Prison (BOP) and the U.S. Parole Commission. The Parole Commission was given jurisdiction over D.C. Code felons and currently oversees 9,500 D.C. Code felons, and the Commission continues its jurisdiction over 2,500 federal parolees sentenced before federal parole was abolished. In a few years, the Commission will have jurisdiction over *no* federal offenders, but will continue to have jurisdiction over approximately 7,000, mostly D.C. Code, felons now housed by the Federal Bureau of Prisons ("BOP"), as required by the Revitalization Act.

Previously, as a U.S. Parole Commissioner, and today as chair, Mr. Fulwood has introduced some important approaches at the Commission to assist the successful reentry of inmates to civil society in the District. We are interested in hearing about how existing and new approaches can meet the Commission's unique local responsibilities to the District of Columbia, to increase public safety and to reduce recidivism. One of these approaches is the "Reprimand Sanctions Hearing;" which are a collaborative effort between the Commission and the Court Services and Offender Supervision Agency (CSOSA), also a federal agency created by the Revitalization Act to monitor the behavior of residents released from the BOP. Releasees under the Commission's jurisdiction, who are being supervised by CSOSA and who have violated one or more conditions of their release, appear before the Commission to discuss their violations. The meetings can generate alternatives to re-incarcerating an offender for technical or minor violations. Sanctions meetings or hearings, with an official who has the authority to recommit the offender can result in sanctions short of re-incarceration and may help motivate him or her to

comply with the terms of his or her release, while enhancing law enforcement by reinforcing the consequences of continued non-compliance and displaying concern for the offender's well-being. When the people under supervision have managed to find gainful employment, alternatives have the additional benefit of assuring that those under supervision are taxpayers rather than be burdens on society.

Today's hearing follows this Subcommittee's work, still in progress that is making changes in the U.S. Bureau of Prisons, which, like the U.S. Parole Commission, is accommodating a purely local function while carrying out its usual federal responsibilities. I have visited several BOP facilities and halfway houses for D.C. male or female inmates and I have had video conference town halls to hear from inmates, their families and D.C. residents. Importantly, because of this Subcommittee's hearings, D.C. inmates now have equal access to BOP's state-of-the-art 500-hour drug treatment program that offers reduction in sentences as an incentive for successful completion of the program.

This work has helped prepare us for the Commission's search for ways to protect public safety using existing and more modern and proven approaches. However, the serious changes the economy is undergoing is leading states to release inmates without thinking through careful alternatives. Incarceration and re-incarceration are very expensive and have poor crime reduction records. Incarceration separates and strains families and communities and with little crime or recidivism reduction to show for it. We are pleased to welcome all of today's witnesses and look forward to their testimonies

We hope to find new and better practices today.

Mr. LYNCH. I thank the gentlelady.

At this time I would like to welcome all of our witnesses to take their assigned seats as we begin this portion of our hearing. Is Mr. Cornell Jones here? I know we have changed the order of the witnesses.

Welcome. It is committee policy that all witness to provide testimony are to be sworn in. Could I ask you to please rise and raise your right hands?

[Witnesses sworn.]

Mr. LYNCH. Let the record indicate that all of the witnesses have responded in the affirmative.

Your entire printed statements are already included in the hearing record. Let me begin by introducing panel one.

Mr. Isaac Fulwood is chairman of the U.S. Parole Commission. On November 20, 2004, Isaac Fulwood was appointed as a U.S. Parole Commissioner by President George W. Bush. He served 29 years as member of the Metropolitan Police Department and in 1989 became the 25th chief of police.

Ms. Adrienne Poteat was named the Acting Director for the Court Services and Offender Supervision Agency in July 2008. In this position, Ms. Poteat oversees a Federal agency that was created by the D.C. Revitalization Act of 1997.

Ms. Laura Hankins is special counsel to the director at the Public Defender Service of the District of Columbia. She represents PDS in commenting on legislation before the D.C. City Council, the District of Columbia Sentencing Commission, and on the committee responsible for drafting the District patent criminal jury instructions. Her management responsibilities include supervising the Defender Services Office, the PDS division responsible for determining the eligibility of defendant to receive court appointed lawyers and for initially assigning lawyers to criminal cases.

Mr. Jesse Janetta is a research associate for the Urban Institute. He has research and evaluation experience addressing issues related to prisoner reentry, parole, probation supervision, and risk prediction. Prior to coming to the Urban Institute, Mr. Janetta was the research specialist at the Center for Evidence-Based Corrections at the University of California at Irvine.

Mr. Martin Horn is a distinguished lecturer in the Department of Law and Police Science at John Jay College. He was appointed by Mayor Michael Bloomberg to serve as commissioner of the New York City Department of Probation effective January 1, 2002. One year later, Mayor Bloomberg appointed him to serve as commissioner of the New York City Department of Corrections. He held both positions simultaneously until coming to John Jay College in September 2009.

I understand now that Mr. Charles Thorton will be appearing in place of Mr. Cornell Jones. Mr. Cornell Jones is the chairman of the Returning Citizens United, Inc., a D.C.-based advocacy group for the formerly incarcerated. Under Mr. Jones leadership, Returning Citizens United has made great strides in redirecting many at risk youth and adult men from self-destructive behavior to positive and self-directed behaviors.

Again, I welcome all the witnesses. I invite Mr. Fulwood to offer a summation of your statement for 5 minutes.

STATEMENTS OF ISAAC FULWOOD, JR., CHAIRMAN, U.S. PAROLE COMMISSION; ADRIENNE POTEAT, ACTING DIRECTOR, COURT SERVICES AND OFFENDER SUPERVISION AGENCY; LAURA HANKINS, SPECIAL COUNSEL, D.C. OFFICE OF THE PUBLIC DEFENDER; JESSE JANETTA, THE URBAN INSTITUTE; MARTIN F. HORN, DISTINGUISHED LECTURER, JOHN JAY COLLEGE OF CRIMINAL JUSTICE; AND CHARLES THORTON, RETURNING CITIZENS UNITED

STATEMENT OF ISAAC FULWOOD, JR.

Mr. FULWOOD. First let me say good afternoon. Thank you to Chairman Lynch for inviting us to the hearing. I especially thank Congresswoman Norton, who is my Congresswoman, for inviting me and taking an interest in the U.S. Parole Commission.

The Parole Commission today, as mandated by Congress, carries out the following duties: making parole and revocation decisions for parole-eligible Federal offenders, making parole and revocation decisions for parole-eligible D.C. Code offenders, setting and enforcing the conditions of supervised release for District of Columbia Code offenders, and making release decisions for U.S. citizens convicted of crimes in another country who wish or elect to return to the United States for the service of sentence.

Most of the Commission's day to day work involves the D.C. Code offenders. As of the end of fiscal year 2008, about 70 percent or 9,236 of the persons under the Commission's jurisdiction of 12,696 were D.C. Code offenders. Of the 1,842 revocation hearings conducted by the Commission during fiscal year 2008, 87 percent of them or 1,608 were D.C. Code offenders. In the 12 months ending August 31, 2009, roughly 90 percent of the 2,020 warrants issued by the Commission were for D.C. Code offenders.

The Parole Commission is a public safety agency charged by Federal and District common law with the duties of enforcing public safety. The Commission keeps in mind for all of its decisions that the public safety is paramount.

For our work involving parolee decisionmaking, the Commission uses guidelines that look at the severity of the crime for which the person has been sentenced, the likelihood that the offender will commit another crime if released, prison conduct, and prison program performance. The Commission is presently involved in redefining the instrument to improve its predictive powers. In other words, we have done a study.

The area of the Commission's work that is growing is setting conditions of release and conditions of supervision. The Commission works closely with the Court Services and Offender Supervision Agency to ensure that offenders under supervision are carefully monitored and are given an opportunity to acquire skills and receive treatment that will enable them to become good citizens. CSOSA has established a Reentry and Sanctions Center to provide assessment and reentry programming for offenders, as well as residential sanctions for offenders who violate release conditions.

The Commission fully supports the program by ordering as a condition of release from prison the offenders identified by CSOSA as meeting the programs be assessed by the Reentry and Sanctions Center. The Commission also imposes on such offenders a condition

of supervision that requires participation in treatment programs recommended as a result of the Reentry and Sanctions Center assessment.

CSOSA reports regularly to the Commission on each offender it supervises for the Commission. If it becomes necessary to remove someone from the community, CSOSA will ask the Commission to issue a warrant.

We would like to see people under supervision succeed and become good citizens. If persons under supervision have become a risk to the public, we will issue a warrant. To avoid having to issue a warrant by intervening when the behavior of someone under supervision starts to deteriorate, CSOSA and the Commission have established a reprimand sanction program.

When CSOSA becomes concerned that an offender's behavior is becoming questionable, a reprimand sanction hearing is scheduled. A commissioner conducts an internal and informal hearing with the offender. A representative of the Public Defender Service and the supervising officer discuss the matter. An improvement plan is worked out for the offender with the goal of motivating offenders to change whatever behavior has caused concern before that behavior requires the Commission to take an action.

It has been my experience both as chief of police in Washington, DC, and as a commissioner that a major problem faced by returning offenders is drugs and alcohol. Addiction makes it difficult for returning offenders to be law-abiding and to stay out of trouble. The Commission is involved in two programs designed to address addiction problems in the District of Columbia offender population. The programs offer inpatient addiction treatment in a secure environment of offenders arrested on the Commission warrant charging relatively minor violations of conditions of supervision.

Mr. LYNCH. Mr. Fulwood.

Mr. FULWOOD. Yes?

Mr. LYNCH. Sir, you are over by a couple of minutes. Could I ask you to just sum up? I think a lot of the information you want to provide will be through the question and answer. I appreciate the comprehensiveness of your statement.

Mr. FULWOOD. OK, let me give you the two programs. The two programs that we talked about are the Residential Secure Substance Abuse Program, which is run by the D.C. Department of Corrections. It is a program that is designed for a 90 day period of behavioral modification to deal with the problem of addiction. The second program is the Secure Residential Treatment Program, which is run by CSOSA along with the U.S. Parole Commission. That is good for 180 days to try to change the offender's behavior. Those are the two programs.

When you think about the reprimand sanction hearing, another program designed specifically to address not putting people back through incarceration, that is trying to figure out the best method to get them to be motivated to do a better job.

[The prepared statement of Mr. Fulwood follows:]



Department of Justice

STATEMENT

OF

ISAAC FULWOOD
CHAIRMAN
UNITED STATES PAROLE COMMISSION

BEFORE THE

SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL SERVICE, AND
THE DISTRICT OF COLUMBIA

COMMITTEE ON OVERSIGHT AND GOVERNMENTAL REFORM
U.S. HOUSE OF REPRESENTATIVES

CONCERNING

"LOCAL ROLE OF THE U.S. PAROLE COMMISSION"

PRESENTED ON

SEPTEMBER 22, 2009

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STATEMENT

of

ISAAC FULWOOD, CHAIRMAN
UNITED STATES PAROLE COMMISSION

before the

Subcommittee on Federal Workforce,
Postal Service, and the District of Columbia
Committee on Oversight and Governmental Reform
United States House of Representatives

Tuesday, September 22, 2009

Thank you for this opportunity to discuss the policies and operations of the United States Parole Commission. I commend the Subcommittee for holding this hearing.

Let me begin by briefly outlining the history of the Parole Commission and what it does.

The United States Parole Commission was established by bipartisan legislation enacted by Congress in the mid-1970s, when federal sentences were indeterminate.¹ Under that indeterminate system, the sentencing judge imposed a maximum prison term, and for

most offenders the Commission determined the offender's release date using its own decision-making guidelines.

Less than 10 years after the establishment of the Commission, Congress dramatically revised the federal sentencing system. The Sentencing Reform Act of 1984 required federal judges to sentence federal offenders using sentencing guidelines developed by the United States Sentencing Commission.² The Act abolished parole and replaced it with a fixed term of supervised release to be imposed by the sentencing judge and served by the offender after completing the prison term imposed for the crime. The abolition of parole took effect when the initial set of sentencing guidelines took effect – on November 1, 1987.

The Sentencing Reform Act also abolished the Parole Commission. The legislation, however, did not call for the abolition of the Commission to take effect at the same time parole was abolished. Instead, in recognition of the need to handle the cases of offenders convicted of crimes while parole was still in effect, the legislation called for the Commission to be abolished five years after the guidelines took effect, that is, on November 1, 1992. It was expected

that the functions of the Parole Commission – granting parole, determining and modifying the conditions of parole, and revoking parole – would apply to a diminishing class of federal offenders sentenced under the old law.³ For those old-law offenders not released by the Commission before it expired, the legislation, in what is called the “winding-down” provision, directed the Commission to set a release date for each such offender before going out of existence. The legislation, however, made no provision for periodic hearings for such offenders after the Commission went out of business.

The substantial decline in the number of old-law federal offenders that was expected did not materialize. People continued to be convicted of offenses committed before November 1, 1987, and many old-law offenders were not released on parole in the five-year transition period, and with good reason. For many old-law offenders, parole within that five-year period would have resulted in premature release to the community of persons who committed extremely serious crimes or were clearly dangerous. Further, Congress recognized that, by depriving offenders of periodic review of their cases and the

opportunity for an earlier release date, the Sentencing Reform Act raised ex post facto questions under the Constitution.⁴

These considerations led Congress to change the expiration date for the Commission from November 1, 1992 to November 1, 1997.⁵ Since then, Congress has extended the expiration date several times, first to November 1, 2002, next to November 1, 2005, then to November 1, 2008, and most recently to November 1, 2011.⁶

While Congress was, from time to time, extending the life of the Commission, it was also giving the Commission new duties. The most significant new duties concerned offenders convicted in the District of Columbia Superior Court. The National Capital Revitalization and Self-Government Improvement Act of 1997, together with related District of Columbia legislation, instituted reforms in the District of Columbia's sentencing system that in many respects are similar to the reforms in federal law made by the Sentencing Reform Act.

As a result of those legislative efforts, the Parole Commission became the paroling authority for parole-eligible District of Columbia offenders.⁷ The District of Columbia abolished parole effective August 5, 2000 and replaced it with supervised release. The Parole

Commission was given a role in the District of Columbia supervised release process. While the Superior Court of the District of Columbia sets an offender's term of supervised release, the Parole Commission determines and enforces the conditions of supervised release.⁸ The Commission's enforcement authority includes the power to revoke supervised release and send an offender to prison.⁹

There were also other additions to the Parole Commission's duties. Even before 1984, Congress had given the Commission the duty of granting or denying parole for United States citizens convicted of a crime in a foreign country who elected to return to the United States to complete their sentences.¹⁰ Congress subsequently determined that transferred offenders convicted of a foreign offense committed after October 31, 1987 should be treated as if sentenced in this country under the new federal sentencing system and therefore directed the Parole Commission to set release dates for such offenders by applying the sentencing guidelines promulgated by the United States Sentencing Commission.¹¹ This function is appropriately handled by an Executive Branch agency because the transfer treaties forbid judicial

reexamination in the receiving country of the sentence imposed by the country in which the offender was convicted.

The Commission also performs parole-related functions for certain military and state offenders. When the Department of Defense transfers military service personnel convicted under the Uniform Code of Military Justice to the custody of the Federal Bureau of Prisons, the Parole Commission is responsible for making parole-release and revocation decisions for them.¹² Finally, the Sentencing Reform Act gave the Parole Commission decision-making authority over state offenders who are on state probation or parole and are transferred to federal authorities under the witness security program.¹³

In summary, the duties of the Parole Commission today are (1) making parole release and revocation decisions for parole-eligible federal offenders; (2) making parole release and revocation decisions for parole-eligible District of Columbia Code offenders; (3) setting and enforcing the conditions of supervised release for District of Columbia Code offenders; (4) making release decisions for United States citizens convicted of a crime in another country who elect to return to the

United States for service of sentence; and (5) making parole decisions for state prisoners in federal custody.

Most of the Parole Commission's day-to-day work involves District of Columbia offenders. At the end of Fiscal year 2008, nearly 13,000 persons were under Parole Commission jurisdiction; of that number, roughly 70% (9,236) were District of Columbia Code offenders. The Commission conducted 1,842 revocation hearings in FY 2008, and 87 % of them (1,608) were for District of Columbia Code offenders. In the 12 months ending August 31, 2009, roughly 90% of the 2,020 warrants issued by the Commission were for District of Columbia Code offenders.

The Parole Commission is a public safety agency. Under both federal and District of Columbia law, the Commission is charged with the duty of ensuring public safety. For example, the Commission is authorized by the District of Columbia Code to release an offender only if the Commission determines that the person's release "is not incompatible with the welfare of society." The Commission keeps in mind, for all of its decisions, that public safety is paramount.

For that part of the Commission's work involving parole-release decision-making, the Commission uses guidelines that look at the severity of the crime for which the person has been sentenced, the likelihood that the offender will commit another crime if released, and prison conduct and prison program performance. For District of Columbia offenders, the Commission makes parole-release decisions using a modified version of guidelines that were originally developed by the District of Columbia Board of Parole and that focus on the risk of further criminal conduct by the offender. The likelihood that an individual offender will recidivate is determined by use of a risk-prediction instrument that is based principally on the offender's criminal history. The Commission is presently involved in refining that instrument to improve its predictive power.

The part of the Commission's work that is growing is the setting and enforcement of conditions of supervision. In setting those conditions, the Commission considers a wide range of factors. Those factors include the history and characteristics of the offender, the nature and circumstances of the offender's crime, the need to deter criminal

conduct, and the need to provide an offender with educational or vocational training or medical care or other correctional treatment.

The Commission's goals in setting release conditions are, first, to protect the public, and, second, to give an offender an opportunity to become a productive and law-abiding member of the community. Day-to-day supervision of offenders is carried out by the Court Services and Offender Supervision Agency for the District of Columbia (CSOSA). The Commission works closely with CSOSA to ensure that offenders under supervision are carefully monitored and are given an opportunity to acquire skills, and to receive treatment, that will enable them to become good citizens. CSOSA reports regularly to the Commission on each of the offenders it supervises for the Commission, and if it becomes necessary to remove someone from the community, CSOSA will ask the Commission to issue a warrant.

The Commission issues the overwhelming majority of warrants that are requested. We would like to see people under supervision succeed and become good citizens, but we are not reluctant to issue warrants. If a person under supervision has become a risk to the public, we will issue a warrant.

To avoid the need for a warrant by intervening when the behavior of someone under supervision starts to deteriorate, CSOSA and the Commission have established the reprimand hearing program. When CSOSA becomes concerned that an offender's behavior is becoming questionable, a reprimand sanction hearing is scheduled. A Commissioner conducts an informal hearing with the offender, a representative of the Public Defender Service, and the supervision officer to discuss the matter. An improvement plan is worked out for the offender. The goal is to motivate the offender to change whatever behavior has been causing concern before that behavior requires the Commission to act to send the offender to prison.

It has been my experience, both as Chief of Police in the District of Columbia and as a member of the Commission, that a major problem faced by returning offenders is drug and alcohol addiction. Addiction makes it difficult for a returning offender to be law-abiding and to stay out of trouble

The Commission is involved in two programs designed to address the addiction problem in the District of Columbia offender population. The programs offer inpatient addiction treatment in a

secure environment to offenders arrested on a Commission warrant charging relatively minor violations of conditions of supervision. Both programs are voluntary on the part of the offender.

The goal of the programs is that an offender who goes through them will return to the community free of addiction. The District of Columbia Department of Corrections has set up the Residential Substance Abuse Program (RSAT) at the D.C. Jail. CSOSA and the District of Columbia Public Defender Service, along with the Commission, are involved in the RSAT program. CSOSA has established the Secure Residential Treatment Program (SRTP) at the D.C. Correctional Treatment Facility. The District of Columbia Department of Corrections and the Corrections Corporation of America (which operates the Correctional Treatment Facility), along with the Commission, are also involved in the SRTP program.

An offender who enters the RSAT program will remain in jail for 90 days while undergoing inpatient treatment. If the offender successfully completes that treatment, the Commission will dismiss the charges and return the person to supervision. An offender who enters the SRTP program will enter an inpatient program at the Correctional

Treatment Facility for 180 days. If the offender successfully completes that program, the Commission will return the offender to the community without revoking the offender's release. An offender who successfully completes either program is required upon release to follow a treatment regimen determined appropriate by the program staff.

The Commission would like to expand programs the goals of which are to reduce prison overcrowding, lower recidivism rate, promote alternatives to incarceration, and reduce violent crime, especially crime committed with guns or by gangs. The Commission would like to increase the number of offenders referred to the RSAT and SRTP programs mentioned earlier; to expand the reprimand sanction hearing program mentioned earlier; implement new revocation guidelines for District of Columbia Code offenders; and to establish a program to focus on offenders who have committed sex offenses, domestic-violence offenses, child-abuse offenses, and firearms offenses, or who have gang affiliation.

A significant challenge faced by the Commission – and faced by every supervision agency – is the handling of sex offenders. A sex

offender can present a serious risk public safety risk. The Commission's policy is to have sex offenders closely monitored, and the Commission ordinarily imposes a GPS condition on sex offenders.

Probably the most significant challenge facing the Commission is the matter of the Commission's continued existence. The uncertainty about the future makes it difficult to hire and keep highly skilled employees. Each time the question of the continued existence has arisen, Congress has decided on a short-term extension, even though the reason for the extension has been the ongoing nature of the Commission's duties. It has been questioned whether the Parole Commission is the appropriate entity to carry out District of Columbia responsibilities. Indeed, Congress in 2002 asked the Attorney General to establish a committee to evaluate the merits and feasibility of transferring the Commission's supervised release functions to another entity. Attorney General Ashcroft reported to Congress that "there is no District of Columbia or Federal agency, other than the USPC, with the staff, procedures, and infrastructure in place to effectively assume the existing functions of the USPC" The Attorney General also pointed out that "the transfer of the USPC's functions to another entity

potentially would entail significant losses in the effectiveness of supervisory functions.”

¹ An Act to establish an independent and regionalized United States Parole Commission , to provide fair and equitable parole procedures, and for other purposes, Pub. L. No. 94-233, 90 Stat. 219 (1976).

² Pub. L. No. 98-473, title II, ch. II, 98 Stat. 1987. An offender, however, can earn good-time credit of up to 15% of the sentence. See 18 U.S.C. § 3624.

³ Sentencing Reform Act of 1984, Pub. L. No. 98-473, title II, ch. 2, § 235(b)(1)(A), 98 Stat. 2032. See Sen. Rep. No. 98-225, 98th Cong., 1st Sess. 189 (1983) (“Most of those individuals incarcerated under the old system will be released during the five-year period”).

⁴ See H.R. Rep. No. 104-789, 104th Cong., 2d Sess. 3 (1996).

Constitutional requirements, specifically the ex post facto clause, necessitate the extension of the Commission, or the establishment of a similar entity authorized by statute to perform its functions. Otherwise those remaining “old law” offenders will file habeas corpus petitions, seeking release on the grounds that their right to be considered for parole had been unconstitutionally eliminated. If such petitions were successful, public safety may be jeopardized by the release of dangerous criminals.

⁵ See Judicial Improvements Act of 1990, Pub. L. No. 101-650, § 316, 104 Stat. 5115.

⁶ See Parole Commission Phaseout Act of 1996, Pub. L. No. 104-232, 110 Stat. 3005; 21st Century Department of Justice Appropriations Authorization Act, Pub. L. No. 107-273, § 11017, 116 Stat. 1758 (2002); United States Parole Commission Extension and Sentencing Commission Authority Act of 2005, Pub. L. No. 109-76, § 2, 119 Stat. 2035; United States Parole Commission Extension Act of 2008, Pub. L. No. 110-312, 122 Stat. 3013.

⁷ See National Capital Revitalization and Self-Government Improvement Act of 1997, Pub. L. No. 105-33, § 11231, 111 Stat. 746; D.C. Code § 24-131(a)(1).

⁸ See D.C. Code §§ 24-408(a-1), 24-403.01.

⁹ See D.C. Code, §§ 24-403.01(b)(6), 24-133(c)(2).

¹⁰ See An Act to provide for the implementation of treaties for the transfer of offenders to or from foreign countries, Pub. L. No. 95-144, § 1, 91 Stat. 1215 (1977) (enacting 18 U.S.C. § 4103).

¹¹ See Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, § 7101(a), 102 Stat. 4415 (enacting 18 U.S.C. § 4106A).

¹² See 10 U.S.C. § 858(a).

¹³ See Sentencing Reform Act of 1984, Pub. L. No. 98-473, title II, ch. II, § 1208, 98 Stat. 2157 (enacting 18 U.S.C. § 3522).

Mr. LYNCH. Thank you very much.

Ms. Poteat, you are now recognized for 5 minutes for an opening statement.

STATEMENT OF ADRIENNE POTEAT

Ms. POTEAT. Chairman Lynch, Congresswoman Norton, and other distinguished members of the committee, thank you for this opportunity to testify. I am pleased to appear before you today on behalf of the Court Services and Offender Supervision Agency to discuss the work of CSOSA and its connection with the U.S. Parole Commission.

CSOSA is a Federal law enforcement agency with a unique local mission. The Agency supervises approximately 16,000 men and women on probation, parole, or supervised release in the District of Columbia. Two thirds of these offenders are probationers who have gone to prison and are accountable to the D.C. Superior Court rather than the U.S. Parole Commission. Most of the remaining third, about 6,000 offenders, are on parole or supervised release from a term of incarceration in the Federal Bureau of Prisons and are accountable to the USPC.

Our offenders face many challenges. Thirty percent have a history of violent crime. Sixty-four percent have a history of substance abuse. Thirteen percent have a formally diagnosed mental illness. Many others have undiagnosed mental health conditions. Nearly 40 percent do not possess a high school diploma or GED. Only 47 percent of our population is employed. On an average day, 800 offenders reside in D.C. homeless shelters or have housing situations that are considered unstable. Stable housing and employment are critical factors affecting the likelihood that an offender will commit a new crime, violate the terms of their release, and ultimately whether or not they will be revoked to incarceration.

We partner with numerous local and Federal agencies and community-based organizations to access the education, training, employment, family services, mental health and substance abuse treatment, and other services that our clients need. Yet, while we recognize the critical importance of these services, CSOSA's critical mission is public safety. Our main strategy is in support of the public safety mission for close supervision.

Through a system of graduated sanctions, CSOSA imposes increasingly restrictive penalties on offenders for violating their release conditions. Sanctions can involve increased office visits, drug testing, GPS monitoring, or residential placement in halfway back or the 102 bed Reentry and Sanctions Center [RSC], that we opened in 2006.

Our Office of Research and Evaluation is currently working with the U.S. Parole Commission on the development of a new violation sanctions matrix and the integration of that tool with CSOSA's own graduated sanction matrix. The alignment of these tools will provide uniformity in the response to supervision violations by parolees and supervised releasees in the future.

In May 2006, in conjunction with the USPC, we created an alternative sanction option called the reprimand sanction hearing for offenders on parole and supervised release. This program permits the USPC a face to face opportunity to address an offender's non-

compliant behavior as a last step before a formal parole revocation hearing. From May 2006 to July 2009, 259 hearings were conducted. Participating offenders have shown a higher level of compliance following these hearings.

USPC and CSOSA are in daily contact regarding the adjustment of the 6,000 offenders under their jurisdiction and our supervision. Routine communications include both recommendations to reward compliant behavior as well as placement on inactive supervision. We also do the submission of AVRs on offenders that are non-compliant.

Just yesterday CSOSA launched the new Secure Residential Treatment Program [SRTP], which will serve as an alternative placement for eligible D.C. Code offenders on parole or supervised release who face revocation for technical violations including substance abuse and, in some cases, new criminal violations. We are partnering in this endeavor with the USPC, the Department of Corrections, and the Public Defender Service.

The initial pilot program will consist of a 180 day treatment regimen including and involving 32 offenders. It is scheduled to run until March 2010. During this pilot demonstration, CSOSA will fund and operate the Treatment Intervention Center.

The USPC has been an integral partner in our efforts to establish the SRTP program and to implement the pilot demonstration.

We look forward to the continuation of our close collaboration with the U.S. Parole Commission as well as our local and Federal partners as we work together to enhance public safety while reducing the rate of incarceration as one of our alternate goals.

I appreciate the opportunity to appear before you today. I welcome any questions. Thank you very much.

[The prepared statement of Ms. Poteat follows:]

**Testimony of Adrienne Poteat, Acting Director
Court Services and Offender Supervision Agency
for the District of Columbia**

**Before the U.S. House of Representatives Committee on Oversight
And Government Reform Subcommittee on Federal Workforce,
Postal Service and the District of Columbia**

**Concerning “The Local Role of the United States Parole Commission: Increasing
Public Safety, Reducing Recidivism, and Using Alternatives to Re-incarceration in
the District of Columbia”**

September 22, 2009

Chairman Lynch, Ranking Member Chaffetz, and members of the Subcommittee, thank you for the opportunity to testify. I am pleased to appear before you today on behalf of the Court Services and Offender Supervision Agency (CSOSA) to discuss the work of CSOSA and its connection with the United States Parole Commission (USPC).

CSOSA is a federal law enforcement agency with a unique local mission. The Agency supervises approximately 16,000 men and women on probation, parole, or supervised release in the District of Columbia. Two-thirds of these offenders are probationers who have not gone to prison and are accountable to the D.C. Superior Court rather than the USPC. Most of the remaining third, or about 6,000 offenders, are on parole or supervised release and have served a term of incarceration in the Federal Prison System and are accountable to the USPC. CSOSA includes the D.C. Pretrial Services Agency, which supervises another 6,000 defendants to ensure that they comply with court-imposed release conditions and appear for scheduled court dates.

Our offenders face many challenges. Thirty percent have a history of violent crime, 64% have a history of substance abuse and 13% have a formally diagnosed mental illness. Many others have undiagnosed mental health conditions. Nearly 40% do not

possess a high school diploma or GED and only 47% of our population is employed. On an average day, 800 offenders reside in D.C. homeless shelters or have housing situations that are considered unstable. Stable housing and employment are critical factors affecting the likelihood that an offender will commit a new crime, violate the terms of their release, and ultimately, whether or not they will be revoked to incarceration. Our agency works hard to find creative, cost-effective, evidence-based solutions for these problems in an effort to help our offenders successfully complete their community supervision.

CSOSA uses a wide variety of tools in order to provide the offenders we supervise with an opportunity to succeed. Addressing the specific set of challenges presented by each offender requires us to reach out for help from local and federal agencies, as well as community-based organizations and local businesses for assistance with housing, education and training, employment, family services, mental health and substance abuse treatment, healthcare and more. We partner with numerous agencies and organizations to access the services that our clients need. Yet, while we recognize the critical importance of the services, CSOSA's highest operational priority is public safety and our main strategy in support of our public safety mission is close supervision.

In order to provide close supervision, we use a number of evidence-based strategies to enforce offender compliance and interrupt non-compliant behavior before it escalates to new criminal activity or revocation. Through a system of graduated sanctions, CSOSA imposes increasingly restrictive penalties on offenders for violating their release conditions. Sanctions can involve increased office visits or drug testing, GPS monitoring, residential placement in the Reentry and Sanctions Center (RSC) or a

Halfway Back program, and for parolees and supervised releasees, a Reprimand Sanction Hearing.

If an offender does not return to compliance or is arrested, we file an Alleged Violation Report (AVR) with the appropriate releasing authority. The average AVR documented eight violations, most (65 percent) related to drug use or failure to comply with drug testing. Ultimately, recidivism is the result of a series of events and it is affected by multiple factors. Unemployment, an unstable living arrangement, poor community or family support, and chronic mental health or substance abuse problems all influence the behavior that leads an offender to recidivism.

The USPC and CSOSA have a very close operational relationship, with our respective staffs in daily contact regarding the adjustment of the 6,000 D.C. offenders under the Commission's jurisdiction that are also under CSOSA's supervision. Routine communications include both recommendations to reward compliant offenders with placement on inactive supervision, as well as the submission of AVRs on offenders that are non-compliant. During the past few years, CSOSA has been collaborating with the USPC on some special initiatives intended to improve our mutual response to offenders' non-compliant behavior.

In May 2006, CSOSA, in conjunction with the USPC, created an alternative sanction option called the Reprimand Sanction Hearing. This is a graduated sanction that permits the USPC to address an offender's non-compliant behavior and to encourage the offender to comply with the conditions of his or her release as a last step before a formal parole revocation hearing. On a monthly basis, Reprimand Sanctions Hearings are conducted throughout the city at various CSOSA field sites with both CSOSA staff and a

member of the USPC present. From May 2006 through July 31, 2009, 259 hearings were conducted. Participating offenders have shown a higher level of compliance following these hearings.

Just yesterday, CSOSA launched the new Secure Residential Treatment Program (SRTP). The SRTP will serve as an alternative placement for eligible D.C. Code offenders on parole or supervised release who face revocation for technical violations (including substance abuse) and, in some cases, new criminal violations. We are partnering in this endeavor with the USPC, D.C. Department of Corrections and the Public Defender Service. The initial pilot demonstration will consist of an up-to-180-day treatment regimen involving 32 offenders and is scheduled to run until March 2010. During the pilot demonstration, CSOSA will fund and operate the treatment intervention in one 32-bed unit of the Correctional Treatment Facility. The USPC has been an integral partner in our efforts to establish the SRTP program model and implement the pilot demonstration.

Our Office of Research and Evaluation is currently working with the USPC on the development of its new Violation Sanction Matrix and the integration of that tool with CSOSA's own Graduated Sanction Matrix. The alignment of these tools will provide uniformity in the response to supervision violations by parolees and supervised releasees in the future.

In order to effectively manage the offenders that we supervise and facilitate their success in the community, CSOSA employs a formal assessment process to determine their risk level and needs. Using a tool called the Auto Screener, our Community Supervision Officers, or CSOs, establish a prescriptive supervision plan which provides

guidance regarding supervision levels and the need for referrals to community resources and service providers.

Our supervision model includes ongoing reevaluation of the offender's needs and compliance, which may result in modification of the supervision plan. Supervision plan changes can include an increase or decrease in the frequency of the contact with the CSO or a change in the offender's drug testing schedule or educational or employment plan. As a last resort, non-compliant behavior can result in the submission of an AVR to either the Court or the USPC recommending a sanction or revocation.

CSOSA uses a wide variety of tools to provide the offenders we supervise with an opportunity to succeed. Addressing each offender's individual challenges requires us to seek assistance from local and federal agencies, as well as the non-profit and business communities, to secure housing, educational opportunities, employment, family services, mental health and substance abuse treatment, healthcare and more. While we partner with numerous agencies and organizations to coordinate the services that the offenders need, we have also made infrastructure investments in order to provide some assistance directly.

In 2006, CSOSA opened the Reentry and Sanctions Center (RSC). Its mission is to provide intensive assessment and reintegration programming for high risk offenders and defendants as well as residential sanctions for offenders and defendants who violate their community release conditions. Many of the offenders at the RSC report to the facility immediately following their release from prison. The RSC is a 102-bed facility, with six units, including two for individuals with co-occurring mental health and substance abuse disorders. It provides a 28-day holistic and multi-disciplinary program

including clinical assessments, treatment readiness and behavioral therapy. Upon completion of the RSC program, most offenders and defendants are referred to residential or outpatient substance abuse treatment programs. We maintain contracts with a network of treatment providers that enable us to ensure that services are readily available for high-risk offenders with an immediate treatment need.

Employment is a key factor in an offender's community reintegration. The job market is tight across the nation, but it is especially difficult for individuals with a criminal record seeking to obtain meaningful employment in the Washington Metropolitan Area. Offenders have found themselves competing for entry-level employment against individuals who have far greater skills and fewer deficits, such as a criminal record. In order to help address the employment challenges that offenders face, we have established a unit called VOTEE (Vocational Opportunities, Training, Education and Employment) to provide assistance. VOTEE offers educational and vocational referral services based on individual need. The VOTEE unit conducts quarterly pre-screening and orientation sessions to prepare offenders to compete for jobs in various employment sectors. Most recently, these events have concentrated on green jobs in industries that focus on energy efficiency and other environmentally-friendly practices, as well as jobs in the food services, environmental services, technology and construction markets. Another important aspect of VOTEE's work is GED preparation and improving literacy levels.

Recently, CSOSA and our VOTEE unit formed an exciting partnership with the D.C. Office of the State Superintendent of Education, the D.C. Department of Employment Services, Federal Bureau of Prisons, the Hotel Association of Washington

and the University of the District of Columbia to offer up to 60 newly released offenders living in local Residential Reentry Centers the opportunity to participate in a 20-week paid Hospitality Industry Career Training and Internship Program. Graduates of the program will receive a certification from the American Hotel and Lodging Educational Institute which will enable them to compete for career opportunities across the country. We are hopeful that other sectors of our local economy will be inspired to replicate this program within their own industries.

As I stated above, our offenders face a significant challenge in locating suitable, safe and affordable housing. As a result of criminality and incarceration, many offenders have become indigent, or have lost contact with or the support of their families and become homeless. In order to help address this urgent and most basic need, CSOSA was provided \$1 million in FY 2009 and \$500,000 in FY 2010 to contract with transitional housing providers for transitional housing for reentrants.

CSOSA contracts for both faith-based and non faith-based transitional housing. Our primary faith-based transitional housing provider is Rev. Donald Isaac's Faith-Based Transitional Housing Program. It is designed to provide the skills an offender needs in order to become self-sufficient. This model program consists of three phases. The first phase focuses on the development of a case plan that identifies the services each resident requires. The second phase concentrates on obtaining employment and developing constructive relationships with the community and the third phase consists of placement in permanent housing, while maintaining stable employment. After an offender moves on from Rev. Isaac's program, they still maintain contact with their mentor and

participate in after-care meetings and follow-up sessions to assess their progress and provide assistance if needed.

Earlier this year, CSOSA partnered with the D.C. Department of Housing and Community Development, and the D.C. Office of Ex-Offender Affairs to conduct a Landlord Roundtable. This event brought together local landlords to discuss the provision of affordable rental housing opportunities to offenders who are employed and in compliance with their release conditions. Several landlords expressed a willingness to rent to offenders and we are working with our partners to make appropriate referrals.

In addition to our active partnerships with government agencies and community-based organizations, we are also committed to working with the faith community in Washington, DC. Since 2002, we have reached out to the city's clergy and have worked with them to form a successful city-wide mentoring program that has helped offenders find jobs, stabilize relationships, locate housing, and maintain a substance-free lifestyle.

Through my testimony here today, I have attempted to show that CSOSA works with its government and community-based partners to address the challenges offenders face through a variety of treatment and support services. It is important to note, however, that the extent to which the need for these services outstrips their availability affects the extent of offender recidivism.

Attorney General Eric Holder recently said in a speech delivered to the American Bar Association that "[w]e no longer must choose between more prisoners or more crime: we can reduce our dependence on incarceration and we can reduce crime rates." Mr. Holder suggested that through smarter law enforcement efforts and a more sincere dedication to the rehabilitation of criminal behavior, we will see a decrease in recidivism.

CSOSA has operated with this same philosophy in mind since our certification in August 2000 as an independent Federal agency.

We look forward to the continuation of our close collaboration with the USPC, as well as all of our local and federal partners, as we work together to enhance public safety while also reducing the rate of incarceration. I appreciate the opportunity to appear before you today and welcome any questions.

Thank you.

Mr. LYNCH. Thank you very much.

Ms. Hankins, you are now recognized for 5 minutes for an opening statement.

STATEMENT OF LAURA HANKINS

Ms. HANKINS. Thank you. Good afternoon. I am Laura Hankins, special counsel to the director of the Public Defender Service for the District of Columbia. Thank you for the invitation to testify today on the local role of the U.S. Parole Commission.

The Public Defender Service has represented over 90 percent of D.C. Code offenders who have faced revocation of parole or supervised release since the Parole Commission replaced the D.C. Board of Parole. Thus we have a unique perspective on and a strong interest in the Commission's increasingly local role.

Reducing recidivism increases public safety. One way to reduce recidivism is to develop and appropriately use alternatives to re-incarceration. PDS commends the Commission and CSOSA on the development and increasing use of two drug treatment programs and on the continuing work of the reprimand sanction hearings. My understanding is that those hearings are held approximately 3 days a month. We are very gratified to hear the attention that they are getting at this hearing and hope that signals that the Commission will hold those hearings more often.

It should be noted, however, that the need to develop incarceration alternatives and to fine tune the systems concerning who should get such an alternative and who instead should be re-incarcerated is becoming increasingly acute as the population over whom the Commission has authority changes. As a result of the Revitalization Act, parole was abolished in the District effective August 5, 2000 and replaced by supervised release and revocation terms.

Generally speaking, terms of supervised release are shorter than the amount of time an offender is on parole. The revocation term, the amount of time for which an offender can be sent back to prison if he is revoked, is also shorter. This determinate sentence supervised release scheme gives the Parole Commission and CSOSA an opportunity to concentrate their resources on those persons most likely to re-offend, that is persons recently released from prison. In the long run, this scheme should mean fewer people on supervision at any given time, particularly when compared with having to supervise people who are on parole for decades or for life.

But it also means that the Commission needs to examine how it budgets the supervision and revocation time with which it has to work. The question of whether it makes sense, for example, to send someone back to prison for 12 months for having committed a low level technical violation like testing positive for marijuana use is more critical to answer when the offender can only be put back on supervised release for 2 more years and if he violates again can only be sent back to prison for at most 12 more months.

At a hearing on the Commission held by this subcommittee last year, the director of PDS was afforded the privilege of testifying. At that time, PDS noted a number of issues that we hoped to see the Commission address. Two issues in particular deserve mention today. One, the salient factor risk assessment tool needed to be re-

designed in order to account for factors that correlate to recidivism and in order to be relevant to the population most often being assessed by the tool, offenders facing revocation, not offenders seeking a parole grant. Two, the corresponding guidelines that direct the sanction for a parolee upon finding a violation needed to be recalibrated to shorten the re-incarceration periods and allow the reinstatement of low risk supervisees for low severity violations.

There might be reasons for the Commission not to address these issues, though some specific fixes were recommended by an expert the Commission helped to hire. And since the Commission voted to adopt those recommendations, it is difficult to imagine what those reasons might be. But even if one assumes that the status quo provides good reason not to follow through on the recommendations, the climate change facing the Commission in the form of offenders in a very different sentencing system should give the Commission serious pause.

If D.C. offenders continue under the authority of the Commission, 1 day there will be no more parole grant hearings, the very type of hearing for which the salient factor tool was designed. Instead, the Commission's work will essentially be all revocation hearings. But using the salient factor score at revocation hearings is like forcing a square peg into a round hole at every hearing. It is impossible for a parolee or a supervisee facing revocation to get a perfect score. Therefore it is impossible under the corresponding guidelines to get a recommendation of no re-incarceration.

In addition to changing some of its systems, how the Commission exercises its discretion should also be examined. PDS noted last year that while the Commission has the discretion to allow supervisees to remain in the community pending their final revocation hearings, it essentially never exercises that discretion and opts instead to detain at the jail virtually all persons facing revocation. This is no small issue. Last week, roughly 600 people, approximately 20 percent of the D.C. jail's population, were there for parole revocations. While according to Commission procedures the time between an arrest on a violation and the final revocation decision should not be more than 86 days, the current wait is closer to 4 months.

Even putting aside the justness of exercising its discretion to allow some parolees and supervisees to remain in the community, particularly those who are employed and have not lost contact with their supervising officer, the climate change facing the Commission should push it toward using its discretion to release people. Supervisees get credit for time spent in jail. With shorter overall terms of supervision and revocation, reflexively using jail time is essentially wasting the resource of supervision and revocation time. Using up 4 months in jail on a violation that is ultimately not supported or which results in reinstatement on parole means 4 fewer months of supporting that offender's reentry and supervising his behavior to increase public safety and 4 fewer months as a sanction should he later violate his supervised release conditions.

The Public Defender Service appreciates the opportunity for treatment and success on supervision provided by the Commission's new drug programs and continues to applaud Chairman Fulwood on reprimand sanction hearings as he has championed

them. The climate change facing the Commission, however, calls for a new look at how revocation proceedings and sanctions are carried out.

I appreciate the opportunity to present this testimony to the subcommittee and would be pleased to work with the Members in their ongoing consideration of these issues. Thank you.

[The prepared statement of Ms. Hankins follows:]

THE
PUBLIC
DEFENDER
SERVICE
for the District of Columbia



Testimony of

Laura E. Hankins
Special Counsel to the Director

Public Defender Service for the District of Columbia

before the

United States House of Representatives
Committee on Oversight and Government Reform
Subcommittee on Federal Workforce, Postal Service and
the District of Columbia

for the

Hearing on The Local Role of the United States Parole
Commission: Increasing Public Safety, Reducing
Recidivism, and Using Alternatives to Re-incarceration in
the District of Columbia

September 22, 2009

**Statement by Laura E. Hankins
Special Counsel to the Director
Public Defender Service for the District of Columbia**

I am Laura Hankins, Special Counsel to the Director of the Public Defender Service for the District of Columbia. Thank you for the invitation to testify before the Subcommittee today on “The Local Role of the United States Parole Commission (USPC): Increasing Public Safety, Reducing Recidivism, and Using Alternatives to Re-incarceration in the District of Columbia.”

The Public Defender Service for the District of Columbia (PDS) is a federally funded, independent organization governed by an eleven-member Board of Trustees. PDS was created by a federal statute¹ enacted to comply with a constitutional mandate to provide defense counsel to indigent individuals.² The mission of PDS is to provide and promote quality legal representation to indigent adults and children facing a loss of liberty in the District of Columbia justice system and thereby protect society’s interest in the fair administration of justice.

A major portion of the work of the organization is devoted to ensuring that no person is ever wrongfully convicted of a crime. PDS also provides legal representation to people facing involuntary civil commitment in the mental health system, as well as to many of the indigent children in the most serious delinquency cases, including those who have special education needs due to learning disabilities. PDS attorneys represent indigent clients in the majority of the most serious adult felony cases filed in the Superior Court every year and all D.C. defendants requiring “stand in” Drug Court representation at sanctions hearings. Also, PDS provides technical assistance to the local criminal

¹ Pub. L. No. 91-358, Title III, § 301 (1970); *see also* D.C. Code § 2-1601, *et seq.*, 2001 ed.

² *Gideon v. Wainwright*, 372 U.S. 335 (1963).

justice system, training for panel and *pro bono* attorneys, and additional legal services to indigent clients in accordance with PDS's enabling statute. Most relevant to this hearing, PDS represents nearly all of the thousands of D.C. Code offenders facing parole or supervised release revocation by the United States Parole Commission (the Commission) and assists offenders returning to their communities after serving periods of incarceration.

Several changes to the District's criminal justice system were implemented pursuant to the National Capital Revitalization and Self-Government Improvement Act of 1997 (the Revitalization Act), which separated from the District of Columbia government certain local criminal justice and judicial institutions that, in the judgment of Congress, would function better if made independent of the Mayor, other officials of the District of Columbia government, and the District of Columbia budget process. The result of the Act of which the general public is likely most aware was the closure of the locally run prison facilities at Lorton and the transfer of jurisdiction over D.C. prisoners to U.S. Bureau of Prisons (BOP). D.C. prisoners now serve their sentences at BOP facilities throughout the country. Two less widely known changes are of particular relevance to today's hearing. One, the Act abolished the D.C. Board of Parole and transferred the authority over D.C. parolees and supervisees to the Commission. Two, the Act ended the practice of imposing indeterminate sentences (sentences with a range of years and a period of parole) and mandated the use of determinate sentences followed by a period of supervised release.

At the time of the enactment of the Revitalization Act, PDS made a commitment to represent every individual facing revocation who desired to have representation before the Commission, and we have kept this promise. We have had the unique experience of

representing the last individual before the D.C. Board of Parole on its last day in business and representing the first D.C. offender to have his case heard by the Commission after the “changing of the guard.” Since then, PDS has represented over 90% of D.C. Code offenders facing revocation of parole or supervised release before the Commission.

The Director of the Public Defender Service, Avis Buchan, testified before this Subcommittee in March of last year and was given the opportunity to raise a number of concerns with the revocation process for D.C. Code offenders. In my testimony today, I will provide some updates on those concerns as well as note some other challenges. I am also glad to be able to note some positive changes at the Commission that we hope to see extended and expanded.

The title and focus of this hearing is particularly apt as the Commission’s workload will increasingly consist of local District of Columbia matters rather than federal ones. Federal parole was abolished and only persons who committed federal offenses before November 1, 1987 received a sentence that includes federal parole.³ Thus, the number of federal offenders under the authority of the Commission shrinks every year and will one day necessarily reach zero. As noted above, the Revitalization Act caused two significant changes. It gave the Commission authority over DC code offenders and it abolished indeterminate (parole-based) sentencing in favor of determinate sentencing. The first change means that the District is increasingly the primary source of cases for the

³ It is possible, though unlikely, that a person could get convicted today in the federal system and receive a parole sentence. Because of the Ex Post Facto clause of the United States Constitution, an offender can only receive the penalty in effect at the time an offense was committed. A law that increases a penalty, or criminalizes new conduct, cannot be applied retroactively. Thus, it is the offense date that dictates under which system a person will be sentenced. If a person were convicted today of a federal offense that was committed before November 1, 1987, that person would receive a sentence that included parole and when released from prison would be added to the rolls of the Commission. Few offenses have such long statutes of limitation and combined with the decreased chance of a successful prosecution (live witnesses with intact memories) after so many years means almost no federal offender is added to the Commission’s rolls and the federal parolees they do have are reaching the end of their parole time.

Commission, as the number of federal parolees shrinks every year.⁴ The second change is as significant for the Commission and also deserves the attention of this Subcommittee. To understand the significance requires an understanding of the major differences between the indeterminate and determinate sentencing systems.

Under the District's indeterminate system, applicable to all DC offenses committed before August 5, 2000, the sentencing judge imposed a sentence that contained two numbers, a parole eligibility date and a maximum release date. By statute, the first number could not exceed one-third of the second number. To give an example, the statutory maximum for robbery is 15 years. In the indeterminate system, the worst sentence that the judge would impose was a sentence of 5-15 years. This meant that a person would be eligible for parole after 5 years and, if they were never released on parole, they would be released from prison after 15 years. The amount of time on parole and the amount of time for which the person could be sent back to prison as a result of violating parole was the difference between the actual release date and the maximum release date. Assume the person who received the 5-15 year sentence was paroled at the earliest possible time, after serving 5 years in prison. That person would then have to serve 10 years on parole, the amount of un-served time left of his 15-year sentence. If he was perfect and never violated parole, he would be finished after 10 years. If, however, he violates his parole conditions, the Commission, if it revokes his parole, could send him back to prison for as long as 10 years.⁵

⁴ Federal parole was replaced by supervised release. Federal judges have authority over federal offenders on supervised release. Thus, unlike its DC workload, the Commission's *federal* workload is not shifting from parolees to supervisees; it is simply disappearing.

⁵ DC Law 17-389, which went into effect on May 20, 2009, fixes what was commonly referred to as the *Noble* problem, so called after a series of court decisions involving a defendant named Noble. *Noble* was actually about a conflict between two District laws; the result of the decisions was that parolees did not receive "credit for street time." So, to build on the example started above, if the person who received the 5-

The determinate system works very differently. To continue with the robbery example – the worst sentence the judge could impose on a person convicted of robbery, if the offense was committed on or after August 5, 2000, is 13 years – the statutory maximum of 15 years minus the revocation time applicable for this offense, 2 years. The idea, for what the system terms “non-class A offenses,” is that no one will serve more time in prison than the statutory maximum for the offense so the revocation time is subtracted from the statutory maximum and held in reserve in case the person violates supervision and is revoked by the Commission. While the Revitalization Act abolished parole, it did not abolish supervision; parole was replaced by supervised release. The amount of supervised release time the judge can or must impose is set by statute.⁶ For robbery, the judge can or must impose a supervised release term of 3 years. When judges now impose sentences for felony convictions, they impose a single number and the defendant must serve at least 85% of that number.⁷ The person would then be on supervised release for a maximum of 3 years and if he violates and is revoked, faces a maximum 2 years back in prison. The 2-years revocation time is cumulative. If the

15 sentence and was paroled after 5 years, was successful on parole, “on the street,” for 8 years and then violated, he would receive no credit for those 8 years. His 8 years of “street time” did not lessen the amount of time he faces upon revocation – the Commission could still send him back to prison for 10 years, nor did his 8 successful years lessen the amount of time for which he could be placed back on parole. If the Commission revoked him and sent him back to prison for 2 years (“gave him a 2-year hit”), he could be placed back on parole for 8 more years. Under that system, only prison time counted. Of the 15 years maximum sentence that the judge initially imposed, the person served 5 initially, served another 2 upon revocation and therefore still has 8 years to go – 8 more years possible parole and 8 years revocation time hanging over his head should he face revocation again. DC Law 17-389 somewhat ameliorated this draconian system; in many cases, but not all, it gives the Commission discretion to give credit for, or not require forfeiture of, street time upon revocation. Though this law went into effect in May, the USPC is still developing its procedures and guidelines for how it will exercise this discretion.

⁶ See D.C. Code § 24-403.01(b)(1) – (4).

⁷ An inmate can earn “good time” pursuant to D.C. Code § 24-403.01(d), which simply says to award good time in accordance with 18 U.S.C.S. § 3624(b). An inmate cannot, however, lower his sentence by more than 15 %. Whether or not to award good time is a decision of the U.S. Bureau of Prisons and not of the Commission. If an inmate does earn good time, that time is not added to either the supervised release term or the revocation term.

Commission decides to give the person a “6-month hit,” for example, then, after serving those 6 months, the Commission could place the person back on supervised release for no more than 2-1/2 years.⁸ If the person violates again, he faces 1-1/2 years revocation time – the 2 years allowed by statute *minus* the 6-month hit he already served.

By statute, the most amount of revocation time that a person could receive is 5-years and that for only the most serious offenses. Most people will face revocation times of 3 years or 2 years and some only of 1 year. Similarly, the amount of time for which the Commission has authority to supervise an offender is set by statute at either 5 years or 3 years, depending on the offense of conviction,⁹ and is generally shorter than under the parole system. Thus, not only will the Commission’s supervisees be almost exclusively DC code offenders one day, but they will also be offenders on supervised release, not parole, with potentially less supervision time¹⁰ and less revocation time. This also means that the Commission will conduct increasingly fewer parole grant hearings as the release date of determinate-sentence inmates is set by the judge, with some control by the Bureau of Prisons considering “good time.” Thus, notwithstanding the ongoing question of whether to make the Commission permanent or continue to extent its sunset provision, the ground is shifting underneath the Commission as a result of changes in sentencing laws, both federal and local. This “climate change” ought to be an opportunity for this Subcommittee to examine the mission of the Commission and plan what system, and

⁸ The maximum supervised release term allowed by law, 3 years, *minus* the revocation time just served in prison, 6 months.

⁹ Terms of supervised release for persons convicted of sex offenses can be longer, including up to a term of life under supervision.

¹⁰ D.C. Law 17-389, which fixed the *Noble* street time credit problem for parolees, did not affect persons on supervised release. Persons on supervised release do not receive credit for street time. The supervised release statutes set the maximum term of supervised release an offender can receive at any one particular time, but as the above example illustrated, that time is not cumulative and supervised release can be imposed repeatedly. Credit is given for revocation time – so the maximum term of supervised release that can be imposed on an offender lessens the more revocation time he serves.

indeed what entity, would best supervise determinate system DC offenders. In addition, as I will discuss, some of the issues first raised by PDS Director Avis Buchanan last year, specifically regarding the salient factor score and the corresponding guidelines range, are exacerbated by the shift to larger numbers of offenders on supervised release rather than on parole.

Before turning to challenges our clients continue to face with the Commission, I want take this opportunity to note particular programs that PDS welcomes and supports, specifically, the Sanction Reprimand Hearings, begun by Chairman Isaac Fulwood when he was a Commissioner, the Residential Substance Abuse Treatment (RSAT) Program and the Secure Residential Treatment Program (SRTP-Pilot). All three programs are commendable advancements in creating and using alternatives to re-incarceration when an offender falls out of compliance with his supervision.

Sanction Reprimand Hearings are scheduled for a small number of parolees or supervisees in lieu of issuing arrest warrants. Rather than face revocation for a low-level technical violation (as opposed to a violation based on the commission of a new crime), parolees appear at the sanction reprimand hearing and, after a discussion of the lack of compliance, sign a contract to comply with new, more rigorous conditions. PDS understands that this program might be slowly expanding and we welcome that possibility. While we no longer represent parolees at these hearings, it was our experience when we did so that the clients at these reprimand hearings appeared very similar to many other clients who were at the jail awaiting revocation hearings. It is understandable that judgments have to be made between similarly situated parolees because of a finite amount of resources. We think the Sanction Reprimand Hearings are

successful and hope that under Chairman Fulwood's leadership, the Commission will devote significantly more resources to them.

The Residential Substance Abuse Treatment (RSAT) program has been in existence for approximately six months. This program provides inpatient drug treatment for ninety days to both male and female parolees and supervisees who are eligible for the program. For males, the program is at the DC Jail and for women, at the Correctional Treatment Facility. Eligibility requirements include that the parolee have only been convicted of a property or drug offense, that the parole or supervision violation allege drug use or possession, and that the parolee/supervisee have complied with reporting to his/her supervision officer for at least the previous six months. Persons who successfully complete the program are reinstated on parole or supervised release. The Secure Residential Treatment Program is a very new pilot program, currently only available to male parolees and supervisees. It is a six-month drug treatment program at the jail. The eligibility requirements are a little different than for the RSAT program. It appears that a parolee can be convicted of any offense except a sex offense though their security classification at initial intake must be medium custody or lower, which will necessarily place some limitations on conviction offense eligibility. Again, if the parolee/supervisee is successful in this more intensive program, he will be reinstated on parole.

In addition to the possibility of reinstatement, rather than revocation, PDS likes these programs because they provide much needed treatment for our clients. In our experience, Community Supervision Officers are more likely to order and instruct parolees and supervisees to enter drug treatment and provide a referral to such treatment. The problem is that there are a number of steps and requirements necessary to enter various treatment

programs that can be very difficult for someone who is currently using to complete. The downside of not more actively assisting a parolee/supervisee to navigate this process is that the parolee/supervisee will not receive treatment and will fall farther out of compliance. The next step usually taken is then revocation. Revocation should always be the last resort – it is costly to incarcerate someone, it is costly to assist that person to reenter the community and restart supervision. It causes disruption to family, to employment, and to links to other vital services, such as outpatient mental health services. With these drug programs, our clients are receiving the treatment they need, inpatient but locally (as opposed to revocation and re-incarceration in a far flung BOP facility). PDS commends the Commission on these new programs and hopes they will be expanded. We would also like to see similar programs and supports offered to persons with mental disabilities.

Turning to continuing challenges, one issue that was somewhat subsumed in the discussion in last year's testimony about the lack of transparency and fairness of the revocation decision process is the rate at which the Commission follows the recommendation of the hearing examiner indicates about the justness and thoroughness of the Commission's hearing review and final decision-making process. At the conclusion of a revocation hearing, the hearing examiner makes a recommendation. The examiner may make "no finding," meaning that s/he does not find a violation or s/he may make a finding and recommend a revocation sentence. This recommendation is not final. One of the Commissioners must make the final decision and can reverse or change the recommendation. The Commission has informed PDS in several meetings that it follows the recommendation of the examiner approximately 85% of the time. In our experience,

and we handle almost all of the revocation cases so our experience is vast, when the Commission does not follow the recommendation of the examiner its final decision is almost always harsher for the parolee, meaning that the Commission reverses a “no finding” and makes a finding or the Commission imposes a longer revocation sentence than was recommended.

Of the thousands of revocation hearings at which we have appeared over the past decade, we can recall less than a handful of cases where the Commission has rejected the recommendation of the examiner and made a final decision that was more favorable to the parolee/supervisee and those cases were only to give a shorter the revocation sentence than was recommended. We know of no case where the Commission has rejected a finding and made a final decision of “no finding,” though we know of dozens where the Commission has rejected a “no finding” recommendation and made a finding. This must call into serious doubt the justness of the review. Imagine an appellate court that found that the trial judges were correct 85% of the time and in the 15% of the cases where it found that the trial judge made an error, the appellate court always found that the error was in the government’s favor and never in the defendant’s favor. What questions would that raise about the fairness of that appellate process? How much confidence would such a court inspire in the public, let alone in the defendants whose lives hang in the balance?

It may be the case that these doubts and charges are unfounded, that very good reasons exist for so infrequently rejecting the recommendation and even more infrequently doing so in favor of the parolee. The purpose of sunshine and transparency is to inspire the confidence of the public in the agencies and employees who serve it. The Commission’s process is far from transparent however. The Commission is only

required, as set out in their manual, to explain their decisions in the notice of final decision if the final decision is not within the guideline range. A “finding” is within the range – so the Commission is not required to explain why they have rejected a recommendation of “no finding”, nor do they provide such an explanation. In our experience, the most common departure from the recommendation is for the Commission to impose a sentence within the guidelines when the recommendation had been for a sentence below the guidelines. In such cases, because the final decision is within the guidelines, no explanation is required and the Commission does not provide one.

PDS would like to see two changes to this process that, even if the statistics of affirmance and rejection to the disfavor of the parolee did not change as a result, would greatly improve the confidence of the parolees that justice was done in their cases. First, the Commission should provide an explanation in every case where they reject the recommendation of the hearing examiner. Second, in cases where the Commission is considering reversing a “no finding” recommendation, the Commission should be required to listen to the tape of the hearing and not just rely on the hearing summary provided by the examiner.¹¹

To update this Subcommittee on issues raised last year in testimony by PDS Director Avis Buchanan – Despite the recommendations made almost two years ago by an expert hired by the Commission, in conjunction with the District’s Criminal Justice

¹¹ The hearing summary is a one-page document written by the examiner. The defense is not given an opportunity to review the summary, so no requests or objections regarding its completeness or accuracy of conveying legal and mitigating arguments are possible. It is not provided to the defense attorney and is available only through a FOIA request. The defense never sees it before the Commission makes its final decision and though it is to serve of the record on which an appeal of the final decision is to be based, not yet having received the summary in response to a FOIA request is not considered a basis for continuing or extending the appellate process. Thus our lawyers are sometimes forced to litigate the appeal without the summary on which the appeal must be based.

Coordinating Council (CJCC),¹² and despite voting well over a year ago to adopt the recommendations of this expert and to develop a new guideline instrument to assess risk for the D.C. population in order to separate the low risk from the high risk offenders, the Commission has yet to do so. Neither the salient factor score nor the guideline ranges for revocation sentences have been adjusted. I will briefly recap the reasons the Commission needs to fix these instruments. The Commission uses a ranking and scoring system to determine a parolee's likelihood of committing new crimes if allowed to remain in the community and to determine the penalty to be imposed for parole violations. The Commission uses a two-step assessment tool to determine both the likelihood that a defendant will commit a new crime and the severity of the punishment upon revocation. The first step is calculating what is known as the salient factor score; the second is matching the scores on a guidelines grid with the offense severity rating (Categories 1 to 8). The intersection on the grid provides the recommended range of prison time for the violation.

This decades-old salient factor score system has two main flaws. First, it does not account for factors and behaviors that have been shown to affect and/or predict recidivism such as history of substance abuse or participation in programs. Second, because the system was designed for another purpose, namely use in initial parole grant

¹² The Commission and the CJCC contracted with James Austin and Roger Ocker of The JFA Institute to study factors that influence recidivism. The researchers found that the salient factor score used by the Commission at revocation hearings does not take into account factors and behaviors relevant to predicting the likelihood of recidivism. The report, "Evaluation and Re-Validation of the U.S. Parole Guidelines Risk Instrument," concluded that the Commission's risk assessment tool included items that have either a weak or non-existent correlation with recidivism and failed to include items, such as gender, history of substance abuse, and program participation, that have been shown to have a strong positive correlation with recidivism. The report recommended that the Commission review its parole revocation grid, allow for much shorter periods of incarceration, and consider not re-incarcerating low risk parolees for low severity violations. See Evaluation and Re-Validation of the U.S. Parole Guidelines Risk Instrument, submitted by, page 2, recommendation number 6.

matters, it fails to adjust for some of the obvious differences between inmates seeking parole and parolees facing revocation. The purpose and the consequent design make it impossible for D.C. parolees to get a “perfect” score and, thus, earn a recommendation for the lowest possible revocation sentence.

The salient factor score ranges from zero, which is supposed to indicate that the person poses a high risk of recidivism, to ten, which is supposed to indicate that the person poses a low risk of recidivism. According to the Commission’s guidelines, a person who earns a perfect salient factor score of ten¹³ and is charged only with technical violations faces a sentence range of from zero to four months. The salient factors are divided into six “items,” listed as A through F. A few of these items make sense for parole grant hearings but uniformly disadvantage parolees facing revocation. For example, Item E assesses points based on whether the person was on probation, parole, confinement, or escape status at the time of the current offense. The focus for an inmate requesting an initial parole grant is on what status the person held at the time he committed the offense that led to the sentence for which he now seeks initial parole. For a parolee, however, the “current offense” is the alleged parole violation. Thus, the answer for Item E is always that the parole violation occurred at the time the person was on parole. Thus, the parolee always gets zero points added for Item E, instead of the one

¹³ The x-axis on the guidelines grid is not specific points ranging from ten to zero, but rather categories of “very good,” “good,” “fair,” and “poor.” These categories are actually ranges of salient factor scores. A salient factor score of 10 – 8 points is “very good;” a salient factor score of 7 – 6 points is “good;” 5-4 points is “fair;” and 3 – 0 is “poor.” Technically, using the component parts of the rating system, a perfect offender could actually receive as many as eleven points, but the guidelines grid is calibrated to have ten points as the best score. The y-axis on the guidelines grid is categories of the severity of the offense or violation. The intersection of the two axes is the recommended sanction or revocation time.

point possible for a person who was not on parole at the time of his “current offense.”¹⁴ Even if a D.C. parolee is otherwise “perfect,” the salient factors are designed in such a way that the parolee can only hope to earn eight points, rather than the eleven points that an inmate seeking an initial grant of parole could earn and to which the guideline ranges are keyed. The Commission makes no allowances for the fact that D.C. parolees can never achieve a perfect salient factor score.

The salient factor score and guidelines should be recalibrated so that they are relevant and fair for D.C. offenders. Even if they had not commissioned a report from experts that made such recommendations, the Commission should reexamine its practices and tools as they are increasingly disconnected and irrelevant for the population they serve. As explained above, just as the federal parole population will shrink to zero, so will the DC parole population. Every year it will be more and more the case that the Commission will do fewer parole grant hearings, because inmates with determinate sentences are released at a time determined by the judge at sentencing, not at an indeterminate time determined by a parole authority, and will have more persons on supervised release, which necessarily means shorter terms of supervision and shorter revocation terms possible. In our experience, a typical revocation term for a low risk offender found to have committed a low level technical violation, such as a positive drug test, will be a

¹⁴ Another example of a salient factor item that is appropriate when considering whether to grant parole but completely nonsensical when considering revoking parole is Item A, which gives points based on the person’s prior record. If the person has no prior record, he receives three points; one prior adult conviction (or juvenile adjudication) results two points; two or three prior convictions result in one point; four or more prior convictions receive zero points. The focus for a prison inmate seeking an initial parole grant is whether, other than the offense for which the person is serving a sentence, the person has a prior record. In contrast, for the parolee at a revocation hearing, the “offense” the Commission is considering at the revocation hearing (the new crime or the technical violation) is the current offense and all other “offenses” or convictions are the “prior record” for this item. No parolee can receive the full three points because he, by definition, has a prior conviction; he will *always* necessarily have the conviction for which he is on parole.

twelve-month hit. Even if there are circumstances under which it might be considered appropriate to impose a twelve-month hit for such a technical violation, it is doubtful that such a lengthy hit makes sense for a minor technical when that amount of time represents between 33% and 100% of the person's possible revocation time.¹⁵ Once all the revocation time is imposed, even if it is statutorily possible to place the person back on supervised release, there is no enforcement mechanism. The "stick" of sending the person back to prison for a violation is gone. A twelve-month sanction also lessens, by twelve months, the amount of time the supervisee can be placed back on supervision after serving his sanction.

The Commission should examine whether it makes more sense to seek alternatives to revocation, such as more drug treatment programs, or to impose a shorter sanction period for technical violations in order both to have more supervision time available and to continue have some revocation term available in case the supervisee commits a more serious violation such as a new crime.

PDS also noted last year that, while the Commission has the discretion not to hold persons at the jail pending their final revocation hearings, it essentially never exercises that discretion and opts instead to detain all persons facing revocation. It does this even in cases where the person has demonstrated steady employment, which is particularly commendable for a person with a prison record and in this economy. As a result of a case in federal court, the Commission established a policy of issuing a notice of action within 86 days of the arrest; however currently, it is more the case that a person is

¹⁵ See D.C. Code § 24-403.01(b)(7). For offenses with a statutory maximum of less than five years, the maximum revocation time is 1 year; for offenses with a statutory maximum of 5 years or more but less than 25 years the maximum revocation time is 2 years; for non-class A offenses with a statutory maximum time of 25 years or more but less than life, the maximum revocation time is 3 years.

detained at the jail after arrest awaiting notice of final action for closer to four months. The Commission's decisions to detain people pending final notice of action affect no small number of people. As of this week, there were just over 600 people at the DC jail for parole revocations, approximately 20% of the jail population.

Even putting aside the justness of exercising its discretion to allow some parolees and supervisees to remain in the community, particularly those who are employed and have not lost contact with their supervising officer, the "climate change" facing the Commission should push it towards examining and using its discretion to release people. Parolees and supervisees who are detained pending the Commission's notice of final action receive credit for having spent that time in jail. In the case of supervisees, where the supervision time is much shorter to begin with and the revocation time is also shorter, inflexible use of pre-hearing detention reduces both the supervision time and the revocation time. By way of example, picture a person who has a 3-year term of supervised release and faces 2-years revocation time (cumulatively). If that person is detained for four months on a violation allegation that is not sustained (the Commission makes "no finding" and reinstates the person on supervised release), the person has four fewer months of supervision in the community and, if his supervised release ever is revoked, he now only faces twenty months revocation time (2 years minus four months). With credit for time served awaiting final action on this latest allegation, assuming the Commission continues its practice of detaining almost all persons facing revocation, the most "extra" time he can receive as a sanction (beyond what he served at the jail waiting for his hearing) is sixteen months (20 months minus four months pre-hearing detention on the second allegation).

The Public Defender Service commends the Commission on the new programs it is developing as alternatives to re-incarceration and that will improve the chances that parolees and supervisees will successfully complete their supervision terms. The “climate change” facing the Commission, however, calls for a new look at how revocation proceedings and sanctions are carried out. I appreciate the opportunity to present this testimony to the Subcommittee and I would be pleased to work with the members in their ongoing consideration of these issues.

Mr. LYNCH. Thank you, Ms. Hankins.

Mr. Janetta, you are now recognized for an opening statement for 5 minutes.

STATEMENT OF JESSE JANETTA

Mr. JANETTA. Thank you very much to Chairman Lynch, Congresswoman Norton, and the committee for the invitation and opportunity to share with you some of what we know about what constitutes best practice in parole supervision to the end of reducing recidivism and facilitating successful community reintegration.

The parole field at this point in time is undergoing a tremendous amount of flux. It is coming out of a period during which there was a very heavy reliance on surveillance and monitoring which, while foundational tools of community supervision, have repeatedly been shown by themselves and in the absence of other interventions to have little or no impact on recidivism. And there has been an increasing focus across the country on approaches to parole and parole supervision that seek to change the behavior of parolees.

So at this time I would like to highlight four broad principles from the research and expert and practitioner consensus that should guide best practices in parole in any jurisdiction.

The first is that there should be clear accountability both for those conducting parole and for the parolees who are being supervised. There should be accountability for the parolers, the supervisors, in terms of making a clear focus on recidivism reduction as a goal, setting targets, and measuring performance relative to that. In parolees, it should be tailored their conditions and specific to that individual's circumstances so that all of their conditions of parole are tied to factors that put them at risk for recidivism and that are in the whole realistic for them to abide by.

The second principle is that it is important to strategically allocate limited parole resources. In terms of people, focus on moderate to high risk offenders. In terms of time, focus on the critical period immediately after release when the risk of recidivism and other behaviors such as a return to substance abuse are highest. In terms of place, structure supervision around the communities and neighborhoods where the highest proportion of parolees return and often where the greatest risk factors for recidivism are present.

The third principle, which takes place at the case management level or in the relationship between the parole officer and the parolee, is to build supervision around individualized supervision plans that are informed by validated risk and needs assessment information. Involve the parolees in the work of setting their goals so that you can increase their buy-in and their commitment to what, after all, is their behavior change plan. Reaches out to also engage their informal social support networks, their friends, families, and employers, the people who will continue to be in their lives and must support the maintenance of their behavior change long after the formal period of supervision has ended.

The fourth and final principle is to build into the way that parole and parole supervision are conducted both a rewards and a sanctions structure. The rewards structure should recognize and reward successes when they occur, based on research that indicates that rewards and incentives are much more powerful in terms of chang-

ing people's behaviors than the threat of sanctions. But also there needs to be a sanctions policy that recognizes that parole violations are going to occur; that they need to be responded to in a problem solving way; that is graduated, as several of the members of this panel have already mentioned; and that reserves re-incarceration for cases where other options have been exhausted or where there is a pressing need to do so.

With those four principles in mind, I would like to make two concluding observations.

The first is that in this work of successfully facilitating reintegration through parole supervision, partnerships are absolutely necessary. There must be broad partnerships incorporating law enforcement, the community, and community providers. But also there needs to be a partnership between the three core entities, the paroling authority, the parole supervision authority, and institutional corrections, who really need to come together around a common goal and purpose for reintegrating people who are leaving prison. In many cases in jurisdictions across the country, this is not the case. They may collaborate not closely or sometimes work in ways that are at cross purposes.

The final thing I would like to leave you with is that we can look around the country and we can see signs of promise for success in implementing these kinds of approaches to parole supervision. Look at the pilot proactive community supervision model in Maryland which realized success in reducing re-arrests and warrants for parole violations. Look also at some of the outcomes realized by States participating in the Transition from Prison to Community Initiative including Missouri, Georgia, and Michigan which have all seen improved outcomes in terms of recidivism and returns to prison.

I think that the take-away message is that there is hope for these kinds of approaches to do the kind of work relative to recidivism reduction and community integration that we all want to see.

Thank you very much.

[The prepared statement of Mr. Janetta follows:]

Statement by

Jesse Jannetta
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At a hearing on

The Local Role of the United States Parole Commission (USPC): Increasing Public Safety, Reducing
Recidivism, and Using Alternatives to Re-incarceration in the District of Columbia

By the

House of Representatives Oversight and Government Reform Subcommittee on
Federal Workforce, Postal Service, and the District of Columbia

September 22, 2009

Mr. Chairman and Members of the Subcommittee:

I am honored by this invitation to appear before you to discuss the critical question of what constitutes best practice in parole supervision. Ensuring that parole supervision in the District of Columbia is conducted consistent with best practice can greatly enhance public safety, as well as individual and community well-being throughout the District.

I am Jesse Jannetta, a Research Associate at the Urban Institute. The Urban Institute is a nonprofit, nonpartisan policy research and educational organization in Washington, DC, that examines the social, economic, and governance problems facing the nation. It provides information, analyses, and perspectives to public and private decision-makers to help them address these problems and strives to raise citizens' understanding of the issues and tradeoffs that policymakers face.

Parole supervision matters. Much has been written about prisoner reentry and the cost of failing to reintegrate the hundreds of thousands of people who are released from prison each year. The role of parole supervision, which is intimately connected to prisoner reentry and the maintenance of public safety, has often been lost in that discussion. Yet the majority of prison releases, over 500,000 annually, are to parole supervision, and just over 824,000 individuals were under parole supervision at the end of 2007.² Parole supervision can, and should, play an important role in delivering public safety for the community at large. In facilitating the transition from prison to community, parole supervision agencies

¹ The views expressed are those of the author and should not be attributed to the Urban Institute, its trustees, or its funders

² Glaze, Lauren E., and Thomas P. Bonczar. (2007). *Probation and Parole in the United States, 2006*. Washington, DC: U.S. Department of Justice.

can help parolees become productive citizens and reduce the harm they might cause by returning to crime, substance abuse, and other problematic behaviors. And parolees are returning to those behaviors. More than two-thirds of those released from prison will be arrested and more than half will be reincarcerated within three years.³ This pattern holds for those released to supervision as well as those released without it.⁴

My testimony this morning will draw from work done by The Urban Institute and its project partners synthesizing the substantial body of research and expert knowledge regarding what constitutes effective parole supervision. That synthesis is reflected in the 13 parole supervision strategies contained in our report *Putting Public Safety First*.⁵ Throughout this testimony I will draw heavily from that report, and anyone interested in a fuller treatment of the basis in research, theory, and practice of the strategies should refer to it. The 13 strategies are:

1. Define success as recidivism reduction and measure performance;
2. Tailor conditions of supervision;
3. Focus resources on moderate- and high-risk parolees;
4. Front-load supervision resources;
5. Implement earned discharge;
6. Implement place-based supervision;
7. Engage partners to expand intervention capacities;
8. Assess criminogenic risk and need factors;
9. Develop and implement supervision case plans that balance surveillance and treatment;
10. Involve parolees to enhance their engagement in assessment, case planning, and supervision;
11. Engage informal social controls to facilitate community reintegration;
12. Incorporate incentives and rewards into the supervision process; and
13. Employ graduated, problem-solving responses to violations of parole conditions in a swift and certain manner.

My testimony is divided into four parts. First, I will discuss the recent change in orientation of parole supervision work and the promise it holds for reducing recidivism and enhancing public safety. Second, I will discuss the organizational-level strategies necessary to realize that promise. Third, I will summarize case management-level strategies to do the same. Fourth, I will highlight factors important to consider in effectively implementing these strategies. Throughout my testimony, I will reference the relevant research findings and examples of practice in the parole field upon which the 13 strategies are based.

I. The Changing Orientation of Parole

³ Langan, Patrick, and David Levin. (2002). *Recidivism of Prisoners Released in 1994*. Washington, DC: Bureau of Justice Statistics.

⁴ Solomon, Amy, Vera Kachnowski, and Avinash Bhati. (2005). *Does Parole Work? Analyzing the Impact of Post-Release Supervision on Rearrest Outcomes*. Washington, DC: The Urban Institute.

⁵ Available at <http://www.urban.org/url.cfm?ID=411791>.

The parole supervision field is in a period of ferment. Until recently, standard parole supervision relied heavily on surveillance, which has repeatedly been shown to have little impact on recidivism on its own. While surveillance and monitoring will always be important tools for supervision officers, supervision programs without a focus on treatment do not, on average, produce any reduction in recidivism rates.⁶ However, since the late 1970s, a concentration on surveillance and enforcement is precisely the strategy that parole has been asked to implement. Contact standards became a key benchmark in assessing agency performance, and quick returns of violators a measure of vigilance.

The national dialogue on prisoner reentry has created a unique opportunity for parole. In addition to their role in identifying and responding to parolee failures, parole supervision agencies can incorporate proactive strategies to change parolee behavior and prevent recidivism. Armed with a growing body of evidence regarding what works in correctional programming,⁷ parole is ready to play a vital role on the reentry continuum, positioned perfectly to address the challenges of transition and reentry into the community. Around the country, a number of parole supervision agencies have begun to reshape, reform, and even transform their organizations along these lines. In Maryland, Kansas, Oregon, Michigan, Ohio, Georgia, and elsewhere, effective leaders have successfully implemented departures from parole business-as-usual in the direction of changing parolee behavior.

This change in the parole supervision field is strongly evident in the results of the 2008 Parole Practice Survey conducted by The Urban Institute. We found that emphasis on evidence-based practices to reduce recidivism is now widespread in parole in states across the country.⁸ The use of tools underlying a behavior change approach to parole supervision such as risk/needs assessments and violations-sanctioning matrices and grids is now widespread. While much work remains to be done in the implementation of other key behavior change approaches (such as involving parolees in case planning to enhance their motivation and providing incentives for compliance), the clear trend in the parole supervision field is toward the direction of the 13 strategies.

While the 13 strategies focus on what parole supervision agencies can implement on their own, it is important to recognize that parole supervision agencies cannot fully succeed in changing parolee behavior and delivering reentry success by themselves. Reentry success requires a commitment from a consortium of stakeholders: corrections; parole agencies; law enforcement; and other nontraditional partners, such as health and human service providers, housing authorities, workforce development boards, faith-based organizations, and formerly incarcerated people. In particular, parole supervision agencies, institutional corrections, and releasing authorities must collaborate and align their practices toward common recidivism-reduction goals in order to maximize the chances of delivering enhanced public safety.

⁶ Aos, Steve, Marna Miller, and Elizabeth Drake. (2006). *Evidence-Based Adult Corrections Programs: What Works and What Does Not*. Olympia: Washington State Institute for Public Policy. <http://www.wsipp.wa.gov/rptfiles/06-01-1201.pdf>.

⁷ Ibid.

⁸ Results from the 2008 Parole Practice Survey reported in this testimony are from Jannetta, Jesse, Brian Elderbroom, Amy Solomon, Meagan Cahill, Barbara Parthasarathy, and William D. Burrell. (forthcoming). *An Evolving Field: Findings from the 2008 Parole Practices Survey*. Washington, DC: The Urban Institute.

This change in parole is being bolstered by signs of success from leading states. Parolees supervised under Maryland's Proactive Community Services (PCS) model have arrest rates 31 percent lower than parolees under traditional parole supervision as well as a 9 percentage-point difference in warrants for violation of parole.⁹ Early returns from Transition from Prison to Community states Missouri, Michigan, and Georgia show decreases in recidivism, increases in successful completions of parole, and reductions in returns to prison.

II. Organizational-Level Parole Best Practices

The first seven of the 13 strategies are best practices that must be implemented at the agency level. The first two (defining success as recidivism reduction and tailoring conditions of supervision) set appropriate accountability for both the parole supervision agency and the parolees. The other organizational-level strategies involve the strategic allocation of resources, in terms of people (focus on higher-risk parolees), time (focus on the period immediately after release from prison, discharge those who have successfully negotiated a set period), place (build neighborhood-based parole caseloads), and partnerships (engage partners to expand intervention capacity).

1. Define Success as Recidivism Reduction and Measure Performance

The 2008 Parole Practice Survey results make it clear that parole agencies overwhelmingly have the goal of reducing parolee recidivism. This is important, but it may be fall short of having clear targets for recidivism reduction and holding parole supervision agencies accountable for them, a model that has been very powerful in pushing performance in police departments. In the probation context, leaders have argued that setting such goals is a bold but necessary step to bring integrity to the field.¹⁰

Comprehensive results-tracking systems such as those used in Georgia, Indiana, and Oregon make it possible for the state to track parole supervision performance in recidivism and other outcomes of interest, such as parolee employment. The Kansas state legislature created the Kansas Sentencing Commission and charged it with measuring the state's success at meeting the Kansas Department of Corrections goal of reducing parole and probation revocations by 50 percent.

2. Tailor Conditions of Supervision

In many states, current practice relies heavily on subjecting parolees to standard conditions (such as abstaining from alcohol and drugs, maintaining employment and stable residence, and obeying all laws), augmented by special conditions to correspond with the characteristics of the parolee and the case. The result is often a long list of rules that do not differentiate the importance of various conditions over

⁹ Taxman, Faye S., Christina Yancey, and Jeanne E. Bilanin. (2006). *Proactive Community Supervision in Maryland: Changing Offender Outcomes*. Baltimore: Maryland Division of Parole and Probation.

¹⁰ Reinventing Probation Council. (2000). *Transforming Probation through Leadership: The "Broken Windows" Model*. New York: Manhattan Institute.

others. Surveillance-oriented supervision based on a long and generic list of conditions without proper attention to the parolee's criminogenic needs will not reduce recidivism.¹¹

Carl Wicklund, executive director of the American Probation and Parole Association, identifies "three R's" of supervision conditions: They should be **R**ealistic—few in number and attainable; **R**elevant—tailored to individual risks and needs; and **R**esearch-based—supported by evidence that they will change behavior and result in improved public safety and reintegration outcomes. An example of such an approach is the Pennsylvania Board of Probation and Parole's use of assessment information to tie conditions of parole to criminogenic risk factors. The result of setting conditions consistent with the three R's is meaningful accountability. The parolee can meet all the conditions required, and all the conditions the parolee is required to meet have a meaningful relationship to reducing the likelihood of criminal behavior. Tailoring conditions in this way generally requires cooperation between the paroling authority and the parole supervision agency.

3. Focus Resources on Moderate- and High-Risk Parolees

From a strategic perspective, parole supervision resources should be focused on parolees at a moderate to high risk of reoffending because this population is more likely to benefit from treatment and supervision.¹² As higher-risk offenders are by definition those having the greatest negative impact on public safety, directing resources at them will produce the greatest public safety benefit. Conversely, research has shown that treatment resources focused on low-risk parolees tend to produce little, if any, positive effect.¹³ It may even make their outcomes worse.¹⁴

Resources are not only more supervision by itself, but supervision paired with treatment or other change interventions. Oregon and Washington State both use validated assessment instruments to determine which offenders will receive rehabilitative resources during their periods of supervision. Supervision alone does not ensure more successful outcomes because it does not address criminogenic factors or barriers to successful reentry, nor does it meaningfully address the motivation of the parolee. Focusing resources on higher-risk parolees is another area in which collaboration is key, because the paroling authority often determines which individuals will be placed in high-end, resource-intensive supervision programs and who will participate in high-end treatment programming.

4. Front-Load Supervision Resources

¹¹ See Cullen, Francis T., and Paul Gendreau. (2000). "Assessing Correctional Rehabilitation: Policy, Practice, and Prospects." *Criminal Justice 2000. Vol. 3: Policies, Processes, and Decisions of the Criminal Justice System*. Washington, DC: National Institute of Justice, U.S. Department of Justice; and Petersilia, Joan. (2003). *When Prisoners Come Home: Parole and Prisoner Reentry*. New York: Oxford University Press.

¹² See Andrews (2006); Aos, Miller, and Drake (2006); Austin (2006); Burke (2004); Burke and Tonry (2006); Cullen and Gendreau (2000); Jacobson (2005); MacKenzie (2006); National Research Council (2007); and Taxman (2002, 2006, 2007). Full citations available in *Putting Public Safety First*.

¹³ Lowenkamp, Christopher T., and Edward J. Latessa. (2004). "Understanding the Risk Principle: How and Why Correctional Interventions Can Harm Low-Risk Offenders." *Topics in Community Corrections*. Washington, DC: National Institute of Corrections; Petersilia, Joan, and Susan Turner. (1993). "Intensive Probation and Parole." In *Crime and Justice: A Review of Research*, vol. 17, edited by M. Tonry. Chicago, IL: University of Chicago Press.

¹⁴ Lowenkamp and Latessa (2004).

The first days, weeks, and months after release from prison are a particularly high-risk period for parolees, with arrests and parole violations twice as likely in the first month of parole as in the 15th month.¹⁵ Parolees' substance abuse, mental health, employment, housing, and other service needs are especially high during this period.¹⁶ In response to this reality, supervision resources and strategies should focus on the period immediately after release. In fact, the beginning of supervision is so critical to individual success that parole agencies should not wait for the individual to be released to develop and implement a supervision plan. Early involvement in release planning by parole staff can contribute to success by helping the parolee understand the conditions of release and the expectations of the parole agency once release occurs. Jurisdictions can facilitate this process by transferring inmates to a facility closest to the city or town where they will return, as is done in Maryland.

Front-loading resources also helps identify which cases warrant enhanced supervision over a longer term and which do not. Parolees who do well and achieve their supervision goals require less supervision and perhaps even a shorter period of supervision. Focusing on those parolees who are most likely to commit new crimes allows parole supervision agencies to use their resources effectively and efficiently.

Front-loading supervision will not have the desired impact if it consists of increasing contacts without increasing supports. Simply watching parolees more closely in the first month may uncover more violations, but it will not in itself improve behavior or prevent crime. Several states, such as Michigan, Georgia, and Ohio, are beginning to align their supervision resources to support the individual just after release. These states begin "in-reach" activities as individuals near the end of their incarceration so they can build relationships with parole officers and connect with employment resources, community services, and treatment providers before they are released.

5. Implement Earned Discharge

Incentives for meeting case-specific goals of supervision are a powerful tool to enhance individual motivation and promote positive behavior change.¹⁷ A system of earned discharge whereby certain lower-risk parolees can earn their way off supervision by adhering to specific goals and strict guidelines can serve as the ultimate incentive. A system of earned discharge contrasts to common parole practice in which parolees "successfully" complete their parole term based on the amount of time spent under parole supervision, not on how well they have done since leaving prison. The Parole Practices survey found that the ability to earn discharge from parole supervision is widespread in the United States.

¹⁵ Rosenfeld, Richard, Joel Wallman, and Robert Fornango. (2005). "The Contribution of Ex-Prisoners to Crime Rates." In *Prisoner Reentry and Crime in America*, edited by Jeremy Travis and Christy Visser (80–104). New York: Cambridge University Press.

¹⁶ Binswanger, I. A., M. F. Stern, R. A. Deyo, P. J. Heagerty, A. Cheadle, J. G. Elmore, and T. D. Koepsell. (2007). "Release from Prison—A High Risk of Death for Former Inmates." *New England Journal of Medicine* 356(2): 157–65.

¹⁷ Andrews, Don. (2006). "Enhancing Adherence to Risk-Need-Responsivity: Making Quality a Matter of Policy." *Criminology and Public Policy* 5(3): 595–602; Burke, Peggy. (2004). *Parole Violations Revisited: A Handbook on Strengthening Parole Practices for Public Safety and Successful Offender Transition*. Washington, DC: National Institute of Corrections.

Earned discharge is of a piece with the front-loading of resources to the period around release, in that it frees up resources that might otherwise go to the supervision of parolees who had demonstrated behavior change and were no longer in a high-risk period of their supervision.

6. Implement Place-Based Supervision

Parolees are concentrated in a relatively small number of often-disadvantaged neighborhoods in each state and jurisdiction.¹⁸ Modeled on community policing strategies that have transformed the operations of many police departments, place-based parole (also known as community-based or neighborhood-based parole) takes officers out of their offices and the confinement of 9-to-5 weekday work hours and into the neighborhoods where their parolees live and work.

In a system of place-based supervision, parole caseloads are geographically based, and parole officers may have satellite offices in the communities where high concentrations of parolees reside—places where risks are presumably higher. In urban settings, organizing caseloads by neighborhood efficiently allocates scarce resources and reduces costly and time-consuming travel, for both supervising officers and parolees. It also facilitates parole officers finding opportunities for collaboration, opening lines of communication, and gaining greater trust from the parolee, their families, and other important stakeholders.

While far from the norm, a few supervision agencies use place-based supervision. Arizona’s pilot Legacy Project, for example, concentrates parole efforts in a particularly high-impact zip code in Phoenix where officers work to address underlying problems associated with criminal behavior. Parole officers work in the neighborhoods where parolees live, engaging family and community support systems and partnering with social workers and service providers to find solutions to the challenges parolees face in the community. Maryland’s proactive community supervision (PCS) model includes place-based supervision in four areas of the state. Parole agents are assigned geographically based caseloads; placed in the neighborhoods where parolees live and work; and given the resources they need, such as laptops, to effectively work in the community and away from their desks.¹⁹

7. Engage Partners to Expand Intervention Capacities

Given the severe issues that many parolees need to address in order to change their behavior and remain crime free, including addiction, mental health, housing, education, and employment, it is essential for parole supervision agencies to partner with other government and private agencies, including community health care providers, housing authorities, substance-abuse counselors, mental health service providers, workforce development boards, faith-based organizations, and other relevant groups. Partnerships with these agencies can act as “force multipliers” to extend of parole supervision’s

¹⁸ La Vigne, Nancy G., Jake Cowan, and Diana Brazell. (2006). *Mapping Prisoner Reentry: An Action Research Guidebook*, 2nd ed. Washington, DC: The Urban Institute; Watson, Jamie, Amy L. Solomon, Nancy G. La Vigne, Jeremy Travis, Meagan Funches, and Barbara Parthasarathy. (2004). *A Portrait of Prisoner Reentry in Texas*. Washington, DC: The Urban Institute.

¹⁹ For more information, see <http://www.dpscs.state.md.us/rehabservs/dpp/pcs.shtml> or Taxman (2007) at http://www.dpscs.state.md.us/publicinfo/publications/pdfs/dpp_corrections_today.pdf.

ability to produce, support, and maintain positive change in individual parolees. Such collaborations are natural, as there is considerable overlap between parolees and the population receiving health and other human services.²⁰

The National Institute of Corrections' Transition from Prison to the Community (TPC) initiative rests, in large part, upon the principle that transition and reentry are issues that belong not just to parole, corrections, or criminal justice agencies, but to a wide range of stakeholders.²¹ TPC began its work in an initial group of eight participating states (Georgia, Indiana, Michigan, Missouri, New York, North Dakota, Oregon, and Rhode Island) with state-level policy teams that involve the parole supervision agency and a wide range of public and private stakeholders whose work affects the practice of parole supervision. TPC has contributed to a growing realization that parole supervision agencies must collaborate with other stakeholders at the policy and case management levels to redesign and implement effective approaches to supervision that will enhance successful completion of parole supervision and improve reentry outcomes.²²

III. Case Management–Level Parole Best Practices

I now turn to the final six of the 13 strategies, which focus on case management supervision strategies, involving the interactions between the parole officer and the parolee. They require a commitment to fostering a strong interpersonal relationship, one that is central to positive behavior change and parolee accountability. This relationship is the basis for the work of assessing risk and need factors, creating a supervision plan that addresses them, engaging parolees and their informal social networks in the work of community reintegration, and putting in place an incentive and sanction structure that promotes positive behavior change and intervenes as necessary to protect public safety. I will address each strategy in turn.

8. Assess Criminogenic Risk and Need Factors

Parolees should be assessed to determine criminogenic risk and need factors and determine supervision levels so appropriate interventions can be delivered. Reliable, validated and normed assessment instruments are a better predictor of an offender's risk and criminogenic need factors²³ than individual professional judgment. Such instruments can and should be used by parole officers to identify necessary interventions such as substance abuse treatment, and serve as a basis for supervision plans. It is crucial for parole supervision agencies to ensure that not only are such assessments conducted, but that the information is used by supervising officers in a meaningful way.

²⁰ Fisher, C., M. White, and N. Jacobs. (2007). "FUSE Outputs and Outcomes." Presentation to City of New York Department of Correction, New York (Criminal Justice Research and Evaluation Center, John Jay College of Criminal Justice), July 3; Cadora, Eric. (2002). "Criminal Justice Health and Human Services: An Exploration of Overlapping Needs, Resources, and Interests in Brooklyn Neighborhoods." Paper presented at the U.S. Department of Health and Human Services From Prisons to Home conference, Washington, D.C., January 30–31, 2002.

²¹ Carter, Madeline M., Susan Gibel, Rachelle Giguere, and Richard Stroker, eds. (2007). *Increasing Public Safety through Successful Offender Reentry: Evidence-Based and Emerging Practices in Corrections*. Silver Spring, MD: Center for Effective Public Policy. http://www.ojp.usdoj.gov/BJA/pdf/SVORI_CEPP.pdf.

²² For more information about TPC, see <http://nicic.gov/TPCModel>.

²³ Criminogenic need factors are areas that research has shown are related to recidivism and that can be changed.

Many parolees will have been assessed while they were incarcerated, and the sharing of this information with parole can aid them in developing appropriate supervision plans. In current practice, however, information is often not shared across agencies or divisions. Departments of correction and parole agencies may use different tools to measure the same areas, resulting in confusing or inconsistent information. This is yet-another area in which collaboration between institutions and community supervision would add great value in terms of effective community reintegration.

9. Develop and Implement Supervision Case Plans That Balance Surveillance and Treatment

Each parolee should have a supervision case plan, informed by assessment, that lays out individual goals, conditions, and activities while under supervision. These plans should reflect treatment priorities as well as surveillance and enforcement, because research clearly shows that a combination of surveillance and treatment is more effective at reducing recidivism than surveillance alone.²⁴ Such plans will be maximally effective if they draw upon the principles laid out in the 13 strategies, such as focusing on the critical period immediately after release, using risk/needs assessment, involving the parolee in planning and goal-setting, and incorporating incentives.

The Center for Effective Public Policy created an integrated case management and supervision (ICMS) model²⁵ as part of their work on the TPC initiative that describes a collaborative effort to build a case management process that includes a transition accountability plan and involves shared responsibility between institutional corrections and parole. This approach aims to create a seamless process that makes it clear what individuals need to accomplish both before and after release and provides a structure for implementing many parole best practices around a single plan.

10. Involve Parolees to Enhance Their Engagement in Assessment, Case Planning, and Supervision

Evidence-based practices suggest that supervision should evolve from a contact-driven system to a behavioral management model where the parolee actively participates in developing the supervision and treatment plan.²⁶ In a behavioral management approach, the routine interaction between parole officers and parolees is reframed as an intervention in itself, one in which effective communication is central.²⁷ Parole officers can use techniques like motivational interviewing and positive reinforcement to enhance parolee engagement and clearly communicate conditions of supervision, review assessment information, and develop case plans with parolees. They can also work with parolees to update and modify goals and supervision case plans as appropriate, increasingly the likelihood that parolees will “own” the plans for which they will be held accountable. This broader behavioral management approach

²⁴ Aos, Miller, and Drake (2006); National Research Council Committee on Community Supervision and Desistance from Crime. (2007). *Parole, Desistance from Crime, and Community Integration*. Washington, DC: The National Academies Press.

²⁵ Burke, Peggy. (2008). *TPC Reentry Handbook*. Washington, DC: National Institute of Corrections.

²⁶ Burke (2004); Taxman, Faye S. (2006). “What Should We Expect from Parole (and Probation) under a Behavioral Management Approach?” *Perspectives* 30(2): 38–45.

²⁷ Burrell, William. (2008). “Cognitive Behavioral Tactics: The Next Phase for Evidence-Based Practices.” *Community Corrections Report* 7(1): 19–22.

has been implemented and evaluated in Maryland as part of the PCS program, with the positive results that I have already mentioned.

11. Engage Informal Social Controls to Facilitate Community Reintegration

The vast majority of a parolee's time is spent with family, friends, employers, and others, and interactions with their parole officer compose only a small fraction, even under more-intensive supervision regimes. With proper support, even fragile informal networks can provide crucial resources, such as housing, crisis intervention, reinforcement for positive behavior, and a source of feedback for officers as parolees make decisions about supervision interventions. These informal relationships are typically more effective than formal controls in promoting positive change among individuals;²⁸ and, after formal supervision ends, it is these informal networks that must reinforce and support behavior change. Recently released prisoners overwhelmingly cite family ties as the most influential factor in staying out of prison.²⁹

Effectively engaging informal social controls will require many parole agencies to shift from a surveillance-heavy mentality and contact-driven approach. There are models they can look to regarding this transition, such as "citizen circles" in Ohio that encourage the involvement of parolee's families, individual stakeholders, and various community members in the supervision of parolees. Composed of concerned citizens, citizen circles help parolees reconcile with their families, stay away from drugs and alcohol, develop personal decision-making skills, find employment, and meet their treatment needs.³⁰

12. Incorporate Incentives and Rewards into the Supervision Process

A great deal of attention is paid to sanctioning strategies for parolees, and much less to providing incentives and rewards for positive behavior. Yet incentives and rewards are powerful factors in motivating and reinforcing behavior change. Positive reinforcements should be used four times as often as negative sanctions to enhance individual motivation toward positive behavior change and reduced recidivism.³¹ Examples of incentives and rewards include certificates of achievement; bus passes; food vouchers; reducing reporting requirements; allowing inmates to defer a monthly payment, appointment, or other requirement; eliminating conditions (such as home detention or program participation); or asking the parolee to be a mentor to other offenders.

²⁸ National Research Council (2007).

²⁹ Visher, Christy, and Shannon M. E. Courtney. (2007). *One Year Out: Experiences of Prisoners Returning to Cleveland*. Washington, DC: The Urban Institute; La Vigne, Nancy G., Christy Visher, and Jennifer Castro. (2004). *Chicago Prisoners' Experiences Returning Home*. Washington, DC: The Urban Institute.

³⁰ For more information, see <http://www.drc.state.oh.us/web/citizen/citizencircle.htm>.

³¹ Bogue, Brad, Nancy Campbell, Mark Carey, Elyse Clawson, Dot Faust, Kate Florio, Lore Joplin, George Keiser, Billy Wasson, and William Woodward. (2004). *Implementing Evidence-Based Practice in Community Corrections: The Principles of Effective Intervention*. Washington, DC: National Institute of Corrections. <http://www.nicic.org/pubs/2004/019342.pdf>.

As with responses to violations, to which I will turn next, responses to positive behavior should be swift and certain to have the greatest impact on behavior change.³² This depends on the ability and willingness of parole officers to reward positive behavior as a risk-reduction and behavior change strategy. Such an approach can be facilitated by incorporating positive reinforcement into guidelines for responding to both negative and positive parolee behavior, as Georgia has done in its Behavior Response and Adjustment Guide.

13. Employ Graduated Problem-Solving Responses to Violations of Parole Conditions in a Swift and Certain Manner

The purpose of responding to parole violations should be to confront behavior in a way that will change it without necessarily relying on a costly return to prison or jail that disrupts the reintegration process. High-risk offenders who present a threat to the community should be returned to prison when they commit a serious violation or new crime. However, many parolees' minor violations may be better met with swift and certain interventions that are both proportional to the severity of the violation and address the reasons that the violation occurred.³³ The availability of substance abuse and mental health services was associated with a reduced risk of technical violations and parole violations for low-level criminal behavior in California,³⁴ which suggests that parole officers may be less likely to move to parole revocation if viable treatment alternatives are available in the community.

In many parole agencies, a graduated, problem-solving approach to parole violations could reduce the use of prison and jail beds for parole violators while also ensuring that all parole violations are addressed in some meaningful way. Research from multiple disciplines suggests that sanctions in response to negative behaviors (as with rewards in response to positive behaviors) should be swift, certain, and consistently applied to create and reinforce a deterrent effect.³⁵ Parole violations response guidelines or matrices are tools now in common use to ensure consistent approaches to parole violations. Some jurisdictions, such as Ohio, Pennsylvania, and South Carolina, encourage consistency in the disposition of violations with guidelines that help sort violations into categories, with various sanctions available at particular levels of authority.³⁶ NIC-supported work in three states has shown that it is possible to reduce returns to prison without incurring additional criminal behavior among parolees.³⁷

³² Petersilia, Joan. (2007). "Employ Behavioral Contracting for 'Earned Discharge' Parole." *Criminology and Public Policy* 6(4): 807–14; Taxman, Faye S., Eric S. Shepardson, and James M. Byrne. (2004). *Tools of the Trade: A Guide to Incorporating Science into Practice*. Washington, DC: National Institute of Corrections. <http://www.nicic.org/Library/020095>.

³³ Burke (2004); Burke, Peggy B., Adam Gelb, and Jake Horowitz. (2007). *When Offenders Break the Rules: Smart Responses to Parole and Probation Violations*. Washington, DC: Pew Center on the States.

³⁴ Grattet, Ryken, Joan Petersilia, and Jeffrey Lin. (2008). "Parole Violations and Revocations in California." Washington, DC: National Institute of Justice, U.S. Department of Justice (Award #2005-IJ-CX-0026).

³⁵ See Burke et al. (2007).

³⁶ For a discussion of the effect of such an instrument on outcomes, see Martín, Brian, and Steve Van Dine. (2008). "Examining the Impact of Ohio's Progressive Sanction Grid." Washington, DC: National Institute of Justice, U.S. Department of Justice (Award #2005-IJ-CX-0038).

³⁷ Burke et al. (2007).

IV. Implementing Parole Best Practices

Too often, best practices such as the 13 strategies are thrown at an organization with little or no attention to the intricacies of implementation. One area often neglected in planning change in practices is examination of the organizational infrastructure. The infrastructure of organizations evolves in response to the collective sense of what the purpose and priorities of that organization are, and no parole supervision agency will be able to broadly and lastingly implement behavior-change approaches to parole supervision if that approach is not reflected in the organizational infrastructure.

The elements of organizational infrastructure include the following:

- Mission and goals
- Strategies and programs
- Performance measurement and management systems
- Information technology
- Recruitment and retention policies
- Job descriptions
- Training
- Performance appraisal and reward systems
- Supervisory roles and responsibilities
- Organizational culture
- Interagency collaboration

These elements must be reviewed to determine if they align with parole supervision best practices such as the 13 strategies. Many parole officers already incorporate principles in accord with the 13 strategies into their supervision, not because experts told them to do so, but because their experience and understanding of the job have brought them to the same insights. We will know that parole supervision has changed to maximize public safety and benefit when the leadership, training, performance measurement, and promotion and reward structures within parole organizations recognize and reward that kind of supervision.

Leadership is the single most important element in effecting that type of organizational change. It is essential that those in leadership positions first and foremost express a willingness to assume the daunting and often vexing challenges associated with retooling parole organizations. The adoption of parole supervision strategies consistent with the 13 strategies will require a substantial redirection in vision, mission, and focus for many agencies currently responsible for post-prison supervision.

V. Conclusion

Over the past 30 years, numerous changes to sentencing laws have resulted in the imposition of lengthier sentences and have required offenders to serve longer periods of incarceration before being eligible for release. These shifts have produced a dramatic growth in prison populations and a historically unprecedented number of individuals returning home each year. These changes carry

enormous public safety implications for communities and neighborhoods when hundreds of thousands of prisoners released annually from prison are singularly ill-equipped to succeed and poorly supported during and after their transition home.

There is a growing desire and pressing public policy need to identify effective, evidence-based models of parole supervision that promote public safety, emphasize offender accountability, and foster desistance from crime. In developing the 13 strategies, the Urban Institute and its partners sought to collect, analyze, and clearly present what constitutes such parole supervision. In surveying the parole field, it is clear that states all over the country are adopting practices consistent with the 13 strategies, and some are beginning to realize the benefits of doing so. Parole agencies face tremendous challenges in supervising the safe and successful reintegration of the huge number of individuals returning from prisons, but they also have a tremendous opportunity to contribute to safer and healthier communities. Jurisdictions across the country are working to seize that opportunity. We need to recognize, support, and learn from those who are doing so, and push those who are not to emulate them.

Thank you for your time. I welcome any questions you may have.

Mr. LYNCH. Thank you, sir.

Mr. Martin Horn, you are now recognized for 5 minutes.

STATEMENT OF MARTIN F. HORN

Mr. HORN. Thank you, Mr. Chairman and Ms. Norton. I would like to talk about just a couple of things that I think will help us to fulfill the goal that Chairman Fulwood put forth, which is to see people succeed.

It is my experience that all individuals leaving prison, as a group, have some statistical probability of success or failure. The challenge to us as a community is to increase the odds that they succeed. I think that the manner in which we release people matters. Another thing that I think matters greatly and that we need to talk about if we are interested in improving public safety, particularly as it relates to individuals released from Federal prisons back to the District, is that how they experience prison matters.

Let me say first of all that I think there are three critical issues that must be addressed to promote success. Those are sobriety, employment, and housing.

I believe that sobriety is a primary issue. It is a primary condition. I am not a teetotaler. I am not making a moral judgment. But I know this after 40 years, if an individual leaves prison or jail and starts getting high, they will not succeed. In order to promote sobriety, we must ensure that their experience in prison is an experience of sobriety, that our prisons and jails are drug-free, that while in prison and in jail individuals learn how to stay sober, and that upon release they are provided with connections to those agencies and organizations that can assist them in achieving sobriety.

It is my understanding that CSOSA has available to it approximately \$15 million for drug treatment. Nonetheless, it is further my understanding that this meets only approximately 25 percent of the need among the persons under their supervision. It is further my understanding that while in the Bureau of Prisons approximately 40,000 individuals annually are afforded exposure to their drug and alcohol treatment programs. On any given day, there are only 100 D.C. Code violators enrolled in these programs.

If we are serious about reducing crime committed by persons upon their release from prison, we have to ensure that they leave prison sober, that they know how to stay sober, and that we provide continuous access to treatment because recovery does not proceed in a straight line.

With respect to employment, it is my understanding that approximately 40 percent of the D.C. Code violators who are released are released without a high school diploma. This makes the challenge of finding work even more difficult as they are entering a work force market where 80 percent of the work force in the District has high school diplomas. I think that we must question why, given that D.C. Code violators as I understand it have a rather lengthy stay in the Bureau of Prisons, we cannot get them educated while they are imprisoned.

In today's world, in order to work one must have certain documentation. One cannot, as we all know, work without proof of citizenship or a legal permission to work and a social security number. Despite the best efforts of CSOSA through their VOTEE program,

I believe it is called, nonetheless large numbers of offenders leave prison today without the documents necessary. It is unconscionable in today's day and age that individuals leave prison without the Social Security Card, Birth Certificate, or other documents that would make them legally eligible to begin working upon their release from prison.

I think this should become a performance standard within the Bureau of Prisons. We should ask them to report on the number of persons leaving prison who leave with the requisite documents.

Finally, with respect to housing, all of these issues are of course made more difficult by the great distance that D.C. Code violators are held from the District in Federal prisons. It makes obtaining a job all the more difficult. One way of ameliorating this problem is by releasing individuals back into the community through some form of halfway house.

Despite the fact that roughly 25,000 individuals return to the District from Federal prisons, there are only three residential Re-entry Centers, as I understand it, in the District. I believe that despite efforts to open more of them, the District like my own city of New York experiences what we refer to as NIMB, not in my backyard. No one wants it. It will take a great deal of political will by the political power structure of the District and the Congress to create the requisite number of halfway houses so that individuals leaving prison leave in a rational way.

I also want to point out that the Anti-Drug Abuse Act of 1988 imposes restrictions on the access to public housing and Section 8 vouchers by individuals who are convicted of drug crimes. This is something that does stand in the way of reentry. It complicates reentry. It is something that Congress should reconsider.

I also want to finally say that data is critically important. I think that CSOSA has an excellent data collection and management capability. I think that we ought to adopt the idea that if you can't measure it, you can't manage it. We ought to look at how we manage our workloads and our caseloads, focus on the high risk cases, and pretty much leave the low risk cases to themselves.

Thank you.

[The prepared statement of Mr. Horn follows:]

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Testimony of Martin F. Horn

Distinguished Lecturer

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Subcommittee on Federal Workforce, Postal Service and the District of Columbia

U.S. House of Representatives

Washington, DC

September 22, 2009

Good morning Chairman Lynch and committee members. Thank you for inviting me to appear before you this morning to discuss the challenges facing the United States Parole Commission and other federal agencies with respect to increasing public safety, reducing recidivism, and using alternatives to incarceration in the District of Columbia.

In 2007 the District of Columbia, with a population of just over 588,000 had a violent crime rate of 1347 crimes for every 100,000 members of its population. Certainly there were other similarly sized cities with worse crime rates but clearly we can do more to keep the District safe. The question before us today is what the Commission and its partner agencies, including the Bureau of Prisons and the Court Services and Offender Supervision Agency (CSOSA) can do to obtain better outcomes. It is important to understand, as I know you do, that the Commission's jurisdiction extends only to those individuals sentenced under the DC Code prior to 2000. Persons sentenced to prison later are subject to determinate sentencing and released after serving 85% of their sentence. Thus, the pool of individuals subject to discretionary release determinations by the Commission grows smaller each year.

Nonetheless, all persons released from prison following a prison sentence for a DC Code offense are ultimately subject to supervision in the community by the CSOSA. And if those individuals are accused of violating the conditions of their release, the decision whether to return them to prison rests with the Parole Commission. Each year, approximately 2500 persons are released from Federal Prison to return to the District under the supervision of CSOSA. Each of these individuals has a statistical likelihood of succeeding or failing upon release. The challenge is to improve the odds that they succeed, because when they do, when they become productive, law-abiding members of our communities we are all safer. There is and always will be risk involved in releasing persons who have committed crimes back to the community. Government is not good at managing risk. Indeed, government tends to be risk averse. Yet the only sure way to avoid risk is never to release anyone, and we know how foolish, inhumane and costly a strategy like that will be.¹ Therefore we need to carefully assess risk and understand what increases the chance of success, and then we need to build on that knowledge to improve the likelihood that a lawbreaker becomes a law abider.

¹ A recent study found "if from 1990-2005, Michigan's annual average length of stay had been one year shorter, by 2005 Michigan would have had roughly 14,000 fewer prisoners, ...a corrections workforce with 4,700 fewer employees and annual expenditures of \$403 million less." *Denying parole at first eligibility: How much public safety does it actually buy?* Citizens Alliance on Prisons and Public Spending; Lansing, Michigan, August 2009, 9. The same study observed that Michigan's average length of stay was 16 months longer than the other Great Lakes States.

To succeed upon release from prison, there are three fundamental challenges a person must overcome. First, they must remain sober. Second they need a place to live; and third, they need a job. Without accomplishing these three tasks the chance a released person will succeed on parole is greatly diminished.

Addiction, to alcohol and other drugs, is a primary condition. By this I mean that without remaining sober a person is substantially less likely to successfully hold a job--and without a job is less likely to hold onto a safe, decent place to live. The National Center on Addiction and Substance Abuse says that drug and alcohol abuse and addiction are implicated in the incarceration of 80% of the 2 million men and women currently behind bars. This 80% represents those who violated drug or alcohol laws, were intoxicated at the time they committed their crimes, stole property to buy drugs, or are "regular drug users."² If we fail to deal with addiction to alcohol and other drugs while people are imprisoned and immediately upon their release, our efforts are unlikely to succeed.

To change the outcomes we must ensure that all our confinement facilities, from the local jail to the Federal Prison are drug and alcohol free. The Bureau has, and continues to monitor the intrusion of drugs into the institutional environment. Visitor searches, drug testing, drug scanning technologies, inmate searches when returning from furloughs, etc., are and have been used for this purpose.³ I suspect they will tell you more can be done to keep drugs and alcohol out of the hands, and the mouths and arms, of those they confine. This will require resources and labor-management cooperation at every prison and jail. It requires searching, drug testing, integrity and investigative assets. If people can get high while incarcerated it makes the facility less secure and renders our efforts at rehabilitation meaningless. The presence of drugs and alcohol in prisons and jails undermines integrity and thereby reduces public safety.

But that is not the only problem. We can't just wait for a person to be released to address the chronic, recurring disease of the brain that is addiction, as former NIDA Director Alan Leshner described it.⁴ In addition to enforced abstinence we must provide drug treatment while the offender is confined. That

² The National Center on Addiction and Substance Abuse, Columbia University, "Behind Bars: Substance Abuse and America's Prison Population," January 1998.

³ Email from Thomas Kane, Associate Director, Federal Bureau of Prisons, September 18, 2009.

⁴ A. I. Leshner, "Science-Based Views of Drug Addiction and Its Treatment," *Journal of the American Medical Association* 282 (1999): 1314-1316.

means a program of assessment that evaluates the individual's history of addiction, determines the severity of the addiction and uses that information to determine the best course of action. Treatment may involve cognitive behavioral approaches, therapeutic community and twelve step programs. All should be in the arsenal to be used where appropriate and every offender while confined should be given meaningful addiction treatment and should emerge from prison sober. The Bureau treats more than 40,000 inmates a year in its evidence-based, cognitive behavioral treatment programs for inmates with drug abuse problems, inmates who are mentally ill and inmates with sexual deviant behaviors. The daily population of DC offenders participating in the Bureau's Residential Drug Abuse Program is 100.⁵

We need to give serious and meaningful consideration to the use of methadone maintenance or buprenorphine as treatment for chronic heroin addiction. In New York City we have been providing methadone maintenance inside our jails for years and the results are surprisingly good.⁶ Using methadone in a population of more than 200,000 prisoners is vastly different than providing methadone in a jail setting. The Bureau provides methadone for inmates with medical problems who require a medical detox from opiates. However, the Bureau is exploring the use of pharmacological interventions in its reentry program.⁷ These efforts should be encouraged.

Following the individual's release we must immediately begin a relapse prevention strategy-combining drug testing with treatment and support. Our responses to slips and relapses must be measured and consistent, as we know that recovery does not follow a straight path.

As I understand the current state of affairs in the District, CSOSA has access to about \$15 million to obtain drug treatment for its 16,000-person caseload, which includes probationers as well as prison releases and parolees. This enables the agency to meet the need for detox, residential, and outpatient treatment of only 25% of its caseload with an identified substance abuse treatment need. To obtain better outcomes, the District must be able to address the unmet need for treatment among people released from Federal Prisons.

⁵ Email from Thomas Kane, op. cit.

⁶ "Methadone Maintenance versus 180-day Psychosocially-Enriched Detoxification for Treatment of Opioid Dependence: A Randomized, Controlled Trial," *The Journal of the American Medical Association* (JAMA.2000; 283:1303-1310). "The Consumers Union Report on Licit and Illicit Drugs," Edward M. Brecher and the Editors of Consumer Reports Magazine, 1972. <http://www.druglibrary.org/Schaffer/Library/studies/cu/CU15.html> (as of Sept. 15, 2009)

⁷ Email from Thomas Kane, op. cit.

The next challenge to be faced is employment. If a released offender cannot sustain him or herself in a legitimate job the choices are to obtain public assistance or to engage in the underground economy, which often means crime. To improve public safety we must help persons released from prison to find work. Even in this economy we can do better and we know how. While confined, prisoners must have the opportunity to learn how to work. Working, in any endeavor requires a basic set of skills. It requires we take pride in our work, work cooperatively with co-workers, accept helpful criticism and learn from supervision, be responsible and reliable. These are skills that can be learned in prison. But to accomplish that, prisons must have work opportunities and vocational education opportunities to offer. That is why recent congressional efforts to shrink the Unicor program in the BOP are misguided. The more work opportunities that exist in the Bureau's prisons, the more opportunities there will be for DC Code violators to learn skills and work habits.

It is reported that 4 out of 10 persons returning to the District from prison lack a high school diploma. In today's economy the lack of a high school education makes finding work even more difficult than it otherwise is for a returning prisoner. This is especially true in the District where as many as 80% of recently unemployed benefit filers who are seeking to re-enter the workforce do possess a high school diploma. Increasing educational opportunities in prison for DC code violators, including mandatory participation by non high school graduates in adult education as a prerequisite to access to other desirable prison activities, will enhance the chances a prisoner released to the District can find work, and will increase public safety. This will undoubtedly require that Congress support increased appropriations to the BOP to expand their educational capacity.

The Bureau has developed a comprehensive Inmate Skills Development program to track inmate's skills/treatment needs - from the time they enter the Bureau - through their transfer to a Residential Reentry Center or directly to the community - so that each inmate's needs may be addressed. This includes, but is not limited to, housing, education, job skills, vocational skills, Social Security, SSI, SSD, continued treatment, etc. Additionally, each inmate leaves the Bureau with a comprehensive release plan that addresses what skills/treatment have been addressed to the inmate while in Bureau custody.⁸

Upon release from prison people need to be ready to work. In today's world that means they must have the documents to prove citizenship or legal permission to work as an alien entrant, and registration with the social security system. In other words they need proof of citizenship, a green card and a social security card. Although the CSOSA has memoranda of understanding with some of the issuing agencies including the department of motor vehicle, it is unconscionable that after years of confinement a person is released from prison without the documents needed to join the workforce. It should be a

⁸ Email from Thomas Kane, op. cit.

performance goal of the BOP that no inmate confined longer than one-year return to their community without a birth certificate or other proof of citizenship or legal entry and permission to work and with their social security card. This is being accomplished elsewhere and the federal government should surely be able to accomplish this task at minimal cost.

Although CSOSA has what it refers to as Vocational Opportunity Training Education and Employment Unit (VOTEE) they primarily engage in assessment and remedial training to enhance work readiness. The CSOSA relies on referrals to non-governmental employment agencies to assist with employment placement. This is insufficient to the need. In a recent Brookings Institution paper, it was observed, "Roughly one half to three quarters of released prisoners are out of work in their first six months after release."⁹ A recent study has documented the importance of employment in reducing re-offending.¹⁰ A study of the COMALERT program run by District Attorney Charles J. Hynes in Brooklyn found that COMALERT graduates "show substantially lower rates of recidivism, higher rates of employment, and higher earnings compared to similar Brooklyn parolees."¹¹

Civic Justice Corps programs that are underway in fourteen sites around the country are showing promising results in reducing recidivism. In the Justice Corps model, "formerly incarcerated and court-involved youth reconnect with their community and find pathways to success through service. Service is the center of a model that includes formal working partnerships with justice agencies, employers, and other community agencies; individual case management and intensive services; life skills development, education, and employment preparation—and meaningful service projects."¹² Outcomes reported to date include recidivism rates more than 20% below the prevailing averages.¹³ If government is serious about enhancing public safety it must invest in better ways to help released prisoners find work. Opportunities for transitional employment and subsidized employment must be provided to persons subject to supervision of CSOSA.

⁹ Bruce Western, *From Prison to Work: A Proposal for a National Prisoner Reentry Program*, Washington, DC: The Brookings Institution, http://www.brookings.edu/events/2008/~//media/Files/rc/papers/2008/12_prison_to_work_western/12_prison_to_work_summary.pdf (as of September 16, 2009).

¹⁰ Bruce Western and Erin Jacobs, Report on the Evaluation of the COMALERT Prisoner Reentry, www.wjh.harvard.edu/soc/faculty/western/pdfs/report_1009071.pdf (as of September 16, 2009).

¹¹ *Ibid.*, 64.

¹² *The Corps Network*, The Corps Network: Washington, DC, http://www.corpsnetwork.org/index.php?option=com_content&view=article&id=59&Itemid=77, (as of September 16, 2009)

¹³ *Ibid.*

The distance from home of the prisons in which DC Code violators are held makes the search for housing, as well as the search for employment and drug treatment difficult. Despite the best efforts of CSOSA which fields three teams of workers to assist soon to be released prisoners with reentry beginning six months before their release, this is a nearly impossible task. In Washington, as in New York we face a crisis of affordable housing. If we are serious about releasing people from prison in a rational way that promotes their success and improves public safety we need to make greater use of transitional housing and halfway houses to effectuate a prisoner's reentry. The District has only three Residential Reentry Centers (Hope Village, Fairview, and Efforts from Ex-Convicts [EFEC]) and more are needed. The RRC provides housing assistance, employment Assistance and skill building groups, while monitoring behaviors and compliance with any required treatment, job attendance, and possible criminal behaviors. This prepares inmates for independent living as pro-social members of the community. For the last 18 years, the Bureau has operated a community transition treatment program that provides continued treatment for inmates who receive treatment in the institution. Today, these treatment services include a continuum of treatment for Sex Offenders, Drug Abusers and Mentally Ill inmates who reside in Bureau Rocs, through community-based treatment providers.¹⁴

Despite the efforts of the BOP, the resistance of local communities to siting additional halfway houses has prevented more from opening. To help communities understand that persons returning from prison are our neighbors and our neighbors' children, and that halfway houses and transitional housing help to improve public safety will require political will to address this "Not in my backyard" attitude.

In New York City, for several years we have been operating a highly successful reentry supportive housing program called FUSE. We found a tremendous overlap between homelessness, shelter use, jail and mental illness. Roughly 10% of our jail population had been in shelter and jail at least 4 times each over the preceding 5 years. They were using precious public resources disproportionately. To address this we created FUSE (Frequent User Service Enhancement) which combines transitional housing, intensive case management services and supportive housing using Section 8 rent subsidies to test the hypothesis of "housing first." By this we mean, if we find housing for the released person, assist them with other needs through intensive case management, recidivism and demand for shelter will go down. Research has documented that FUSE participants spend fewer arrests, fewer days in jail, and fewer days in shelter.¹⁵ The link between housing and post release success is, I believe, well documented and CSOSA should be provided with the resources to access housing on behalf of its clients. As well, federal and local rules that create barriers to housing, including prohibitions on residence in public housing and

¹⁴ Email from Thomas Kane, op. cit.

¹⁵ City of New York Department of Correction and Department of Homeless Services and Corporation for Supportive Housing, *The NYC Frequent Users of Jail & Shelter Initiative Overview Shared Populations, Shared Responsibility*; Hot Topics in Supportive Housing Audio Conference Thursday, October 18, 2007. Also, Richard Cho, *Supportive Housing is Healthcare*, paper presented November 8, 2007 at Grantmakers in Health Forum, Housing: Home, Safe Home, http://www.gih.org/usr_doc/Housing_-_Richard_Cho.pdf (as of September 16, 2009).

eligibility for Section 8 vouchers must be reevaluated. The Anti-Drug Abuse Act of 1988 disallows persons with drug crimes from receiving public housing. This is antithetical to the needs of inmates reentering the community.

Compared to other agencies engaged in similar work nationally, I believe CSOSA is well organized and relatively well funded. But keep this in mind, even as well funded as it is, its staff are responsible for caseloads of 50:1. If a worker is paid to work 40 hours a week, that leaves less than an hour a week for each client. And those caseloads of 50 include a mix of high risk and low risk offenders, probation, parole, and supervised release offenders, as well as persons confined awaiting disposition of new charges or be sought under an executable warrant. The work each case demands does not divide itself into neat one hour blocks and several hours spent on a complex case only serves to diminish the time available to address the needs, and the public safety risk imposed by others. CSOSA should look at the evidence in the research literature that suggests low risk cases are best left alone. In New York, we were able to place nearly 75% of our low risk cases on Kiosks, similar to ATM machines to handle the routine recording of their coming; going thereby freeing up staff to concentrate on the most dangerous high risk cases. The results have been surprisingly good. We have reduced recidivism among probationers in New York City faster than anywhere else in New York State.¹⁶

CSOSA has a good case management system and a robust research and evaluation component. It is important that capacity be continued and built upon. I believe, "if you can't measure it, you can't manage it." To produce better results we should be able to say, of all the arrests in the District, how many of them were arrests of released DC Code violators paroled by the USPC and supervised by the CSOSA? What percentage of the persons released by the USPC back to the District is arrest free after one year in the community? Two years? And of those who are arrested, how many found a place to live within 30 days of release? How many were using drugs? What percentage of persons released to the District by the Parole Commission are drug free 90 days post release, at 6 months, one year, and so on? We must have the data and ask those difficult questions if we are to learn what the correlates of success are and calibrate our response in order to change the odds that persons released by the USPC back to the District are more likely to become productive, law abiding citizens than not. By using data and serious commitment to supporting what works we can improve public safety and reduce offender recidivism.

¹⁶ *Statewide Recidivism Data Reported by County as of January 2007 (revised)*, Albany, NY: State of New York, Division of Probation and Correctional Alternatives, January 2007. Also, James A. Wilson, Wendy Naro and James F. Austin, *Innovations in Probation: Assessing New York City's Automated Reporting System*. Washington, DC: JFA Associates, July 2007.

Martin F. Horn is Distinguished Lecturer in the Department of Law and Police Science at John Jay College. He was appointed by Mayor Michael Bloomberg to serve as Commissioner of the New York City Department of Probation, effective Jan. 1, 2002. A year later Mayor Bloomberg appointed him to simultaneously serve as Commissioner of the New York City Department of Correction and he held both positions simultaneously until coming to John Jay in September 2009.

As Probation Commissioner Horn focused on high-risk offenders, improving the delivery of treatment for addiction to alcohol and other drugs, employment of offenders, the Department's IT capacity, and streamlining the probation violation process. As a result of his efforts recidivism among adult probationers dropped faster than in any other jurisdiction in New York State. Under Horn's leadership New York City changed its approach to status offenders, reducing by 70% the number of PINS (Person in Need of Supervision) petitions going to the Family Court. His "Project Zero" effort led to major changes in the City's approach to juvenile delinquents, paving the way for a 70% reduction in the City's placement of juvenile delinquents and a tripling of the number of alleged delinquents diverted following arrest.

As Correction Commissioner Horn rebuilt morale, accountability and integrity following a series of highly publicized scandals. He reduced suicides and cut jail violence in half. Horn created the largest and most ambitious jail reentry program in the nation. Under his leadership sentenced inmates leaving the City's jails are afforded meaningful discharge planning assistance and the opportunity to find a job immediately upon release. He reengineered the intake process to insure all inmates possess the documents needed to work upon release; he created systems to identify high frequency jail and shelter users and worked with the City's housing and homeless services community to address the needs for housing of discharged inmates. Horn has effectively reduced the introduction of drugs into prisons and jails by initiating New York's first drug interdiction program including the first wide scale drug testing in the City's jails.

Prior to his return to his home state of New York he served as a member of Governor Tom Ridge's Senior Staff as Secretary of Administration for the state of Pennsylvania. He also chaired the state's Tobacco Settlement Investment Board, the Pennsylvania Employees' Benefit Trust Fund, the ImaginePA Executive Committee (Enterprise Resource Management), and the JNET Council (Justice Network), and was a board member of the Public School Employees' Retirement System.

Horn served, from March 1995 until January 2000, as Pennsylvania's Secretary of Corrections. During his tenure staff and inmate safety and health care improved, three long-standing consent decrees were dissolved, and classification and information systems were modernized. He created an innovative addiction treatment program that for the first time provided funding for post release treatment of released offenders.

Horn earlier served as executive director and chief operating officer for the New York State Division of Parole, and held a variety of positions within the Department of Correctional Services. He was an assistant professor of criminal justice at the State University College in Utica, New York from 1975 to 1977. He began his career as a New York State Parole Officer in 1969.

Horn earned a bachelor's degree in government from Franklin and Marshall College in Lancaster, Pennsylvania in 1969, and a master's degree in criminal justice from John Jay College, City University of New York, in 1974. Horn co-chairs the Corrections Committee of the American Bar Association and has chaired the Policy and Resolutions Committee of the American Correctional Association as well as the Association of State Correctional Administrators.

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Mr. LYNCH. Thank you, sir.

Mr. Thorton, you are now recognized for 5 minutes.

STATEMENT OF CHARLES THORTON

Mr. THORTON. Thank you, Mr. Chairman and Ms. Norton, for giving us the opportunity to come and speak today. I must say I did not prepare a statement because this was a last minute opportunity.

Mr. LYNCH. I understand and I apologize for that.

Mr. THORTON. It is fine.

I will say that Returning Citizens United is a group of formerly incarcerated activists who have taken up the role of getting involved with how District residents reenter society and what we can do as activists and role models to take part in these conversations and be represented.

I must say, I agree with a lot of the things that I have heard. I personally have worked with CSOSA and I think we are on the right track.

Personally, I know sobriety directly relates to reentry. I don't think it is by mistake that I have had 19 years of sobriety and have been home and have been reentered into society successfully for 19 years. I know it goes hand in hand. One of the things that my experiences have taught me is that when you can deal with your addiction, you stand a much better chance of staying in society.

Education is really big. Personally, as a direct result of education, I have been able to establish a life for myself. I am a home owner now and have been married for going on 10 years.

What we are trying to do is to be the example for other people coming home and reentering society. What we have seen happen is that a lot of times when these meetings take place and when people are called to hearings, a lot of times there are not returning citizens involved in these meetings. There are not formerly incarcerated people who are at the table when all of these decisions are being made. I want to emphasize that we are talking about successful formerly incarcerated individuals, individuals who have reentered society successfully and who are beyond the right path now.

Personally, as I said, I am a home owner, a tax payer, and married. I am doing all the things that denote citizenship. Now I want to be a role model, having the avenue to do that and having the means to be able to be that role model.

One thing I will say is that in any successful reentry, usually there is a hand that was reached out from a formerly incarcerated person to show another person the way. I think we have a unique ability to meet a person where they are as a result of having been there. What we at Returning Citizens United are trying to do is have that used. We are looking to be role models and mentors and to take part in the conversations that are being had.

One of the things is that in the District of Columbia there is an Office that as of right now doesn't even have a Director whose goal and role it is, from my understanding, to look at reentry and recidivism and at how the District of Columbia is dealing with it. I think it is almost criminal that no one is even here representing the Dis-

trict of Columbia. Where are their beds? What are they doing? What is their strategy? What is this Office even doing to advance this conversation? What strategies are in place from that Office to assist in this conversation?

One of the things, also, is that there are a lot of rules in the books right now that are just not being carried out. I am involved with several nonprofit organizations. I am a trainer with Sasha Bruce YouthBuild and I do trades training. I was just at a Section 3 meeting. There are rules in the books. A lot of development that is taking place in the District of Columbia is mandated to use District residents, returning citizens, but there is no oversight and that is not happening. Developers are continuously finding loopholes and ways to get around that happening. It is just an ongoing process.

But again, as a successful person who has successfully reentered society, I know we have a role for this to take place. There is a role for us in this. That is why we are here today.

Thank you.

Mr. LYNCH. Thank you, Mr. Thorton. I thank you for your testimony and for your example. I think you did pretty well without a prepared statement.

Let me begin. I am going to yield myself 5 minutes for some questioning.

I have had a fair amount of dealings with the houses of correction in the Boston area and in Massachusetts as well as our prison system. My own experience from talking with the inmates and visiting the prisons is that at least in the prisons that I have been to, only a handful, maybe four or five, the addiction rate to alcohol, cocaine, or heroin is probably, one or the other, close to 80 or 90 percent from the inmates that I have talked to. Ms. Poteat, Mr. Horn, Mr. Thorton, you have all hit on that. I know there are some differences here in the population and in the administration.

Ms. Poteat, you mentioned the non-compliance hearings that you conduct. What are the most common violations that might have a person re-incarcerated? What do those violations usually consist of? Or are they so far across the map that you can't pin any one down?

Ms. POTEAT. No, the most common ones are new arrests, repeated drug violations with uses of various drugs, and loss of contact procedures where the offenders fail to report to their CSOs and are unaccountable for. We do even have a small magnitude of those that have violated the GPS process.

Mr. LYNCH. I am supposed to be managing four bills on the floor in about a minute.

In my limited experience, sometimes the connection to the community and to other people who have gone through this process successfully, that is a very important element of success. If we are shipping people outside of the community and breaking that connection between the support systems, the families, and the parolee, I think that is counterproductive. How do we step back from that, take that into consideration, and try to give these parolees the best chance of success?

Ms. POTEAT. One of the things that we have done at CSOSA was when the Bureau of Prisons transferred a large portion of offenders to Rivers Correctional Facility, we took a tour and a visit down

there with staff. We listened to some of the issues or concerns that the offenders raised. Part of those problems were they were away from their families, they were without resources, and there were a lack of programs and support systems.

As a result of that, we elected to start a mentoring program where we would do video conferencing from our offices as well as going down there. We would take a pool of staff as well as employment vendors and other community resource activists to the prisons so that they could hear what these offenders were in need of prior to their return to the facility. In addition, we did some case management training onsite with their staff so that they recognized some of the challenges these men would face coming back to the District of Columbia with some of the resources that we have and some of the problems facing them with housing or employment.

We tried to keep them in connection with CSOs so that there was communication for the offender to have a smooth transition once they come back to the District. So upon their return, we had some idea of what these men needed before they arrived. And we could hook them up with some of those resources prior to their arrival here.

Now, we couldn't meet with all of them because there were some offenders at other sites in the Bureau of Prisons that were so far away that there was a lack of contact.

Family support is very critical for these men's success. Some of them have been without support systems for so long, have burned bridges, and as a result need to reconnect with their families.

The substance abuse history is a critical issue. We know many of them are abusers as well as just frequent users. They need to get in some type of substance abuse program. We recognized that we could not meet all of their needs. With those where we could do it onsite, we hooked them up with those services as well as outpatient or inpatient treatment. I talked about the family integration system.

I will talk about employment. We had employers sit in the audience when we did video conferencing and talk to the offenders at Rivers. Some of them were interviewed right then in terms of the types of jobs they had, the credentials you needed in order to work at these particular jobs, and what they needed to do once they returned home.

Those are just some of the things that are so important for these men and women.

Clothing, some of them were without clothing so we worked very closely with our place for women as well as others for the men so that they had suitable clothing.

It is recognized in one of the testimonies that we submitted that we have worked with the Department of Motor Vehicles. As was indicated, these men need driver licenses or some type of identification so that they can get employment. Along with that, we were able to get a non-driver identification so that they could come and get the identification so when they showed up to their employers they had some form at that time.

Mr. LYNCH. Thank you.

My time having expired, I will now recognize the distinguished gentlelady from the District of Columbia, Ms. Eleanor Holmes Norton, who I will ask to take the Chair if you would. I have some questions that the committee wanted to have asked as well as your own.

I am going to run over to the floor. I have four bills and hopefully I will be back as soon as possible. Thank you.

Ms. NORTON [presiding]. I thank all of you again for your testimony.

I want to start with a question that goes directly to public safety. I think the residents of the District of Columbia would believe a 2008 District Court for the District of Columbia decision in *Sellmon v. Reilly*. The decision said that the Commission was not applying the correct standard in making parole decisions and that there were excessively long sentences. As a result, it is said that we could see the release of between 500 to 1,000 offenders, on pre-release, of course, within the next 18 months from the time the decision in 2008. Most of these will have been incarcerated serving excessively long sentences for at least 15 years.

I would like to know whether any of these inmates are now released from the 2008 decision. Have they had an effect upon either your workload or public safety? They would come immediately under CSOSA and, of course, get to the Commission only later so I have to ask both of you what the effect of this 2008 District Court Federal decision has been. Is it a decision involving only those sentenced as Federal violators? Does it affect D.C. Code violators?

Mr. FULWOOD. It impacts D.C. Code violators primarily. The *Sellmon* decision requires us to use the D.C. Board of Parole guidelines that were developed in 1987. We have subsequently met with Gladys Mack and Walter Ridley to talk about the D.C. parole guidelines.

There are about 500 offenders under that decision. We are in the process of reviewing those cases now. Our plan is to have it completed by January 31, 2010. There are people who are being released. As you know, because of the equitable street time statute, we are in the process of terminating people from supervision. It will have somewhat of an impact but we are still only talking about 500 people.

Ms. NORTON. So it is not 1,000 people? It is really at the out end only 500?

Mr. FULWOOD. Yes.

Ms. NORTON. Let me just ask you as a matter of the data, do people who have served longer sentences like this tend to be older when they get out? I guess this is for you as well as the Chief who has a long record in law enforcement. Do they tend to be more compliant than younger ones once they are under the supervision either of CSOSA or of the Parole Commission? Or does the fact that they were convicted of more serious crimes, perhaps, make them more difficult for you to handle when they all get out at one time?

Mr. FULWOOD. As you know, we commissioned a study done by Dr. Jim Austin. The study found that the D.C. population was serving twice the time of the national average.

Ms. NORTON. That was a matter of D.C. law?

Mr. FULWOOD. Yes, by the courts. The courts were sentencing people to longer sentences.

Ms. NORTON. Was this pre-Home Rule law or are they just kind of sailing off into the wind into this period as well?

Mr. FULWOOD. No. Not being a lawyer, it is a little bit of both. I think that what you had is that back in the 1980's when the crack cocaine epidemic came, you ended up with greater sentences because of the crack disparity. The Justice Department is looking at that now to try to figure out how to better manage this.

Ms. NORTON. We did that in the District as well, you are saying?

Mr. FULWOOD. Yes. So that was an issue. The study has shown that is an issue.

But the study also points out something that was said by one of the panelists about people who are committing lesser offenses, that we need to do something about that group and not focus on that group. We need to focus on the group who are violent offenders, to take our resources and put them in there. We need to figure out what is the best way of managing this group. Ms. Poteat talked about some of the things that they are doing.

As you know, you and I held a hearing with the people at Rivers. What we found is that there weren't programs. It is a privately owned facility for persons who were incarcerated. So we ended up with now the 500 out program at Rivers. We are still trying to get a solid unicorp program there now so that people have the opportunity when they come out to be successful.

One of the things that we have at the Parole Commission, 80 percent of all the people that we end up having revocation hearings for are there for technical violators. They are low level offenders. They either test positive, fail to take the test, or fail to report for supervision. Those are the three problems that we face.

Ms. NORTON. Let me stop you right there. Here is where my interest in public safety really wakes up. You know, Chief, what it means to have violent offenders out here because we don't get to them because we are getting to the dirty urine people now. Dirty urine people can lead to big problems if they have continuing drug problems so I am the last person to want to deprecate that. I think Mr. Horn or Mr. Janetta also testified about this distinction.

Does CSOSA and then the Commission prioritize in any way offenders based on the offense to public safety of the offender given the large number of folks under supervision that you have out? I ask that particularly of the three of you at the table. Is there any priority so that you get to the ones who are likely to be out here and do violent crimes, I cited some statistics thus for 2009, or do you take them, excuse me, first come, first serve?

Ms. POTEAT. The answer to that question is yes. We have a risk screener that we apply to all of the offenders who are released. Therefore we can determine who is at the intensive level or who is at the minimum level. We supervise them accordingly.

When I say that, the high risk offenders will have to report more. They will be engaged in the accountability tours with the Metropolitan Police Department with more frequent home visits and more frequent office visits. All of them are usually subjected to routine substance abuse testing. We will also probably put some of those on GPS to monitor their behavior based on their risk level.

As they progress and do well, then their supervision level can be lessened.

Ms. NORTON. Let me ask about GPS. I am fascinated by that. Does GPS work so that when you put someone on GPS, most of the time is that technology effective, not effective, or highly effective? How would you rate it?

Ms. POTEAT. I would say that it is very effective. We have approximately 812 people on GPS right now. We have trained not only the Metropolitan Police Department but the Capital Police and the Park Police. They all have the ability to go in and look and monitor our GPS system. We have been able to assist the police department in solving crimes because we are able to detect if offenders are in close proximity to an offense that has transpired or on the scene.

Ms. NORTON. So do you have a backlog of warrants? I guess it would be actually CSOSA that issues the warrants. Do you have a backlog of warrants for offenders that are out on the street today?

Ms. POTEAT. Yes, we do have a backlog of warrants. However, we have been working very closely with the Parole Commission in addressing all of those warrants. And the Metropolitan Police Department has an initiative now where they want all of our warrants and all of the PSAs so that they can go out and pick some of them up as well.

Ms. NORTON. Let me ask you about the Superior Court Marshal and, to some extent, the District Court Marshal. Under the senatorial courtesy that the President has given me, I have now advertised to go before my commission first people who wish to be Superior Court Marshal, because that is a Federal appointment, and District Court Marshal.

Now, I called in the Superior Court Marshal and I was, I must say, amazed to hear how we are doing. It is a position that hasn't been filled for a very long time, apparently. There are Marshals that come from all over the United States to fill in as needed because, after all, this is Federal and Marshals can fit in. It looks like an Office doing the best it can but without any leadership.

If it is hooked up to what you do, I must ask you, how dependent are you on the Marshals to proceed once you have a warrant out for an offender?

Ms. POTEAT. We have had some positive results with the warrant units in both Superior and District Courts. We do have a staff member that is detailed over there and works in collaboration with the Marshal Service. Therefore some of our warrants that need to be picked up, they are able to look at and retrieve or act on immediately.

Ms. NORTON. Do you think the backlog has anything to do with understaffing at the Marshal Service of the Superior Court?

Ms. POTEAT. I really can't address that.

Ms. NORTON. So warrants are proceeding as you would expect, then?

Ms. POTEAT. No, there probably needs to be some improvement.

Ms. NORTON. Well, if it is not improvement in management and you can't speak to whether or not there are enough Marshals, all I can tell you, Ms. Poteat, is that I need some guidance. I am look-

ing for somebody who can staff that office as it should be staffed. I have had complaints from people, from developers, that you can't get Marshals to go out even after the District is through with all of its processes. So I am very concerned with any spill-over.

Continuing along with this violent offenders versus others, I am not sure I even know what I am talking about. I commend the Commission and the D.C. Criminal Justice Coordinating Council for the study you have commissioned that casts great doubt on this so called salient factor score used by the Commission to assess an ex-offender's likelihood of recidivism after release. The study, as I understand it, found at best a weak correlation to recidivism.

I must ask you, particularly when this salient score, as I think you testified, Chairman Fulwood, is related to the guidelines, do you agree with the findings of this study? Are you continuing to use it? Do you intend to continue to use this salient factor score as it now has been used for years?

Mr. FULWOOD. What we have done is, this week, as a matter of fact, we are meeting with CSOSA and the study author to try to come up with the rules to govern how we use the study. We believe that the study is an important study. It will assist us in changing direction. I support the study at this point because I think it will get us to where we need to go.

Obviously, one of the difficulties whenever you have substance abuse offenders is that it is one thing to say we shouldn't do anything about them. That is OK if they are not in your neighborhood. That is always the difficult part. If you live in Southeast Washington, you don't want to look out your window and see people selling drugs or see people using drugs. You don't want your children to see it. So that is the difficult part that we are trying to work out.

The study has a certain predictive power to it about looking at offenders, looking at their history, what they originally were arrested for, what programs they used while they were in the institution. The salient factor score was developed over time for the Federal population.

Ms. NORTON. Not for the D.C. population?

Mr. FULWOOD. Yes, it didn't have anything to do with the D.C. population. So now we are looking at how to better manage it.

Ms. NORTON. Do you think that you should be using or out of this study will be using new guidance for predicting how whether people should be on the street or not?

Mr. FULWOOD. I think it will help us because it assesses risk. It looks at low level offenders and medium level offenders. It looks at categories of what the offenses are and what the response ought to be. The response of the attorney from the PDS talked about the fact that we were giving people the 12 month hit almost automatically. That is not the way it should be.

Ms. NORTON. That is because of the salient factor score and guidelines?

Mr. FULWOOD. Absolutely.

Ms. NORTON. So that is a kind of uniform approach to public safety that results in a lack of public safety. There have to be some differences among these people. That is what I talk about as a layman with high risk, etc. When you know that somebody is not a violent offender, if we used a more scientific scoring they could be

at higher risk than somebody who has been in jail for 20 years and has come out now, for example. So I am very concerned that you move toward the best practices and the best data, the best information.

I know under your new leadership that you have been very concerned about this salient factor notion.

Here I make a point. This Commission is in the throes of a huge transformation. What the U.S. Government did was to first say you were going to go out of existence because Federal parole was abolished. Then Congress in its wisdom decided that if we are taking public safety responsibilities from the District of Columbia for fiscal reasons, we have to have someone to supervise. So it created CSOSA for the first time and it gave new life to the Parole Commission.

When I ask the chairman about the salient factor score, I am asking about the old system before Federal parole was abolished. My grandfather's system is what I am asking about.

What we are asking particularly the Commission and certainly CSOSA, who must work in league with this, and again your partners like the Public Defender Service is to transform a Federal agency, which will continue to be a Federal agency, into essentially a local parole agency. There is no parole. I understand that. You are not local. You are answerable to Congress and not directly to the District of Columbia. This is unheard of in the history of the United States. We do not give local functions to a Federal agency. That is what we are asking you to do. That is why, Chief Fulwood, that is always the superior title as far as I am concerned, Chairman Fulwood, I am always cognizant of the fact that we are not asking you to simply make this thing better. We are simply asking you to turn it on its head.

The greatest frustration of this subcommittee is seeing how little a Federal agency can automatically be adapted to the new role you have been given. For example, the Bureau of Prisons, which also got this new responsibility, as bad as prisons are, this is the best one in the United States and in the whole world. For me to say that about a prison is to talk from how bad, perhaps, others are. But I must say that this Bureau of Prisons has been responsive to us. All we had to do was hold a hearing and we got a state-of-the-art drug program open to District residents. We got a new facility built at Rivers. We did that without a law, without a change. We did it with oversight. When we were in the minority there was no oversight of this D.C. matter.

But I am interested in those at risk first and how often in this country we ignore risk in providing for remedy. Now, there is data from the Justice Department on people with mental illnesses who may not appear as the people who are at highest risk, they haven't committed, for example, a violent crime, but here I am quoting from the U.S. Department of Justice National Institute of Corrections MacArthur Foundation study, "People with mental illnesses, most of whom have co-concurring substance abuse disorders and face significant clinical, legal, and socioeconomic challenges are twice as likely as people without mental illness to have their community supervision revoked."

Knowing just that bit of information, it seems to me that they almost surely would go to the front of the line in need for supervision and perhaps in need for something to keep them from going over the top since they are more likely than others. Can I ask you how they would rate, CSOSA, in your risk categories? Thirteen percent of the offenders under your supervision are in this category. Whether they are high risk or not, their mental illness and substance abuse apparently puts them at some risk of failing probation.

Ms. POTEAT. Congresswoman, yes, they are a risk. But we treat this population a little differently because we recognize the fact that they sometimes are dually diagnosed not only with the mental illness but with the substance abuse. Therefore one of the things that we did do was to create additional teams to supervise this population. They have lower caseload ratios and offer more treatment.

Ms. NORTON. But now this re-offending in the sense that they lose their probation status, does that occur in the District twice as often? That study, I believe was a national study.

Ms. POTEAT. I am sorry?

Ms. NORTON. For the loss of their probation status, they are "twice as likely as people without mental illnesses to have their community supervision revoked." That was from a national study, I believe. Does that occur in the District of Columbia today? These people who have mental disorders coexisting with their other problems, are these people twice as likely? Do you know, Ms. Hankins? Are these people twice as likely to fail probation?

Ms. HANKINS. I am unfamiliar with that specific study.

Ms. NORTON. I am just interested in the District of Columbia experience.

Ms. HANKINS. I understand from talking to advocates and from talking to my colleagues that many of our clients do have mental health issues and could use increased support and assistance in being successful on parole and supervised release.

Ms. NORTON. This data may not be available. I am asking this off the top of my head. I was interested in this study. I wish you would get to this committee within 30 days the number of offenders who have diagnosed mental illnesses, perhaps with other undiagnosed conditions. The study says most have undiagnosed conditions. Somebody has said that they have a mental illness of some kind. If they have been in the BOP, I think those diagnoses are reliable.

I would like to see what happens with those people because I don't know where they would fall on anybody's list of violent or nonviolent. All I know is that this national study disturbs me. I am very pleased to hear you say that they do get increased supervision and the rest. I would just like to know what the outcomes are for that very high risk group.

Mr. Horn, your testimony seems to say that New York City has given special attention to such offenders. Is that true? You, of course, have just the kind of background we would look to. You have been commissioner of the New York City Department of Probation. You have been the commissioner of the New York City Department of Corrections. You are deeply in touch with New York's parole restoration work. I had understood that New York paid spe-

cial attention to these parolees with very special needs. I wonder if you think that could be used, for example, in a system of the kind you have heard testimony about today?

Mr. HORN. Let me say a couple of things. I have been listening to the conversation. I want to make an observation. I think it is a mistake to assume that there is necessarily a relationship between mental illness and dangerousness and violence.

Ms. NORTON. Well, this study says twice as likely, not to dangerousness.

Mr. HORN. Twice as likely to fail under supervision.

Ms. NORTON. That is the point.

Mr. HORN. That is right. In my experience, many of the people in prison and jail who are diagnosed with a mental illness are as likely to be diagnosed with depression and anxiety as with some form of a psychosis that leads to violence.

Ms. NORTON. No, I believe that they include mental conditions and not just psychosis.

Mr. HORN. Yes. What we have found, for example, is that many of these individuals fail because their mental illness may cause them to use illegal drugs as a substitute for legal medications, either because they cannot get access to the necessary psychotropic medications or because the side effects of those psychotropic medications are unpleasant. They choose to self medicate and so that is why you see this high incidence of co-occurring disorders, if you will.

Ms. NORTON. They self medicate why?

Mr. HORN. Their mental illness causes them discomfort, whether it is hallucinations, voices, or whatever or simply depression or anxiety. They can relieve it by using cocaine or heroin or alcohol or marijuana, which are more pleasurable, if you will, than some of the very powerful psychotropic legal pharmaceuticals.

The other thing that we have found is that there is a very high correlation between individuals who are mentally ill and individuals who are both homeless and in and out of jail. Oftentimes we refer to them as street users. We found that 10 percent of our jail population of New York City, for example, had over a 5-year period been both in jail for times and in homeless shelters four times in that 5 year period.

Ms. NORTON. Were you able to get people with mental conditions to use their pharmaceuticals?

Mr. HORN. Well, there are several challenges. The first is we have to make sure that there is a way of paying for their access to that treatment in the community. That means making sure they are eligible for Medicaid.

Ms. NORTON. Aren't they almost surely eligible?

Mr. HORN. They probably are. But many of them may have lost their eligibility while in prison because they failed to register or because Federal law requires that their Medicaid be suspended while they are incarcerated. Oftentimes we don't do a good job re-enrolling them.

Ms. NORTON. Do we re-enroll them in the District of Columbia for Medicaid?

Ms. POTEAT. In CSOSA, the health teams work with the offenders in possibly getting these people re-enrolled in Medicaid.

Ms. NORTON. Go ahead, Mr. Horn.

Mr. HORN. The other thing is they need assistance with housing and they need intensive case management. What we have done in New York is what we call intensive case management, that is workers who work exclusively with the mentally ill offender in caseloads of no more than 10 clients in the community. The other thing we have done is we have given them priority for subsidized housing. And we have found a way, both using Medicaid as well as private foundation funds, to give them wraparound services.

They require a great deal of support in the community following release. You cannot deal with them the way you would deal with the average non-mentally ill offender and expect them to succeed. They require a great deal of important attention.

Ms. NORTON. Let me go to Ms. Poteat, then, because that is important to note in light of your testimony. I must say, it is perplexing to me that the secure residential treatment program is only available to male parolees and supervisees. I have to ask, considering that drug abuse is two thirds of those under your supervision and I can't believe that all of those are men, why is this program available only to men?

Ms. POTEAT. Well, with the CTF program we had initially designed, we were going to have a women's unit. However, during the stages we determined and found that we had an increasing population of co-occurring mental health problems so we elected to open another unit of mental health.

Ms. NORTON. Yes, but only for men?

Ms. POTEAT. For men. However, with the new pilot program at the CTF, even though it is a pilot for 32 men, we are in negotiations with CTF and the Department of Corrections to open a women's unit when we go full blown.

Ms. NORTON. CTF?

Ms. POTEAT. The Correctional Treatment Facility. That is the pilot program we just started. We will have a women's unit and they are endorsing a women's unit.

Ms. NORTON. Let me tell you, Ms. Poteat, you have been in violation of Federal law. I don't care what the reason was. From the time that they are children, girls offend less often. It is too easy to overlook them. Yet the harm done to women may be far greater since no matter what you are talking about, a woman who wants to get back her children is most likely to get them back, if at all possible, when she is released. It is simply a violation of Federal law to have a unit paid for by the U.S. Government that excludes women.

In 30 days, this committee and the chairman need a plan. Yes, I understand you are talking. I want a plan that would be implemented beginning this fiscal year which begins October 1st. This Member of Congress has worked very hard to get CSOSA money. I would like a plan within 30 days. I would like a plan that will, remember you get your new funds on October 1st, begin its implementation no later than January 1st to pull you out of violation of Federal law, not to mention out of bypassing women who may be in need of treatment.

I think frankly that there will be far fewer. It would have taken nothing to set aside a few places for women. That needs to be done right away.

Let me quickly go on. I am very concerned to hear about the detention for 2 to 4 months for the parole revocation hearings. I want elaboration on that. Does D.C. pay for the time that they are held in the D.C. jail? Does the D.C. government pay for that?

Mr. FULWOOD. The D.C. Department of Corrections, yes.

Ms. NORTON. Well, these people have had their parole revoked by Federal agencies. That is something we have to do something about. The whole point of transferring these responsibilities to the U.S. Parole Commission and creating CSOSA is to take all the responsibility for public safety, for detaining and maintaining them, from the D.C. government. As far as I am concerned, this is a violation of Revitalization Act. So what you do is to transfer to the District of Columbia essentially the responsibility, meaning that the District budget pays for detention for 2 to 4 months while you are waiting for parole revocation hearings at the jail and designation to the Bureau of Prisons. And BOP is also, of course, a Federal agency.

Now, I think it is Ms. Hankins who testified that you have the discretion whether to hold them in jail or not. I certainly want to make sure that they are not simply let out of jail without the appropriate factors and circumstances being provided. But if you have the discretion, if these people are being held and have not yet gone back to BOP or been adjudicated back, what determines whether you are going to jail these offenders pending the final revocation or not? How do you determine? How do you make that difficult judgment? What percentage of your offenders are held as opposed to some other use of detention?

Mr. FULWOOD. If we determine that there is probable cause and the person goes over to the D.C. jail, they stay there until we have a hearing for revocation purposes. Then they are designated to the Bureau of Prisons to be transferred to a Bureau of Prisons facility.

Ms. NORTON. Suppose the person has been arrested for, let us say, a minor violation like driving without a license. That is very bad to do, but let us say that they are arrested and later found not guilty. Maybe they left it at home, for example. Is their parole or release revoked even if these charges are later dropped?

Mr. FULWOOD. It may be depending upon the totality of the circumstances.

Let me get to what we need to do. What we need to do is to use a greater number of summons. That way the person is not incarcerated.

Ms. NORTON. How would that work?

Mr. FULWOOD. We are looking at it now.

Ms. NORTON. A summons as opposed to what?

Mr. FULWOOD. As opposed to an arrest warrant for minor offenses. With a greater use of summonses, the person wouldn't be over there at the jail. They wouldn't stay there for a long period of time. But we would still get the advantage of bringing them in to find out about their behavior.

We are looking at it now as to a greater use summonses for the purposes of not incarcerating people. The PDS agrees with it. They

have brought it to our attention also. But we have had this discussion about it.

The second thing is that we talked about mental health. One of the problems that we have is that we don't utilize all of the support systems that are available in the community now. We just had Legal Services people that came up and talked about greater use of these services that are available in the community.

Ms. NORTON. Such as what, Chairman Fulwood?

Mr. FULWOOD. Referring them to doctors for treatment, looking at their crime and the relationship to their crime, looking at whether or not we can supervise them in the community, and putting them into halfway houses. There are a variety of things that you can do.

Ms. NORTON. Ms. Poteat, are your halfway houses full?

Ms. POTEAT. The halfway house determination is by the Bureau of Prisons. If there are beds available, then they determine—

Ms. NORTON. Do you know whether there are beds available at the moment?

Ms. POTEAT. At Hope Village? Yes, ma'am.

Ms. NORTON. Why are they not being used? Do you know?

Ms. POTEAT. No. We can't make the final determination of who they accept into the halfway house. The Bureau of Prisons does.

Ms. NORTON. Don't you ask them why they have empty beds at the halfway house? Would it help you therefore to get people back into the community? What do they tell you?

Ms. POTEAT. Yes, ma'am. In fact, sometimes we have to go back and ask them if they will reconsider some of the cases. We even have staff at the halfway houses that are there to work when the offenders transition out.

Ms. NORTON. Mr. Horn, did you have something to say on that?

Mr. HORN. Yes. I have to get back to the city to teach a class tonight so I am going to have to run off, but I do want to make an observation. It is not uncommon for halfway houses to be reluctant to accept individuals with mental illness. They may not be equipped to deal with them.

Ms. NORTON. But she is saying accept them period, empty beds with or without mental illness.

Mr. HORN. But it was following from the conversation you had with Chief Fulwood about the mentally ill.

I wanted to draw your attention to a program in Philadelphia called First, which is run through the Pennsylvania Department of Corrections. It is a halfway house expressly for individuals with mental illness. I believe it has been replicated in Erie, PA as well. I would just commend it to the committee as a model that you may want to pursue.

Ms. NORTON. Well, it is something that in the next appropriations cycle I might want to suggest to the appropriators for CSOSA.

But I am very concerned if there are halfway house beds that are not being filled. Those people are coming out of jail. It is not like CSOSA won't get them. There are beds that are not being filled. I don't know if it is for fiscal reasons or whether you know what the reasons are. I am asking staff to find out within 30 days from the Bureau of Prisons why we are not bringing more people through halfway houses if the beds are available.

Mr. FULWOOD. We know that evidence-based practice has shown that one of the things that helps people to be successful is for them to go to a halfway house.

Ms. NORTON. Chief, I remember that when we first got this responsibility, we showed huge declines in recidivism through the halfway house mechanism. Then there got to be the NIMBY notion and there got to be fewer and fewer funded. But what bothers me is the notion that there are empty beds. We will deal with the Bureau of Prisons if that is the case.

Mr. THORTON, you asked the question about the elephant that isn't in the room. I have to say, the District of Columbia was not invited to this hearing because we couldn't pinpoint either the data or their work.

Now, we are in touch with Empowerment. We commend the city for its work on Project Empowerment.

But we are not sure that when the Federal Government took over imprisonment and parole whether or not that left the city feeling that there was not the kind of responsibility that they had before, indeed any responsibility, except that if people offend criminally or otherwise, if they are to use services they are going to be our services.

I would like your view of what you think the city, facing huge problems with funding of programs for law-abiding citizens, what the city might do to be more helpful in this regard. Is it simply funding? Does the city pay attention but it simply doesn't have the funding? Remember that CSOSA has the major responsibility for supervision, not the city. As someone who brought up the city, I thought I ought to ask you what further the city should be doing so that I could speak with the Council and the mayor to see if new things might be possible from the city working with CSOSA and the Commission.

Mr. THORTON. One thing is that there should be some type of strategy in place with the city.

Ms. NORTON. A local strategy quite apart from what the Federal agencies are doing?

Mr. THORTON. Apart from CSOSA. It should be local.

Ms. NORTON. You don't see such a local strategy?

Mr. THORTON. I don't see such a local strategy that exists.

We brought up recovery and the role that recovery plays in successful reintegration. Right now, there are about five buildings that I am aware of where recovery meetings take place that are being closed down.

Ms. NORTON. What do you mean?

Mr. THORTON. Recovery centers. Buildings where individuals go in for substance abuse meetings.

Ms. NORTON. Do you have to go into a city building in order for those meetings to take place?

Mr. THORTON. Most of them take place in city buildings, churches, or others.

Ms. NORTON. Why should those be abolished or closed down? I can understand that they may not have the physical premises for it.

Mr. THORTON. You brought up a good question. Why?

Ms. NORTON. You mean the programs are being abolished?

Mr. THORTON. The specific buildings I am talking about, one is on 24th Place. Right now, there are 12 meetings that take place throughout the week in that particular building.

I went through detoxification. When you go into treatment, one of the things you are told is to find NA meetings and AA meetings and places to go.

This particular building I am talking about I believe is operated by APRA. The building is closing down so what happens is that now you have about 1,300 people who generally go there for meetings that have no place to go.

Ms. NORTON. This is very serious. Staff will be in touch with the city. The city is under tremendous pressure from the Great Recession, as we are now calling it. I can understand that programs have to be closed down, but AA is usually done without city help. In fact, it can't get any city help because it is a religiously based program. Many of these are done through churches and the rest. So I will speak with city officials to see what we can do to make sure that they work more closely, I think, probably with CSOSA to make sure that premises are at least available for meetings that are not government funded to continue to take place. That would be an important role for them to play.

The Public Defender says that, this for you Chairman Fulwood, the Commission accepts the recommendations of the hearing officers almost always. What is the review process that the Commission engages in? What scrutiny results in so few reversals? I will ask Ms. Hankins, truthfully, too. By the time you get to this point, should we not expect, perhaps, few reversals?

Mr. FULWOOD. What happens is that when the hearing examiner goes to the facility and has a hearing, they do a summary report. They make a recommendation. Then there is what I call a peer review. A second examiner reviews the case and determines whether or not he agrees or disagrees with the finding. If he agrees, it will come upstairs to the Commission.

Ms. NORTON. So it has already, as it were, been appealed in a manner of speaking because you got a second person?

Mr. FULWOOD. Yes. There are times when there is a disagreement. Then there is a third review among the examiners. The supervisor examiners review the case until they get two people to agree on the recommendation. It subsequently comes upstairs. The first Commissioner reviews it. If he agrees with it, he signs off. If he doesn't agree with it and he puts in another recommendation that is different than the hearing examiners' recommendation, it then goes through a second Commissioner until you get two Commissioners who agree on the recommendation. There is a pretty good review.

They are reversed.

Ms. NORTON. Ms. Hankins, you were concerned about this. You heard the chief say that there are multiple reviews before it even gets to the Commission level.

Ms. HANKINS. The 85 percent statistic may or may not be particularly impressive in comparison to, say, an appellate court review of trial judges. I don't know.

What I thought was sort of more interesting was talking to my colleagues who do have now a lot of experience before the Parole

Commission and have represented over 90 percent of parolees and supervisees at revocation hearings. If you win a hearing and either get a no finding where they are able to get the hearing examiner to find that there was no violation or get a finding that there is a violation but for some reason there is a mitigating factor that has been decided so that they have gone below the guidelines, I have asked my colleagues how often that is reversed. How often does an appeal improve what has happened at the examination?

It is the 15 percent that pretty much always get decided against our clients that I think is the more stunning statistic, not necessarily the 85 percent affirmance. But when error is found—

Ms. NORTON. How much overturning occurs in appeals in Federal courts, for example? Isn't it rare indeed?

Ms. HANKINS. Not in my Office. We win reversals. It is certainly isn't the case that every time there is an error.

Ms. NORTON. Fifteen percent of the time?

Ms. HANKINS. No, I am sorry. It isn't the 85 percent and the 15 percent. It is of the 15 percent, which way does that go. What my colleagues are telling me is that it is close to 100 percent of the 15 percent.

Ms. NORTON. By the time that they get to that many appeals, then I would have to ask you how much overturning would you expect to occur by that time?

Ms. HANKINS. How about at least one in the past decade? It has never happened. In fact, they always do it the other way. To sort of do it in terms of the prosecution and the defense, it is always the prosecution's way.

Ms. NORTON. Here is where we would like to get this straightened out. We want to find out what is new and what has been happening. Now, CSOSA works for a long time with an offender. The offender may go through a number of violations before it gets anywhere close to the Commission. Here I have been focusing and been interested in what happens when it gets to the Commission.

I believe it was you, Ms. Poteat, who talked about kind of putting these two parts of the process together so that we know what kinds of sanctions are used at the CSOSA level and what kinds of sanctions are used when you get to the Commission level. Would you help us understand how you are putting together a new system that relies on sanctions to bring compliance before an offender offends repeatedly? I would call them graduated sanctions. Begin with CSOSA and graduate, if need be, to the Commission level so that we are talking about one system. I use the word sanction to mean that if improvement is not made you are on your way back to jail.

How would graduated sanctions work? How are they working now? When Ms. Hankins says you would expect one in a decade to be overturned, you could say more than what common sense tells me. If you have gone through so many steps, maybe you wouldn't expect even one to be overturned. But I don't know because I don't know what the graduation is up to the point where you have a really serious appeal, I would say. By the time you get to the Commission, it ought to be a dead serious appeal and there should have been corrections that perhaps would have been made but for certain complexities in the situation.

I need to know how this new system that we have been trying to understand and that Chief Fulwood has made some use of even at the Commission works. How you would knit that together with CSOSA, using sanctions up the way so that ultimately the offender with graduated sanctions would get to understand that he is deeply now in trouble and either change his behavior or head toward the ultimate sanction of being put back in jail?

Ms. POTEAT. All right. You talked about the graduated sanctions. Just let me give you a brief example. Oftentimes you start with the least type of sanction for the offender. It may be a verbal reprimand. Let us say an offender has positive urine and you continue to do verbal reprimand after verbal reprimand. You are really not addressing the problem. All the offender knows is that if they use drugs, the only thing that you are going to do is give them a verbal reprimand. This new sanction matrix will apply the appropriate sanction to the correct behavior.

Ms. NORTON. For example, how many verbal reprimands are you entitled to before you go to something else? Does an offender know that? Does he know that now?

Ms. POTEAT. No because sometimes it may depend on the particular CSO even though we have a graduated sanction matrix.

Ms. NORTON. Should it depend on the CSO? I understand that in the criminal justice system everything has some discretion.

Ms. POTEAT. Yes, it does.

Ms. NORTON. But if there is no rule to say there are X number of verbal reprimand before you get graduated to the next thing, I don't know why anybody should take it seriously. These are very smart people. Criminals aren't dumb. They have eluded capture and they have had some success in the criminal justice system. So I am looking for sanctions that work and that are predictable. If they are not predictable, then who cares?

Ms. POTEAT. That is what we intend to incorporate, sanctions that are predictable. But I also must say that as part of that, even though we may be applying the sanctions, it is up to the appropriate CSO to be able to enforce and relay that type of information to the offender.

Ms. NORTON. But that is up to you as management to make sure they are trained to do so.

Ms. POTEAT. That is correct.

Ms. NORTON. I am assuming that. If that is a problem, then we really have a problem.

Ms. POTEAT. It is not a problem. But we want to make sure, here again, that it is the appropriate sanction so that by the time it gets to the Commission they will be able to determine that we have exhausted everything conceivable.

Ms. NORTON. Just a moment. I am not looking for a proxy for sentencing guidelines here. I know that this terrible system that we are trying to get rid of. I don't want to see any version of it repeated in this system. But I think the chances for abuse by the staff are greater indeed when, in fact, there is not appropriate training on the one hand and when the offender does not predictably know that unless there is an extraordinary reason, X number of this or that is going to get you to the next sanction, not back to jail but to the next sanction.

When would a system at least predictably forecast to the released resident, bearing in mind that there has to be appropriate discretion? When can we expect such a system matrix be in use from CSOSA up through and including the U.S. Parole Commission?

Ms. POTEAT. Congresswoman Norton, there is a system already in place. We are just only enhancing that system.

Ms. NORTON. Don't give me bureaucratic talk. I know there is a system and I compliment CSOSA on that system. But you cannot tell me today, or at least you haven't thus far told me, that someone who has had X number of reprimands knows he is on his way to the next part, what the next part would be, or that it is written down to tell him what the next part will be. I think part of the reason is this study that has just been commissioned would not enable you to predictably do that yet.

The point is that by the time Ms. Hankins gets the case before the Commission, I don't know, you may represent people before CSOSA as well, she ought to be able to point to something that was in place that hadn't taken place. You ought to be able to say that the rule is that unless there are extraordinary circumstances, there are X number of reprimands and then you now go on.

By the way, what would you go onto after a verbal reprimand?

Ms. POTEAT. It could be daily reporting into CSO's office. It could be GPS. It depends on the behavior and it depends on the violation.

Ms. NORTON. Are GPS and daily reporting at least as reliable as one another?

Ms. POTEAT. GPS is more controllable. We can monitor what the offender is doing or where they are going.

Ms. NORTON. Why would anybody have somebody come every day if GPS is more reliable?

Ms. POTEAT. Sometimes we have people, like if they are unemployed, come and they may go to the Daily Reporting Center. Therefore they would be seeing their CSO and they will be telling them exactly what they have done or where they have gone throughout the day.

Ms. NORTON. That works just as well as GPS?

Ms. POTEAT. It is a sanction that we utilize.

Ms. NORTON. I am asking the question, does it work as well as GPS?

Ms. POTEAT. It works but GPS is probably more controllable.

Ms. NORTON. I don't know. Maybe if somebody is unemployed you want to have somebody talk to them or something. But I am looking for a way to keep track of people.

Did you want to say something, Ms. Hankins?

Ms. HANKINS. I did. I wanted to sort of talk about a slightly different type of case. It isn't quite the graduated sanctions model, although the questions that you are asking are precisely some of the arguments our attorneys might make.

A hearing examiner might say I am not going to give you a 12 month hit. I am going to reinstate you because your CSO maybe needs to help you find treatment or something like that. One of our concerns is that the final decision gets made and it is frequently, in the 15 percent where it is overturned, that we are going to go back to the 12 month hit. Forget that we were going to reinstate

you or that we were only going to give you 4 months. We are going to take it back up to the 12 months. We don't know how that decision got made.

But there is a slightly different sort of case. Take the example you gave earlier of driving without a license. There are sort of new offenses which aren't about graduated sanctions. Maybe a case was brought in the Superior Court and it was dismissed. Now there is an allegation of a violation for having committed a new offense but my colleagues are able to convince the hearing examiner that this allegation is unsubstantiated. But the final decision is that we disagree with the credibility finding of the hearing examiner who listens to that officer or to that civilian witness. We just disagree with it. That is probably legitimate in some cases. It just never goes the other way.

Ms. NORTON. Wait a minute. You are saying that the Commission overturns the fact-finder?

Ms. HANKINS. Yes. In 15 out of 100 cases, based on their estimate.

Ms. NORTON. Is that why you want written decisions?

Ms. HANKINS. Written decisions and some assurance that maybe they have at least listened to the tape as opposed to just read a one page summary that we haven't reviewed and so we don't know what they have based their decision on.

Ms. NORTON. Why haven't you reviewed the summary?

Ms. HANKINS. We don't get it. It isn't made public. It is given straight to the Commission and they make the final recommendation. So it isn't even really the appeal process. It is the final decision. After that we can make a FOIA request to then appeal a decision.

Ms. NORTON. Have you made FOIA requests?

Ms. HANKINS. We have made FOIA requests. It is not, however, an excuse or a justification for getting a continuance of the appeal process if we haven't gotten the summary in time.

Ms. NORTON. Chairman Fulwood.

Mr. FULWOOD. We sign reinstatements all the time where a person is restored to supervision when there are multiple allegations against them. We do listen to the tapes. I have personally listened to tapes. So that is not correct.

What we need to do is to figure out how to do this stuff better. One of the things that we have done is that we just had Alinda Moyer up to the Commission to talk to the hearing examiners about her views on how we ought to review cases. We have just gotten from Alinda Moyer a judge who is doing teaching on how to evaluate credibility. He is going to come up and teach at the Commission. We know that we have to do this thing better.

But most of the time when an offender comes before the Parole Commission, they have committed multiple violations. There have been graduated sanctions all along. What we find is that we have to find better ways to motivate people to not offend.

If you look at the sanction program, Dr. Calvin Johnson who is sitting back here does some studies on it, when people come through the sanction program, they generally don't get locked back up. They don't. They don't re-offend. Not only do they not re-offend, but they don't test positive. The positive rate starts to decline be-

cause we have developed through CSOSA a case management plan, treatment modalities, and others to do this stuff better.

This is an imperfect system because we are dealing with imperfect people. As we continue to reach out to folks to figure out how to do it better, we will do it better. There is no question in my mind.

Ms. NORTON. Chairman Fulwood, as I have said earlier, you are in the throes of recreating the Commission itself. That means looking at how the Commissioners make these decisions. If these graduated sanctions work in the new regime, it does seem to me that it will have an effect here.

I am very concerned about having no basis. Even though that is not a violation of the Constitution not to know how decisions are made, I know as a lawyer I would always want to see what the basis is. I am not sure what it would mean in terms of workload. Chairman Fulwood.

Mr. FULWOOD. Can I give you another example? I had a sanction hearing. The person had no D.C. permit. That was his first violation. His second violation was that he had no D.C. permit. He had been arrested a second time. Not only that, he tested positive. But in the sanction hearing when we got together with CSOSA and we interviewed the guy, it was obvious that there were some mental illness problems. He had some cognitive deficits. So I called the police and asked why they locked this guy up. Don't you know that he doesn't understand this problem? The police took the ticket back.

It is all these kinds of things that happen when you do this. This is where you have to do this kind of stuff.

Ms. NORTON. So the Commission level is when this problem gets straightened out?

Mr. FULWOOD. Yes.

Ms. NORTON. It should have been straightened out, obviously, long before that. It gets back to mental health, mental condition. Here, low cognition on the part of a releasee.

Mr. FULWOOD. There is one other thing. There is a young lady sitting behind us, and I am sorry, I apologize for not knowing her name, Gretchen, who came up and talked about wraparound services for people who are in the system that have mental illness problems and how we ought to utilize them more. We are getting ready to invite her up to talk about this whole thing of mental health. I just don't think that the system is designed to deal with people who have mental health problems. We ought not to be locking these folks up. That is just my personal view.

Ms. NORTON. We certainly ought not to be re-locking them up once they are out of prison.

Could I ask you all, is it your impression that we are sending offenders back to jail for parole violations who have managed to get themselves a job?

Ms. HANKINS. Yes, we are sending them back.

Ms. NORTON. Have mercy. Shouldn't that be a factor? How often does that occur? If you have managed to hold a job, even though there is a violation, how large a factor does being employed weigh in whether or not to put you back in jail?

Mr. FULWOOD. It weighs pretty heavy from the Commission's standpoint. We look at whether or not the person is employed and whether or not they have a stable residence. We see that in the reports. We see the reports from CSOSA. They will note that this person has a stable residence that they have been living in for 2 years. They have been employed for 2 years. We should not lock them up; we should send them through the sanction program. So they come to the sanction program.

Ms. HANKINS. Yet many of them are locked up.

Ms. NORTON. Well, why are they locked up? You can have a job and rob people, too, Ms. Hankins.

Ms. HANKINS. Well, we have a number of clients who have jobs, who have stayed in contact with their community supervision officer, but who make some other mistake. Maybe they have tested positive for marijuana.

Ms. NORTON. Can you really say that somebody has tested positive, has a job, and that they are going to send them back to jail? Ms. Hankins, I have a hard time believing that.

Ms. HANKINS. They are detained and 4 months later, if they are reinstated, they probably have lost that job. Everyone is detained.

Ms. NORTON. Let us go back to that, Ms. Poteat and Commissioner Fulwood. Isn't that counterproductive? That a person is unlikely, is he not, to flee if he has managed to get a job? If you lock him up for 2 to 4 months, how is he going to retain that job? God knows, he may even not be sent back ultimately. Is he in danger of flight? Why must he be detained, I might add, at the expense of the District of Columbia at the D.C. jail?

Ms. POTEAT. I am sorry. As the chairman and I were talking, those types of offenders we try to recommend for the sanction hearings or the CTF project.

Ms. NORTON. Let me tell you what the discrepancy is here. The sanctions hearings have been done almost exclusively, have they not, Chief Fulwood, by yourself?

Mr. FULWOOD. Yes.

Ms. NORTON. Chief Fulwood was appointed at my request when I was in the minority as a Commissioner. He became the only Commissioner who would do sanctions hearings. So Ms. Hankins is left here with some people going through this process, the old process, because there is only one Chief Fulwood.

The reason that having you all at the same table is important is because it says to the committee that we probably ought to have more people doing sanctions hearings rather than having the precious loss of a job through detaining a releasee. It seems counterproductive, going against CSOSA's and the Commission's own view that employment is the most important thing, perhaps, besides housing that you can have if you are released from jail.

Mr. FULWOOD. Look, I agree that employment is important and that we ought to do everything short of arresting somebody initially. The greater use of summonses would help to rectify some of that.

As we look at what group of people we are going to use summonses for, we have to be careful that we don't disregard encouraging people to be successful or allow them to thwart the process so that they just will disregard what we are doing.

We have had cases, and I am sure Ms. Hankins is aware of them, when guys tested positive 20 times. They didn't go to jail. We tried to put him in treatment. We put him in treatment and he walked away because there is no requirement that you stay there. The person can walk away. That is one reason why these secure residential treatment programs become an important part of the process. Even at the Sanctions Center, there are people that go in the Sanctions Center who walk away from the Sanctions Center and test positive while they are in the Sanctions Center.

Ms. NORTON. Chief Fulwood, on the basis of your testimony and the testimony of Ms. Hankins, I am going to ask the appropriators in the next appropriations cycle, by which time, of course, we will already have females in treatment in the District of Columbia, to let you to testify before them so that we can get enhanced appropriation for treatment that could keep somebody who has a job from finally just walking away because he is so addicted.

Yes, Ms. Hankins? I only have one more question before I let this panel go.

Ms. HANKINS. This exchange has been amazing. I think it lends to fixing the salient factors. With employment, as shocking as it is that we might send someone back to jail who has a job, it happens. It happens all the time because having employment isn't a salient factor score. So it leads right in to how it is impossible for someone on parole or supervised release to get a perfect score, meaning that they get a 12 month hit.

Ms. NORTON. I can't understand that. Even under the old Federal guidelines, the whole notion that having a job wouldn't be worth anything comes as a tremendous shock to me. It says to me that we should throw the whole thing out. If you have managed, even in the best of economies, to go to the front of the line against all of my constituents who are unemployed and law-abiding and gotten yourself a job, it shouldn't be possible that doesn't count for anything. I don't care whatever else the salient factors had to tell me. They have just told me everything that I need to know.

I want to ask you to set a date on it. You know, Ms. Poteat and Commissioner Fulwood, that we will be waiting to see that go bye-bye very soon. I will ask you to tell me what is the soonest that can be implemented. Since the study has only recently come out, I will be asking you shortly to tell me how soon that can be.

Let me ask a question about the last big injustice that caught my attention when this matter first came to our attention a few years ago. It is about street time, which required that the District of Columbia to adopt a new law. That struck me in the face. It said that District of Columbia residents have longer sentences than any inmates in the United States of America. I said, how can that be? It is a progressive jurisdiction. How did that happen? I come to find out that time spent on parole before revocation just didn't count.

If you have been out clean and good for how many years and something terrible happened. I don't know what happened. Maybe the woman you had been with or your wife left you. I don't know what happened in your life. Maybe I won't even assume it is one of Ms. Hankins 15 percent, one of whom should have somehow got overturned. I am assuming that you had to go back.

I understand that D.C. changed the law. They can at least keep their street time after revocation. Now, make me understand the following: It is for except when an offender is convicted of a felony or sometimes a misdemeanor while on parole and in situations where offenders do not "respond to any reasonable request" by the Parole Commission or CSOSA. That looks like a lot of discretion on the part of the Commissioner or even CSOSA when it comes to street time for misdemeanors. And it looks like you can't get it for a felony. I am not even sure how that decision was made but since it is a Home Rule decision I think it must have some meaning.

How has this new law been implemented? It just passed in May of this year. Could you give me some examples?

Mr. FULWOOD. It became effective on May 20th.

Ms. NORTON. May 20, 2009.

Mr. FULWOOD. Yes, 2009. The implementing rules became effective June 17th. What the Good Time Credit Act did was to eliminate automatic revocation of street time. The new rule permits the Commission to do several things. One is early termination of supervision. If you have 5 years of good time, then we terminate your supervision so you are free to go. You haven't created any problems. We have looked at the record. We have a hearing.

Ms. NORTON. Even though ordinarily you would not be free to go?

Mr. FULWOOD. Right.

Ms. NORTON. That goes to putting more attention on the high risk people or the people with mental conditions?

Mr. FULWOOD. Yes. One of the impacts is that if you are a sex offender or somebody of that nature, you shouldn't be released from supervision.

Ms. NORTON. So you are the ones we need to look at. Go ahead, sir.

Mr. FULWOOD. Early termination was a good thing. As a matter of fact, when the law went into effect, the Public Defender Service had a conference about this whole issue. I had seven people approach me. Five of them got released from supervision immediately because the law had taken effect. They sent me a letter. I wrote a letter back.

Ms. NORTON. Were these people with misdemeanors where it is in your discretion?

Mr. FULWOOD. No, they had committed felonies in the original offense but they had 5 years of good time. They had to go so we released them from supervision. As you indicated, if it is a felony, then they lose their time if they commit a new offense. It is all about whether they commit a new offense. If they are certain kinds of misdemeanors, they will lose it.

Ms. NORTON. Like what? Give me examples.

Mr. FULWOOD. Domestic violence. Domestic violence is not always a felony. They may get an assault for domestic violence. That is a misdemeanor. We pay attention to domestic violence. We are not going to release them automatically but we have a hearing to make those determinations. You may not agree with the hearing, but we do have a hearing to try to sort through all of the facts and make an appropriate decision.

Ms. NORTON. Ms. Hankins.

Ms. HANKINS. With respect to new offenses, this is one area where it is a little different from how regular revocation works. My understanding is it requires a conviction in court. It isn't that a case can get dismissed in court. If there is a new conviction in court, that person is probably going to be sentenced on that anyway. So the question of whether they need to lose their street time on top of getting sentenced on a new offense and getting, perhaps, a sanction for the time that they still have, to lose their good time is a third punishment for the same offense.

Ms. NORTON. Wait a minute. You don't get sentenced for all misdemeanors.

Ms. HANKINS. I am sorry?

Ms. NORTON. You don't get sentenced for all misdemeanors.

Ms. HANKINS. It would strike me that if the offense is serious enough that someone should lose their good time for it, then they probably have gotten a sentence for it, whether misdemeanor or a felony.

Ms. NORTON. I know. What I worry about is that the Council, in its wisdom, did say misdemeanors.

Ms. HANKINS. If I could say, it actually wasn't the Council's wisdom. The bill that was proposed was a lot broader. It got essentially seriously cut back to mirror the Federal system because a little part of the Revitalization Act said that the District cannot change its own parole laws without the concurrence of the U.S. attorney general. So while the hearing before the Council was unbelievably moving, and I think absolutely the votes were there to pass a broader bill, we had a meeting with the Department of Justice and a number of the agencies in the Department of Justice. They said you are not getting that much and they were able to trump the Council. So it is not really fair to call it the Council's wisdom when it was the wisdom of the attorney general who trumped it.

Mr. FULWOOD. But they passed it.

Ms. NORTON. Wait a minute. They passed it.

Ms. HANKINS. They took the bird in the hand. It is true, they took the bird in the hand.

Ms. NORTON. Wait a minute. This law was passed in May of this year based on consultation with what Justice Department? The prior Justice Department or this Justice Department?

Ms. HANKINS. The prior Justice Department.

I do want to say the authority for early release was the suggestion of the Parole Commission. It is a fantastic part of the law and we are so happy it is there.

Ms. NORTON. Now that we are in the throes of transformation, Chief Fulwood and Ms. Poteat, I am going to ask the new Justice Department to review this as well. If the District was caught having to get the existing Justice Department to agree to whatever it did, that is fair. Under administrative law, if there has been a change in the administrative agency, that can be reviewed. I am asking staff to have that matter reviewed by the Justice Department to see whether any changes might be allowable at least by the City Council, in which case we would so advise them.

I thank each and every one of you for being here. We use these hearings for a purpose. We are trying to get something done, not

just find out what you know. What you know has been exceedingly helpful to us.

We understand that the subcommittee chairman has under his jurisdiction not only the District of Columbia but four bills on the floor that cover multiple jurisdictions of the subcommittee.

I thank Chairman Lynch for calling this hearing and for allowing me to go on so long with questions that will help us as we try to help the Commission, CSOSA, and all who work with them to redesign the U.S. Parole Commission to fit the residents of the District of Columbia. Thank you very much.

We will prepare for the next and final panel.

Mr. FULWOOD. Thank you for having us.

Ms. NORTON. Let me introduce the next panel. Mr. Samuel Green is on supervised release with CSOSA. Mr. James Parker, is also on supervised release. Mr. Parker is an employee of the District's Department of Public Works.

I am going to ask Mr. Parker and Mr. Green or Mr. Green and Mr. Parker in whichever order you desire to testify.

I want to thank you before you speak for being willing to come forward to assist this subcommittee and the U.S. Congress. This subcommittee tries, whenever possible and whenever appropriate, to hear from the agencies whose job it is to tell us what the agencies are trying to do and how successful they think they are. We heard from some agencies who are trying very diligently for us. But we can't get a true picture without talking to the clientele of the agency, the public that acts with the agency. That is why your testimony is as important to us this afternoon as the testimony you have just sat through to hear.

May I hear from whoever wants to speak first? Would you identify yourself? Tell where you are employed and then tell something about yourself.

STATEMENTS OF JAMES PARKER, D.C. CODE OFFENDER UNDER USPC/CSOSA JURISDICTION; AND SAMUEL GREEN, D.C. CODE OFFENDER UNDER USPC/CSOSA JURISDICTION

STATEMENT OF JAMES PARKER

Mr. PARKER. Greetings. My name is James Parker and I am an ex-offender assigned under the supervision of CSOSA.

I would like to first thank you, Congresswoman Norton, and your cohorts for allowing me to present.

I had been charged with distribution of heroin in 2003. I did 26 months at Rivers Correctional. I got out in 2007 and I am still here.

I was listening to everything that was going on and basically I can just give you my experience. Being on parole has been a pivotal part in my life, pivotal meaning that—

Ms. NORTON. What has been a pivotal part? I am sorry.

Mr. PARKER. Being on parole has been a pivotal part in my life, pivotal meaning that a lot has transpired in my life since being on parole. There was a death in my family with my daughter. There have been sanctions. A lot of different things have been going on.

Being on parole has especially helped me keep from using excuses for the choices and actions I made in my life. My actions are

more accounted for now and I owe my respect to being on parole. Having a parole officer has made my journey this time a more smooth transition back into society. We all have heard the stories of people coming out and not being able to maintain a normal lifestyle, whether it is from issues of unemployment, substance abuse, family matters, or daily interactions. I pride myself in sustaining from the jug juices and plan on keeping it that way forever.

My transition has gone really well because of my parole officer. She has really heightened my ability to stay focused. I highly recommend this added supervision because we all fall short in our shortcomings.

But you also know that there are still some things that I think need to be worked on as far as improving CSOSA and the things that are going on to help people be successful in society. I think it is very important that the—you have to excuse me. I am a little bit nervous.

Ms. NORTON. You are doing well. Just keep talking naturally.

Mr. PARKER. It is very important that your parole officer is really into you as an individual instead of it just being a job for her. Although being on parole and having a parole officer has many positives, I found that the program needs improvement. As for me, I was fortunate to have a good parole officer. But there are not as many as fortunate as me. Being a good parole officer should not just be a job for them but a mission to have these men and women get back on their feet after being incarcerated.

I also think parole officers should be more optimistic in their mindset in dealing with parolees as they would want to be treated themselves. We are sometimes boxed in a negative notion that needs to be broken. A lot of us are striving to make a second chance in society worth it. We just want parole officers to treat us the way that they would want to be treated. This is not in my case. I am just speaking on some of the parolees that have talked to me and who wanted me to bring to your attention what is going on with them.

I think some of the key points were made today about a lot of the things that I wanted to say.

As far as being positive in society, it really has a lot to do with employment. A lot of parolees are getting out and they are finding it very hard to find jobs. Even though we all know about our economic structure—it is harder for just people without a felony to get a job, but with a felony, it is a little bit harder.

Also, the housing situation for ex-offenders just getting out is terrible. When they get out, they might have to go to an environment where the people that they are going with are just as bad off as they are. Then you are putting them back into an environment where they really have a messed up choice. They are coming home to their home environment where there might be people on drugs and very high poverty. Then once they get into that environment, they might not come home to a house. There might not be a house there when they come home. So there is that.

I just want to close. I want to thank you very much for having me here. I want to apologize for my nervousness. I haven't been around a big crowd and spoken in front of a big crowd. I just want to thank you all for having me.

Ms. NORTON. Thank you, Mr. Parker, for testimony that was full of information and experience that has enriched us.

Mr. Samuel Green.

STATEMENT OF SAMUEL GREEN

Mr. GREEN. Good afternoon. My name is Samuel Green.

I would also like to thank Congresswoman Norton and your peers for giving us a forum to talk about community supervision.

As you know, I am an ex-offender being supervised by CSOSA. In 2007, I was convicted for robbery and attempted robbery. I was sentenced to 22 months in prison. I served 19 months before being released into the community.

As a 22 year old African American male living in Washington, DC, on supervised release, I have found that it is oftentimes difficult to make adjustments to reenter in society. The difficulties I found in employment, housing, and education increased with the criminal record.

However, through the assistance of CSOSA and my CSO I have been able to make pro-social changes such as remaining drug free, actively seeking employment, and being currently enrolled in the Sasha Bruce YouthBuild program.

I want to say that my supervision hasn't been squeaky clean. I had drifted back into using drugs again, influenced by my environment. On occasion I have used illicit substances. When that happened, my first thoughts were that I would return to jail. But through sanctions I was able to stay on the street.

I have had sanctions such as a verbal reprimand, a CSSO conference, GPS, and a USPS issued letter of reprimand.

As a result of these sanctions, I have been in compliance with supervision with no positive urine. And, as I said earlier, I am involved in the Sasha Bruce Youth program.

I would like to thank my community supervision officer for believing in me and CSOSA for providing me with an opportunity to succeed. Thank you.

Ms. NORTON. Thank you again as well, Mr. Green, for testimony that I have already found helpful even before we ask you any questions. Thank you again for your courage in coming forward.

Now, you both were convicted of pretty serious felonies. Yet here you are in the hearing room of the U.S. Congress able to testify about your lives.

I was interested, Mr. Parker, to hear Mr. Green talk about his sanctions. Did you ever have a CSOSA or the Parole Commission apply sanctions to you?

Mr. PARKER. Yes, ma'am.

Ms. NORTON. Mr. Green, did you see those sanctions as more and more of a warning and more and more serious restraints on your release?

Mr. GREEN. Yes, ma'am.

Ms. NORTON. What made the sanctions finally work? Both of you have credited your supervisors. I must say it says a lot about CSOSA's staff that each of these young men have given great credit to those who supervised them. In the case of Mr. Parker, I have to ask him what the sanctions were. Mr. Green told us what his sanctions were. What made the sanctions finally hit home to you?

Mr. PARKER. I got tired of making excuses about doing this.

Ms. NORTON. What sanctions were applied?

Mr. PARKER. I had dirty urine.

Ms. NORTON. What did they then do to you?

Mr. PARKER. When they caught my dirty urine I was on what they call random. I took the urine out like once every 2 months. So what they did was they brought it back to twice a week. They heightened it up. They brought it back to twice a week.

Ms. NORTON. That was helpful, wasn't it?

Mr. PARKER. Oh, was it. I work and I am married and now I have to come back in and go through all this stuff. It just made me realize how much of a fool I was and how far I had come.

Ms. NORTON. Because now you had this greater inconvenience.

Mr. PARKER. I had to come back twice a week.

Ms. NORTON. And you know that if you didn't come back this time—

Mr. PARKER. They already told me that if I didn't, if I had gotten another one, then they were going to put me into a GPS system. I was near enough 40. I will be 42 in 2 more weeks. I just couldn't even imagine somebody telling me what time to be in the house and knowing where I am going.

Ms. NORTON. So this graduation of sanctions so that they got more and more serious and more and more restrictive, that worked for you as well, then?

Mr. PARKER. Definitely.

Ms. NORTON. You both are employed?

Mr. PARKER. I am. I am with the Department of Public Works but it is seasonal. I start back at the end of October.

Ms. NORTON. How did you get the job, Mr. Parker?

Mr. PARKER. Through Project Empowerment, which is a terrific program.

Ms. NORTON. This is important because this is a completely D.C.-funded program.

Mr. PARKER. It is outstanding.

Ms. NORTON. And here we have the District on its own, quite apart from CSOSA. Of course, it has had this terrific burden taken off of it, but it is a city program with one of the highest unemployment rates in the country also trying to find employment. The city gave you a job in the city?

Mr. PARKER. Yes.

Ms. NORTON. We know that there are quite a substantial, significant number of city jobs that now go to those who have been released on parole. We will ask CSOSA to try to help us pinpoint that, though we commend the city for leading by example on that matter.

You work for Sasha Bruce, Mr. Green?

Mr. GREEN. Yes.

Ms. NORTON. What do you do?

Mr. GREEN. It is a GED and you can achieve a trade there, job readiness.

Ms. NORTON. So you don't have a job. You go to that program?

Mr. GREEN. Yes.

Ms. NORTON. Is that also a Project Empowerment program?

Mr. GREEN. Kind of, yes. I would say yes.

Ms. NORTON. I am not sure who runs that program but it is important. Mr. Green does not have a job now. However, I suppose it is CSOSA that gives him credit for going to get his GED and for doing job readiness so that he is not on the street competing with people who have no record. He is out here trying to be ready to compete with people who have no record.

Could I ask you, in your own opinion and leaving aside the excellent employees, Federal employees, who have guided you, which programs have been most supportive or effective for you? I mean programs you have been through like the parts of CSOSA or the Commission or any city program? Which has been most helpful to you?

Mr. PARKER. I think for me it would probably be the supervision at CSOSA.

Ms. NORTON. Really?

Mr. PARKER. Yes. I think that to really get myself back on track before I really go off the edge, it guided me to where I really need to be and got me totally focused on what I want to do in life. The job and stuff is good, don't get me wrong. It is seasonal. I have been there for 2 years. It is seasonal and it is good. But without me going in the right direction, who is to say I would have even been there as long as I have been or even right now. So I would have to go back to where it begins.

Ms. NORTON. How about you, Mr. Green?

Mr. GREEN. For me, I say Sasha Bruce for the weekly meetings, giving me a sense of home court advantage, and just making me feel like a good way is a better way.

Ms. NORTON. What I think you demonstrated is that when people hear about people who have committed crimes, they assume we all start at the same starting line. How did you start life, Mr. Parker?

Mr. PARKER. I would say probably a dysfunctional family, my environment, wanting to fit in with the crowd.

Ms. NORTON. Where did you live, sir?

Mr. PARKER. Southeast. That is where I grew up.

Ms. NORTON. You were raised by a mother and a father?

Mr. PARKER. It was my mother, grandmother, uncle, whoever.

Ms. NORTON. Whoever is the important point here. That is the difference between your starting line and most people's. So the street got to help raise you.

Mr. PARKER. It raised me. It just took me until this point in my life to feel that drugs and getting high, there is so much more to life than that.

Life is so beautiful when you are sober. It is so beautiful when you can go and take your urine and you don't have to worry about trying to find anything to take and drinking all this water. You can just go on in and just be comfortable. You are able to see your grandkids run and play and do little stuff with you being a part of their lives when you aren't all drugged out or don't want to be around them.

All in all, being incarcerated for most of my life, just being able to see how beautiful life is is a major adjustment for me. That is what keeping me focused. That is what is keeping me to not even do drugs anymore or be a part of it. I am just thrilled with where I am at right now.

Ms. NORTON. Mr. Green, how did you start out in life?

Mr. GREEN. Most of the same as him, trying to be cool.

Ms. NORTON. Were you raised by your mother and father?

Mr. GREEN. Just my mother. I tried to live up to my father.

Ms. NORTON. What section of the city, Mr. Green?

Mr. GREEN. Southeast. Like my father, he was in and out of jail all his life. He is in jail now, but that is another story. I was just trying to be cool. I just idolized the bad guys when I was little. Do you know what I am saying?

Ms. NORTON. Yes, I do know what you are saying, Mr. Green.
[Laughter.]

Mr. GREEN. My bad. That is all to my story.

Ms. NORTON. I ask you to tell those two painful stories because we are so inclined to be judgmental and to assume that here we all are and all we have to do is what I did. I had a mother and a father and grandmother and everyone else surrounding me. Changes in family life and in circumstances in big cities leave their issues. CSOSA and the Commission, not to mention the Bureau of Prisons, are left to deal with those issues.

I just want to say as your Congresswoman who represents you that I am proud to represent you.

Mr. PARKER. We are proud of you for all you have done for us.

Ms. NORTON. Well, I had a whole lot more advantages in life just starting out with Coleman and Vela Holmes as parents. That was all the advantage that most people need. You start there and then life takes care of itself. It wasn't in the most crime-ridden part of the city either. So I have to judge you from where you started.

You have been willing to come forward and tell us where you are now. But you didn't start with your life story. You could have said first, let me tell you about having no daddy and how my mama had to raise me by herself and growing up in Southeast. I had to bring that out of you because I want that on the record, too.

You have been invited here as visible evidence of how society benefits from putting a little resources into you now that were not put into your early lives by your own families, perhaps, and certainly not until you got through the criminal justice system.

Now, Mr. Parker, you are a tax-paying resident of the District of Columbia. Mr. Green, if you stay in that program where you are learning a trade and getting your GED, I look forward to your being a tax-payer. We are looking increasingly in the employment sector for people who have been through it and for whom a job means everything. That is why you will find that there will be people looking for you when this Great Recession is over.

I appreciate that when we came looking for you, you were willing to step forward so that we would know what these services mean. You gave me ammunition to go before the Appropriations Committee to make sure that there are more of those services available to the District of Columbia, to CSOSA, to the U.S. Parole Commission, to the Public Defender Service, and to those who work in partnership with them. Thank you very much for coming forward.

Thank you to all our witnesses. This hearing is adjourned.

[Whereupon, at 4:45 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

Questions and Answers for the Record
Submitted by the Court Services and Offender Supervision Agency
to the House Subcommittee on the Federal Workforce, Postal Service
and the District of Columbia

Question 1 – *The U.S. Department of Justice National Institute of Corrections MacArthur Foundation study says that “people with mental illnesses, most of whom have co-occurring substance abuse disorders and face significant clinical, legal, and socioeconomic challenges are twice as likely as people without mental illness to have their community supervision revoked.” What is the number of offenders who have diagnosed mental illnesses and with other undiagnosed conditions?*

Response – Currently, the Court Services and Offender Supervision Agency (CSOSA) supervises more than 16,000 offenders. Based upon the self-reported information provided during the intake screening process, 3,040 (19%) of the offenders: have been diagnosed with a mental health disorder; are currently in a community-based mental health treatment program; have a history of or are taking medication to treat a mental health disorder; or have been hospitalized as result of a mental health disorder. An additional 1,760 (11%) of the offender population has an undiagnosed mental health condition. The latter group reports struggling mostly with anxiety, depression, and severe emotional distress.

In contrast to the MacArthur Foundation’s findings that the failure rates among offenders with mental illness under community supervision are twice that of the general supervision population, CSOSA’s offenders with a diagnosed mental health disorder have substantially better community supervision outcomes. The failure rates for CSOSA’s offenders with diagnosed mental health disorders are roughly 7 to 10 percentage points higher than that of the general supervision population.

The Mental Health Branch of CSOSA’s Community Supervision Services Division is responsible for the supervision and stabilization of offenders with diagnosed mental health disorders. Offenders are assigned to one of six mental health teams based on where they reside within the District of Columbia Metropolitan Police Department’s network of Patrol Service Areas (PSA). The CSOSA mental health supervision teams identify and address the challenges that impede supervision compliance by of offenders with mental health conditions. The staff assigned to the Mental Health Branch receive specialty training on how to supervise and manage the mental health offender population. Community Supervision Officers (CSOs) assigned to mental health supervision teams:

- identify offenders with acute and chronic mental health conditions;
- ensure that the identified offenders receive timely and appropriate referrals for mental health assessments and treatment;

- meet regularly with treatment providers in order to help the offender successfully comply with his/her conditions or release; and, treatment and supervision plans; and,
- administer sanctions or refer offenders to on-site sanction and cognitive behavioral psycho-educational groups that are conducted by a licensed and certified therapist.

CSOSA's mental health teams work together with community based resources such as the District of Columbia's Department of Mental Health and its Core Services Agencies (CSA). Located throughout the District of Columbia, the CSAs provide routine mental health care for the offenders residing within their community. Offenders referred to the CSAs receive mental health screenings, assessments, and/or other mental health treatment. In addition, the District of Columbia's Comprehensive Psychiatric Emergency Program (CPEP) provides emergency psychiatric care for CSOSA's offenders.

Question 2 – *Within 30 days of receipt, please provide the Subcommittee with a plan for the Correctional Treatment Facility women's pilot program.*

Response – Please find below CSOSA's plan for the women's pilot program at the Correctional Treatment Facility.

The Court Services and Offender Supervision Agency (CSOSA) is developing detailed plans to expand its gender-specific program offerings for female offenders with chronic substance abuse histories and non-compliance issues by expanding the programming currently provided to women in the DC Department of Corrections' Residential Substance Abuse Treatment (RSAT) program housed in the Correctional Treatment Facility. CSOSA will collaborate with RSAT during 2009 and 2010 before integrating women into the long-term vision for CSOSA's Secure Residential Treatment Program (SRTP).

The Department of Corrections' RSAT program is available to 20 female inmates who meet the program's basic eligibility criteria. Parole and supervised release violators in the jail are eligible to participate in the RSAT program provided they do not have a violent or weapons-related conviction and fall within the United States Parole Commission's Category One violations (generally, parole and supervise release violations involving technical violations only). Upon an arrest for a parole or supervised release violation, the United States Parole Commission (USPC) offers an RSAT program application and waiver at an offender's probable cause hearing. If the USPC finds probable cause to schedule a revocation hearing and the offender accepts the program offer, she can enter the RSAT program, which consists of 90 days of treatment while in DOC custody followed by up-to-180 days of post-release substance abuse treatment depending on each individual's clinically indicated treatment need. The post-release treatment may consist of residential, transitional, or out-patient substance abuse treatment.

CSOSA plans to incorporate females on parole or supervised release into the female portion of the RSAT program, which is housed at the Correctional Treatment Facility, by February 2010. This strategy will provide an interim CTF-based treatment option for female offenders supervised by CSOSA until the long-term vision for the Secure Residential Treatment Program (which will include female offenders) can be fully implemented.

The proposed implementation timeline:

Activities	Completion Date
Obtain MOUs from the District of Columbia's Department of Corrections and the United States Parole Commission to implement program.	November 2009
Obtain funding decisions/approvals.	December 2009
Identify and deliver ancillary services, including clinical substance abuse and psychological assessments, to support the Department of Corrections' programming for women.	February 2010
Complete all procurement activities.	January 2010
Provide gender-responsive and other pre-service training for staff and contractors	February 2010
Activate the CTF-based program for women supervised by CSOSA	February 2010

RSAT Current Partner Roles

The *United States Parole Commission* offers the program to eligible parole and supervised release violators at probable cause hearings. Upon the execution of a USPC warrant issued for parole or supervised release violations, the USPC reviews individual offenders for eligibility. At the probable cause hearing following the execution of a warrant issued for alleged release violations, USPC Examiners offer eligible offenders an application to enter the program. An offender who signs the application also waives his right to a revocation hearing within sixty days of a probable cause finding. Upon program completion or unsuccessful termination, the USPC will reinstate the offender to the community or move forward with revocation proceedings, respectively.

The *DC Department of Corrections* engages inmates through its initial intake and classification process and provides substance abuse treatment for RSAT participants. In addition, the DOC funds the cost of bed space, security, food, medical and other-related services at the Correctional Treatment Facility (currently operated under a contract with the Corrections Corporation of America). The DOC's continued funding of the initial 90 days of the RSAT program is essential to CSOSA's ability to extend and expand the program's services to women.

The *Correctional Corporation of America* provides one correctional programming unit in the Correctional Treatment Facility to house, provide security and offer other program services to up to 20 female RSAT participants.

The *Court Services and Offender Supervision Agency* provides agency personnel and contractors to deliver ancillary assessment and other treatment-related services during the CTF portion of RSAT for women. Following release from the CTF, CSOSA will continue to engage RSAT participants in a continuum of substance abuse treatment as clinically indicated in each individual case, as well as drug-free transitional housing. In addition, CSOSA will provide supervision and case management supports, including job search and placement support.

Integration of Female Offenders into the Long-term SRTP

Beyond the initial demonstration of the female portion of the RSAT, CSOSA plans to integrate programming options for women into the SRTP. The Court Services and Offender Supervision Agency (CSOSA), the DC Department of Corrections (DOC), the Corrections Corporation of America (CCA), and the United States Parole Commission (USPC) currently operate a 32-bed, 180-day demonstration of the Secure Residential Treatment Program (SRTP) for male offenders at DOC's Correctional Treatment Facility (CTF). The demonstration program provides an alternative placement for DC Code offenders on parole or supervised release who face a revocation hearing based upon illegal drug use, other technical and, in some cases, new criminal violations of release conditions.

Beyond the initial demonstration of the SRTP, the parties envision expanding the program's capacity to 96 male and female offenders. CSOSA has asked the *Federal Bureau of Prisons (BOP)* to join the partnership and contract for a treatment provider to deliver intervention services in the Correctional Treatment Facility.

The demonstration program is scheduled to last approximately 6 months from its September 21, 2009 start-date and may be extended for a period of time contingent upon the time necessary for the BOP of prisons to complete the procurement of a contract treatment provider. When the expansion from 32 to 96 offenders takes place, female offenders will be transitioned from the RSAT program space to the SRTP.

CSOSA and BOP are currently working out target dates to establish a contract with a treatment provider to deliver intervention services in the Correctional Treatment Facility. CSOSA will verify whether the contractor has the capacity to provide treatment assessment, preparation, and intervention services tailored to the specific needs of women offenders. These needs include specialized psychological assessment, individual counseling services, and treatment intervention groups that address female-specific needs in recovery and relapse prevention.

The DOC's continued funding of the cost of bed space, security, food, medical and other related services at the Correctional Treatment Facility is essential to CSOSA's ability to continue the SRTP beyond the pilot.

CSOSA and BOP have agreed to the following target dates and timeframes to establish the expanded program:

- CSOSA submission of initial Statement of Work to BOP..... 11/18/2009**
- Release of BOP Request for Proposals.....Est. January 2010**
- Completion of MOU for Long-term Program..... January 31, 2010**
- BOP Timeframe to Receive Bids and Make Award 12-15 Months**
- Estimated Start-date for 96-bed Capacity Program..... Jan-Mar. 2011**

The timeframe for each phase is contingent upon CSOSA submitting a viable Statement of Work by the date state above.

This CTF-based program will serve as a last chance for female offenders who are on the verge of having their parole or supervised release revoked by the United State Parole Commission (USPC). Upon successful completion of the program, the USPC will reinstate offenders to parole or supervised release supervision without revocation. CSOSA will provide post-release supervision and will continue to engage offenders who complete the program in transitional housing, out-patient substance abuse treatment, and provide services to assist with job search and placement support.

Female participants in the interim RSAT and long-term SRTP program will receive:

TABLE 1: CTF RSAT/SRTP PROGRAM MODEL

Program Phase Continuum	Services	Length of Stay	Service Provider	Placement Facility
Phase I RSAT/SRTP Program	Orientation, Assessment, ITP, Life Systems	90 days	CSOSA staff and Contractors	Jail-based CTF
Phase II Enhanced Transition/Pre-Release Planning	Substance Abuse, Life Systems, Integrated Service	Up to 90 days	CSOSA staff and Contractors	Fairview RRC or Jail-based CTF
Phase III Contract Treatment Placement	Substance Abuse, Life Systems, Integrated Service	Up to 90 days	Contracted Provider	CSOSA Contract Facility
Phase IV Independent Living (Program can accommodate children, if needed)	Independent Living, Family Unification and Ongoing Aftercare services	Up to 90 days	Contractor and Community Based Programs	CSOSA Contract Facility

Upon successful program completion of Phases I and II, the USPC would reinstate the offender into the community which will allow these offenders to transition to Phase III, and finally to Phase IV, when appropriate. Through the Phase III and IV placements, the offenders will receive the clinically appropriate treatment continuum that includes residential treatment, transitional drug-free housing, outpatient services, supervision, case management supports, and wrap around ancillary services. Conversely, if these offenders are unsuccessful in any one of the four Phases, the USPC may revoke its parole or supervised release decision.

Question 3 - *Treatment is as important as supervision but evidently a lot of these Offenders aren't drug users. In fact, many of the Offenders have been convicted of drug distributing. Clearly, treatment might not be the best option, unlike the case of a user. How would you recommend approaching a case with a pusher versus a case with a user?*

Response – CSOSA utilizes evidence-based practices (EBPs) in the case management and supervision of its offenders. In the implementation of these practices, CSOSA conducts a comprehensive risk and needs assessment for each offender that results in an individualized intervention plan. Assessing offenders to determine their risk and needs separates those offenders who are drug abusers from those offenders whose criminality is drug-related (i.e., drug distributors). The results of these assessments allow CSOSA to clearly identify the offenders that have substance abuse issues and attendant substance abuse treatment needs.

Upon assignment to CSOSA for supervision, each offender is assessed to determine his or her level of risk and needs. This assessment includes obtaining information about the offender's criminal and substance abuse histories. In addition, all offenders are initially placed into CSOSA's scheduled drug testing regimen and are closely monitored. CSOSA's *Offender Drug Testing Protocol Policy PS 4005* provides guidance to staff. Drug testing is used to identify those offenders who are abusing drugs. However, prior to placing a substance-abusing offender into a substance abuse treatment program, CSOSA implements graduated sanctioning in an attempt to modify the behavior of those offenders testing positive. Through sanctioning, CSOSA often can motivate recreational drug users to stop their non-compliant behavior. Those offenders with significant substance abuse addiction issues are placed in drug treatment programs. Through the assessment and drug test monitoring processes, CSOSA is able to separate drug abusers from drug pushers. These offenders who are not testing drug positive will not be placed into drug treatment programs, even though their conviction may be for a drug offense.

In its approach to managing non-drug involved offenders who have drug convictions and high criminality issues, CSOSA staff attempts to modify these offenders' behaviors through a system of incentives and progressive sanctions. Offenders who are non-compliant will have increasingly progressive sanctions implemented, such as a verbal or written reprimand by the Community Supervision Officer (CSO) or Supervisory Community Supervision Officer (SCSO), an increase in supervision level, increased reporting frequency, daily check-in, day reporting, sanctions groups, electronic

monitoring, USPC Reprimand Sanction Hearing* (CSOSA's Operational Instruction, OI 2006-02 USPC Reprimand Sanction Hearing, provides guidance to staff for offenders who continue to exhibit non-compliant behaviors), and loss of liberty from the community (Reentry Sanctions Center, Halfway Back Program, or a jail sanction). Continued non-compliance will result in a revocation hearing before the releasing authority.

In addition, CSOSA recognizes that its drug treatment resources are limited and prioritizes treatment based on the offenders' need and motivation for treatment. On October 10, 2007, CSOSA implemented Operational Instruction (OI) CSS-2007-04, *Priority Treatment Placement Criteria: Treatment Track Versus Revocation Track*. This OI provides specific guidance to staff on when to refer offenders to treatment versus revocation. First, staff determine if an offender meets the priority treatment placement criteria. If the offender meets the priority treatment placement criteria, then the Community Supervision Officer discusses the offender's situation with the Treatment Specialist to determine if the offender would best be served by being placed in treatment or the revocation track.

* This sanction applies only to those parole, supervised release, or mandatory release offenders.