

The District of Columbia's Criminal Justice System under the Revitalization Act

How the system works, how it has changed, and how the changes impact the District of Columbia

HOUSE OF THE DISTRICT OF COLUMBIA



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CENTER

Acknowledgements

This report has been commissioned by the Criminal Justice Coordinating Council (CJCC) under contract number CW93501. The authors thank CJCC for their valuable comments and suggestions, and for the facilitation of meetings and interviews with various local and federal government agencies who are a part of the District's criminal justice system. Their review does not endorse this report, and all errors are the responsibility of the D.C. Policy Center authors. The views expressed in this report are those of D.C. Policy Center researchers and experts and should not be attributed to members of the D.C. Policy Center's Board of Directors or its funders. Cover photo by IntangibleArts on Flickr. [CC-BY-2.0 \(source\)](#)

Note on language

The D.C. Policy Center strives to use person-first language when referring to people convicted of crimes and imprisoned. The report uses the terms “incarcerated persons,” “formerly incarcerated persons,” and “returning citizens.” The report refers to people sentenced in the District's courts but in federal custody by the technical term of “D.C. Code offenders.” It is important to note that most D.C. Code offenders are D.C. residents, but some are residents of other states or jurisdictions. Similarly, the report refers to people sentenced in federal court and in federal custody as “federal code offenders,” although some of them are D.C. residents.

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1. Introduction

The District’s criminal justice system is complex and involves an overlapping system of agencies and organizations that are a mix of federally funded and under federal jurisdiction, federally funded and independently operated, locally funded and under local jurisdiction; and locally funded and independently operated.

This unique configuration of entities with disparate leadership—which makes cooperation challenging, and systems change complicated—is the direct result of the federal Revitalization Act of 1997.

Congress enacted the Revitalization Act to put the District of Columbia on a viable fiscal path. In the mid 1990’s, the District of Columbia government had reached an untenable financial situation. In the wake of a recession,¹ declining population, and a weakening tax base, coupled with poor financial management, the city could no longer pay for its expenses. By 1995, the District’s operating deficit had reached \$722 million (18 percent of its projected spending that year),² but with its bond ratings dropped to “junk” levels, the city was unable to borrow to manage cash flow, meet spending needs, or invest in infrastructure.³ With the city repeatedly spending more than its approved budget, in 1995 the Congress passed legislation to create a Financial Control Board that would oversee the finances of the District.⁴ However,

the city’s challenges were too big to be solved purely through financial management.

Challenges that faced the District included a crumbling infrastructure, a high Medicaid cost burden,⁵ a \$5 billion unfunded pension liability it took over from the federal government with Home Rule in 1974,⁶ and high spending needs driven by the District’s obligation to provide both state and local level functions with a restricted revenue capacity. Infrastructure needs were particularly dire across the District’s criminal justice system: for example, overcrowding⁷ and decrepit living conditions at the Lorton Correctional Complex resulted in several large-scale riots throughout the 1980s and 1990s, including one incident in which 14 buildings were set on fire.⁸ Additionally, the city’s court buildings were in dire need of infrastructure investments for which the city had no means to pay.

Providing needed financial relief to the District, the National Capital Revitalization and Self-Government Improvement Act of 1997 (the Revitalization Act) was enacted on August 5, 1997. The Revitalization Act included numerous federal supports and interventions to help D.C. gain its fiscal footing. First, the federal government agreed to overtake various financial and managerial obligations including the D.C. courts, the prison system and the custody of incarcerated persons, and all pension liability accumulated through 1997. The local Medicaid match requirement was reduced from 50 percent to 25 percent (although this was done in an annual appropriations bill, not in the Revitalization Act), and the federal government provided the District with the authority to borrow from the Federal Treasury to finance \$400 to \$500 million of its debt because the city’s bond ratings had foreclosed any opportunity

to borrow from markets. In return, the city gave up an annual federal payment of \$660 million.

With federal takeover of many of the functions, The Revitalization Act fundamentally changed the District's criminal justice system. These changes included:

1. Closing the District's Lorton Correctional Complex and transferring custody of D.C. Code offenders with sentences over a year to the federal Bureau of Prisons (BOP);
2. Abolishing the D.C. Board of Parole and transferring decision-making authority over parole matters to the U.S. Parole Commission (USPC);
3. Reassigning pretrial and post-conviction community supervision responsibilities from the courts to the Pretrial Services Agency (PSA) and the Court Services and Offender Supervision Agency (CSOSA);
4. Taking over the financial responsibility for the operations of the District of Columbia Court System, including the D.C. Superior Court and the D.C. Court of Appeals;
5. Classifying the District's Public Defender Service (PDS) as a federally funded entity; and
6. Establishing the Truth in Sentencing Commission (which later became the District of Columbia Sentencing Commission).

Now, 25 years since the enactment of the Revitalization Act, few people fully understand the scope and operations of the District's current criminal justice system, and little analysis has been done on how the system operates as a whole and how it serves the District's residents. This report chronicles the history of D.C.'s criminal justice system, describes what changes were enacted under the Revitalization Act, outlines the current structure of the District's criminal justice system, analyzes how these changes have impacted justice system operations, and evaluates outcomes for D.C. residents.

In conducting this analysis, the D.C. Policy Center worked with the Criminal Justice Coordinating Council (CJCC) to meet with ten local and federal agencies to gather historical perspective, discuss the current status of each agency, and acquire data, when possible. The information presented in this report relies on multiple publicly available sources including annual reports of federal and local government entities, public databases, budget requests, congressional testimony,

and case law. The D.C. Policy Center also conducted desk research of studies that provide historical and system perspectives. The full list of data sources and interviews are included in the Appendix.

The main takeaway from the research conducted for this report is that while some parts of the criminal justice system are extremely well-resourced with federal funding that provides significant fiscal benefits to the District of Columbia, many aspects of the system remain opaque to outsiders and difficult to assess. The D.C. Policy Center was able to interview representatives from all major entities that are part of the system, but publicly available information was insufficient to develop a clear picture of institutional practices and decision-making processes. To build this picture, the report had to rely on case law, testimony, and other secondary sources such as scholarly articles, reports, and third-party analyses, which may have potentially introduced anecdotes and interpretations from the authors of the said studies that could not be verified by data, into the analyses.

Further, it is difficult to provide an assessment of what the District's criminal justice system would have looked like if all its components were under local control. We simply do not know the counterfactual path of fiscal and institutional decisions. Similarly, it is difficult to compare the District's criminal justice system to systems in other jurisdictions on matters including funding, operations, and demographics of the District's incarcerated population. In terms of individual experience with the criminal justice system, it may be more appropriate to compare D.C. to other cities given the District's urban nature. But from a systems and funding perspective, it is more appropriate to compare the District to states and localities combined, since the District is both a state and local government and has both the revenue raising capacity and expenditure obligations of both a state and a local government. The federalization of D.C.'s criminal justice system makes comparison even more difficult, since it means that that federal funding of many of District's agencies do not appear on the District's budget books, and many agencies operate under federal guidelines or in federal systems.

2. Changes to the District's criminal justice system under the Revitalization Act

D.C.'s criminal justice system before the Revitalization Act

Even before the Revitalization Act, the District did not have full control over its criminal justice system. The Home Rule Act of 1973⁹ transferred much of the legislative authority from Congress to the democratically elected D.C. Council, but it barred the Council from enacting any laws relating to the organization and jurisdiction of District of Columbia courts or to the duties and power of the U.S. Attorney, which has always been responsible for the prosecution of D.C. Criminal Code violators with a few exceptions.¹⁰ Additionally, the Home Rule Act codified that judges for the District's courts would be appointed by the president (from a pool of candidates nominated by the District of Columbia Judicial Nomination Commission) and confirmed by the Senate.¹¹

In the District's early history, the jail and parole functions of D.C.'s criminal justice system operated under local control. The first D.C. Jail was built in 1872, and was later combined with the Lorton Correctional Complex, alongside the creation of the D.C. Department of Corrections in 1946. The current D.C. Jail was also under local control from the start, beginning with the opening of the D.C. Central Detention Facility (CDF) in 1976.¹² Similarly, the D.C. Board of Parole was created in 1932 and oversaw all D.C. parole decisions and supervision of people on parole until the Revitalization Act of 1997.

In contrast, the court system experienced multiple changes regarding structure and jurisdiction, often combining federal and local jurisdiction. Between 1801, when the first local court was created, and 1970, when the current system of local court jurisdiction was set in the District, courts were recreated or transformed

into other forms by the federal government at least ten times. In this period, courts oversaw federal cases as well as local D.C. cases, with local court jurisdiction falling first to Circuit Court between 1801 and 1863, and then to Superior Court between 1863 and 1970. By 1970, Congress established two separate courts for the District of Columbia: the D.C. Superior Court (DCSC) and the D.C. Court of Appeals (DCCA).¹³ This court structure remains in place today. A timeline of agency and court creation between 1801 and 1997 can be found in the Appendix.

Changes to D.C.'s criminal justice system from the Revitalization Act

The Revitalization Act had a profound impact on the District's criminal justice system. First, the Act transferred the funding and operations of the D.C. court system, including the Superior Court and the Court of Appeals, to the federal government. As a result, court funding is determined by the federal government. Second, it closed the Lorton Correctional Facility and transferred custody over D.C. Code offenders with sentences that exceed a year to the Bureau of Prisons (BOP). Third, the Act transferred parole decision authority from the D.C. Board of Parole to the federal U.S. Parole Commission (USPC) and abolished the District's parole board. Fourth, it created a new agency called the Court Services and Offender Supervision Agency for the District of Columbia (CSOSA), originally named the District of Columbia Offender Supervision, Defender, and Court Services Agency, which assumed the supervision of adult probation from the Superior Court for the District of Columbia, as well as supervision of individuals serving sentences that include parole from the District of Columbia Board of Parole. Fifth, the Pretrial Services Agency for the

District of Columbia (PSA), responsible for supervising pretrial defendants, became an independent entity within CSOSA with its own budget and organizational structure. The Revitalization Act also classified the D.C. Public Defender Service (PDS) as an independent organization reporting to a board of trustees.¹⁴ CSOSA and the D.C. Public Defender Service exclusively serve justice-involved individuals in D.C. and are funded by the federal government, and PSA supervises both D.C. Code offenders and federal offenders.¹⁵ The Revitalization Act also required the creation of a Truth in Sentencing Commission, which was charged with

updating the District’s Criminal Code with sentencing rules that were favored by Congress.¹⁶

The immediate (and the intended) impact of these changes was fiscal relief for the District of Columbia. The closing of the Lorton facility, transfer of the District’s incarcerated population to BOP custody, transfer of court costs, management, and oversight, and transfer of pretrial, probation, and supervision services to federally funded agencies erased from the District’s local budget approximately \$308 million (or 6 percent of the approved spending in 1998. (Table 1).

Table 1. Fiscal relief from the Revitalization Act in Fiscal Year 1999

Action	Budget relief in 1999	Notes
Closing of the Lorton Correctional Facility and transfer of residing incarcerated population to the custody of the BOP, to be sent to federal or privately run prisons. ¹⁷	\$184.8 million	In FY 1999, the District allocated \$184 million to the Corrections Trustee for the transfer and incarceration of D.C. Code Offenders.
Transfer of all court operations to the federal government. ¹⁸	\$110.1 million	This is the last budget appropriation in the District’s local budget for the Court of Appeals, D.C. Superior Court, and the Court system.
Transfer of Public Defender Service from a local entity to an independent, federally funded agency.	\$7.9 million	The \$7.9 million cost reflects what D.C. appropriated in FY 1995. By 1999, the amount allocated to defender services (by the federal government) was \$14,486,000.
Transfer of authority for parole decisions to the United States Parole Commission, and the abolition of the District of Columbia Board of Parole.	\$5.7 million	The \$5.7 million budget reflects what D.C. paid in FY 1995. This included the supervision of D.C. Code offenders on parole, a function that was transferred to CSOSA when the agency was created. CSOSA is also responsible for the supervision of people on probation, which was previously conducted by the courts, and supervised release. The first year the federal government budgeted for CSOSA, the appropriation was \$44 million. ¹⁹
Placement of the pension liabilities for teachers, firefighters, police officers that accrued until 1997 with the federal government. At that time, the federal government also took over the liability for the pension plan for judges permanently. D.C. inherited this pension liability in January of 1975, when the Home Rule Act became effective. At that time the estimated unfunded pension liability was \$2 billion. At the time of the Home Rule Act, this amount was estimated at \$5 billion.	\$293 million	Fiscal Year 1993 is the last full year appropriation in the District’s local budget. In 1994 and 1995, the District deferred its pension contributions because of cash flow problems.
Transfer of the Judicial Nomination Commission from a local entity to both a federally funded and locally funded entity.	\$87 thousand	\$87 thousand was the last amount budgeted in the District’s local budget. In FY 2022, the JNC budget was \$308,000, almost all federally funded.

Sources: Fiscal Year 1995 Budget Report, Committee of the Whole, retrieved from <https://lms.dccouncil.gov/downloads/LIMS/4147/Other/B11-0159-COMMITTEEREPORT7.pdf>; 1999 Budget Request Background Materials and Correspondence, retrieved from <https://lms.dccouncil.gov/downloads/LIMS/6153/Other/B12-0587-BACKGROUND MATERIALS AND CORRESPONDENCE.pdf>; Budget of the United States government, Fiscal Year 2000, retrieved from <https://www.govinfo.gov/content/pkg/BUDGET-2000-BUD/pdf/BUDGET-2000-BUD.pdf>

In addition, the District no longer had to set aside funds in its operating budget for its pension funds to meet the pension liability it inherited from the federal government in 1975.²⁰ In its Fiscal Year 1993 budget, the city had set aside about \$292.3 million (or approximately 5 percent of its planned spending) and the federal government paid about \$52.1 million. But because of the cash difficulties, the District had to defer its contributions in Fiscal Year 1994.²¹

While the Revitalization Act changes were motivated by reducing the cost burdens on the District of Columbia, not all provisions regarding the criminal justice system had significant cost implications. For example, the Act eliminated parole and mandated determinate sentencing for most violent felonies in the District of Columbia. It also required the District to rewrite its criminal code to meet federal “truth-in-sentencing” standards.²² The rewritten Code changed the sentencing of felony convictions from an indeterminate system of minimum and maximum prison terms with parole eligibility, to a determinate system which eliminated parole and restricted good-time credit release or other forms of early release. This required that D.C. Code offenders be incarcerated

for least 85 percent of the sentence imposed by a judge or jury. This provision of the Act was largely motivated by the sentencing policy favored at the time by Congress: In 1993, Congress enacted the Violent Crime Control and Law Enforcement Act, providing grants for states that implemented truth-in-sentencing policies,²³ but the District had not made the switch until the Revitalization Act.²⁴

Some parts of the District’s criminal justice system remain under Mayoral control. These include the Metropolitan Police Department, the Department of Corrections, and the Department of Youth Rehabilitation Services. The Office of the Attorney General for the District of Columbia (OAG) is now a separate D.C. government agency led by the locally elected Attorney General, but this is a recent change: from the Revitalization Act to 2014, the OAG also previously reported to the Mayor. In addition, but created by separate law in 2001, is the independent Criminal Justice Coordinating Council (CJCC), which is charged to coordinate activities of all agencies—federal and local—that make up the District’s criminal justice system.²⁵

3. How does the District’s criminal justice system operate under the Revitalization Act?

With the changes required by the Revitalization Act, the District’s criminal justice system looks very different from a typical state system.

Typically, state-level agencies (such as the courts and the state prison systems) and local-level agencies (such

as the police departments) share responsibilities, and there is little federal intervention or control.

In the District, experience with the criminal justice system typically starts with a local agency (MPD),²⁶ but from that point on, D.C. Code offenders find themselves bouncing between local and federal agencies (Table 2).²⁷ After being arrested and before being tried, residents can be held by the Department of Corrections (local) or

Table 2. Criminal justice agencies and jurisdiction

Experience with the criminal justice system	Jurisdiction	
Arrest and charge	Metropolitan Police Department	
Pre-trial	Conditional release under Pretrial Services Agency (PSA)	Held by the Department of Corrections (DOC) at the Central Detention Facility (CDF) or the Correctional Treatment Facility (CTF)
Prosecution, Defense, and Trial	U.S. Attorney’s Office²⁸	D.C. Superior Court
	Office of Attorney General	
	Public Defender Service	
Probation	Supervised by CSOSA	
Incarceration	Prison term under 1 year: under Department of Corrections (DOC) custody at CDF or CTF	Prison term over 1 year: under Bureau of Prisons custody at a federal prison or a private prison, transported by the US Marshals Service
Pre-release and parole decision	United States Parole Commission	
Before re-entry	If returning from BOP custody, halfway house contracted by DOC or BOP.	
Supervision	CSOSA	
Revocation	United States Parole Commission	

Key	Local agency	Federal agency	Independent agency
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Source: Adopted from Public Welfare Foundation: “D.C.’s justice systems: An overview.” (2019).

Note: The Public Defender Service is federally funded but is a nonprofit that reports to a Board of Trustees. Thus, it is described here as independent.

granted conditional release by the courts (federal) and supervised by the Pretrial Services Agency (federal). They may receive pro bono defense services from the Public Defender Service (independent). People convicted of crimes in D.C. may serve their sentences under the custody of either the Department of Corrections (local) for sentences under a year, or the Bureau of Prisons (federal) if the sentence is more than one year. If transferred to the BOP custody, they are transported by the U.S. Marshals Service (federal). Upon release, returning citizens may be sent to a halfway house (local or federal) or be supervised by CSOSA (federal). If individuals are alleged to have violated the terms of their parole or supervised release, the United States Parole Commission (federal) conducts a revocation hearing. As such, people convicted of crimes in D.C. follow a chain of custody and supervision that is split between local and federal agencies.²⁹

In addition to jurisdiction being split between local and federal agencies, funding for the District's criminal justice system is from a mix of local and federal government resources. Some of these expenditures are explicitly appropriated for D.C. agencies in the federal budget. These include the courts, defender services, pretrial and supervision services, coordination services, and contributions towards the judges' retirement system. Other funding is absorbed within federal agency budgets without specific allocations to D.C. These include the incarceration of D.C. Code offenders in BOP facilities, including transportation of incarcerated persons, and USPC hearings regarding parole or supervised release. Most—but not all—of the federal funding is tied to provisions of the Revitalization Act, or, in some cases, the Home Rule Charter (Table 3). All agencies under Mayoral control are funded locally. These primarily include the Metropolitan Police Department and the Department of Corrections, which runs the city jail.

Table 3. Criminal justice agencies by jurisdiction and funding source

D.C. agencies locally funded	D.C. agencies created or taken over by Revitalization Act, federally funded	D.C. agencies not tied to Revitalization Act, federally and/or locally funded	Federal agencies involved in D.C.'s criminal justice system, federally funded
Metropolitan Police Department	D.C. Superior Court, D.C. Court of Appeals, and Court System	Judicial Nomination Commission (Home Rule Act)	Office of the U.S. Attorney for D.C. ^D
Office of the Attorney General ^A	Public Defender Service (Originally Legal Aid Agency)	Criminal Justice Coordinating Council (2001 D.C. Council Act)	Bureau of Prisons
Department of Corrections	Office of the Corrections Trustee	Department of Youth Rehabilitation Services (2004 D.C. Council Act) ³⁰	U.S. Marshals Service (responsible for transport) ^E
Office of the Chief Medical Examiner		D.C. Department of Forensic Services	U.S. Parole Commission ^F
Corrections Information Council ^B		Office of Victim Services and Justice Grants	Court Services and Offender Supervision Agency for D.C (CSOSA) ^F
Criminal Code Reform Commission ^C			Pretrial Services Agency ^F

Notes: This table also includes federal resources for functions they conduct on behalf of the federal government, specifically Child Support Services.

^A OAG is an independent entity headed by an elected Attorney General.

^B Created by the Revitalization Act, later expanded by local law by the District of Columbia Jail Improvement Act of 2003.

^C Continuation of the Truth in Sentencing Commission.

^D The U.S. Attorney's Office for D.C.'s jurisdiction over DC Code offenders is codified in the Home Rule Act.

^E The federal jurisdiction of BOP an U.S. Marshals Service is codified in the Revitalization Act.

^F These agencies have been created to existing probate and supervision agencies by the Revitalization Act, and their funding is also tied to the Revitalization Act.

Source: Authors' deliberations based on a 2001 GAO analysis.³¹

Prosecution: Office of the U.S. Attorney for D.C.

The authority to prosecute cases for D.C. code offenders has never been under local jurisdiction. By statute—and codified in the Home Rule Charter—in the District of Columbia, the U.S. Attorney, which is a part of the federal Department of Justice, serves as both the federal prosecutor (similar to the other 92 U.S. Attorneys' offices across the country) and as the local district attorney. This means the job of prosecuting cases for D.C. Code offenders in D.C. Superior Court falls on the U.S. Attorney's Office for D.C. and not the District's own Attorney General, as is the case in all other states. The U.S. Attorney prosecutes most adult criminal cases in the Superior Court. In cases involving juveniles, traffic violations, or certain low-level "quality of life" misdemeanors, the Office of the Attorney General of the District of Columbia is the prosecutor.^{32,33}

The U.S. Attorney for D.C. has 330 Assistant United States Attorneys and over 350 support personnel distributed over five different divisions, including the division that serves as the local district attorney for D.C.³⁴ According to data retrieved from the Department of Justice, the U.S. Attorney's Office prosecutes approximately 400 cases at the D.C. Superior Court each year, although this number has varied greatly over time (Figure 1). In recent years, more than 80 percent of the cases closed have resulted in a sentence.

This report could not uncover additional information on the prosecution process, case setting trends, and any other information on the types of crimes prosecuted. The Federal Justice Statistics program collects information on all cases prosecuted by federal prosecutors, including those prosecuted in the District's Superior Court, but this information is not publicly available. Therefore, it is not possible to compare the prosecution process for D.C. Code offenders to other federal prosecution trends, or to what happens in other states.

The federal funding of prosecution has likely been a significant fiscal benefit to the District. The U.S. Attorney's Office estimated that, in fiscal year 2021, the amount spent on local prosecution was \$55 million.³⁵ In comparison, the D.C.'s Attorney General's Office's budget for the same year was \$134.5 million, of which

\$106.9 million were District's own funds³⁶ and \$23.6 million were federal funds.³⁷

Defense: Public Defender Service

Independent from the rest of the criminal justice system is the Public Defender Service, which provides defense counsel for people who cannot afford an attorney, including D.C. Code offenders. The origin of the Public Defender Service dates to the 1960s, but it was transformed into a federally funded independent entity (a non-profit organization that reports to a Board of Trustees) by the Revitalization Act.

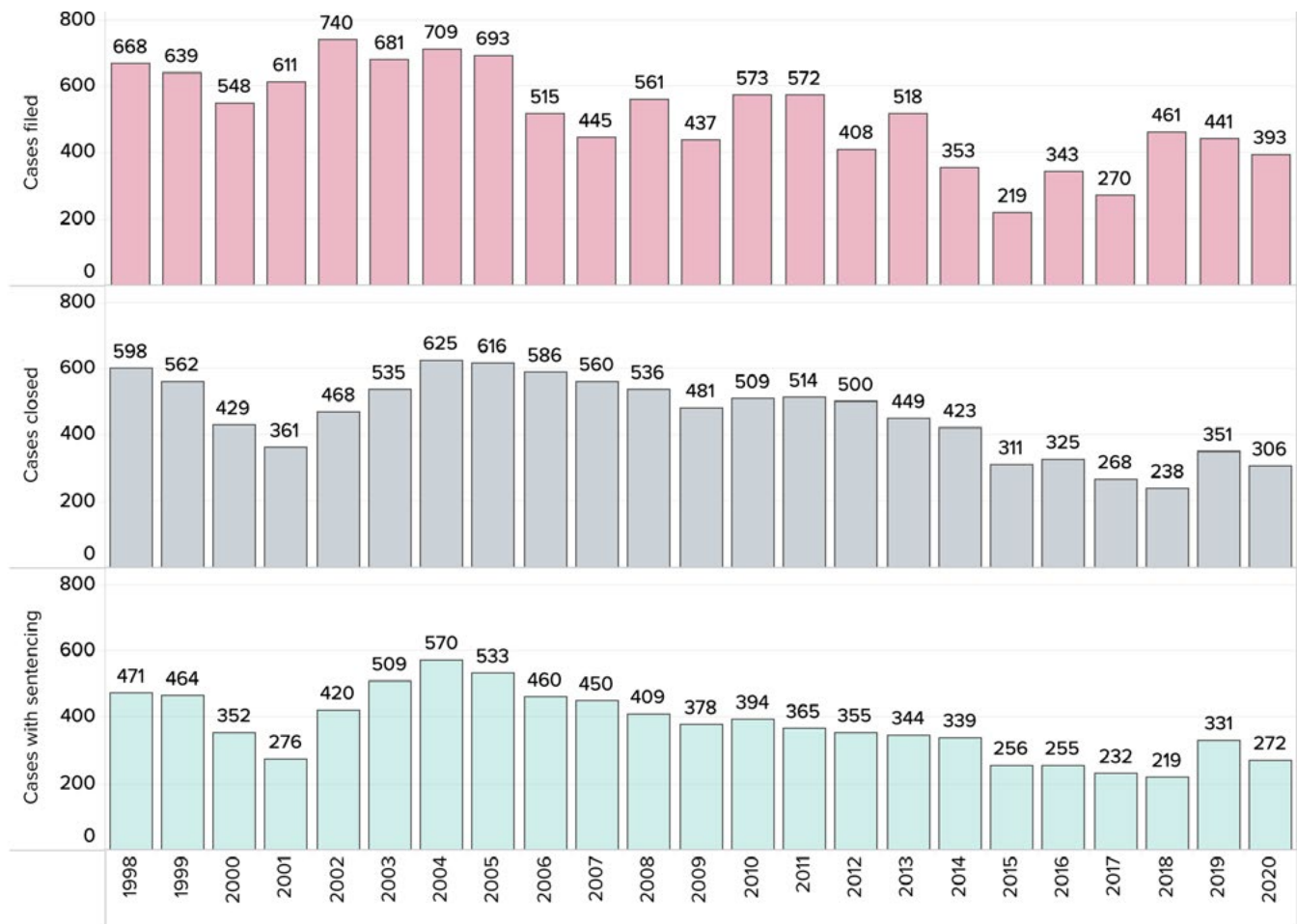
The Public Defender Service (PDS) is highly regarded for its representation of individuals charged with the most serious adult felony cases and criminal appeals. PDS also represents nearly all individuals facing parole revocation under the District of Columbia Code, all defendants at Drug Court sanction hearings, and individuals facing involuntary civil commitment in the mental health system.³⁸ Additionally, the Public Defender Service also works on legal issues and barriers related to successful community reentry and provides technical assistance and training for Criminal Justice Act (CJA) and pro-bono attorneys.³⁹

Federal funding from the Revitalization Act was likely a significant help to the Public Defender Service, particularly at the time it was enacted (Figure 2). Before the implementation of the Revitalization Act, the District of Columbia typically budgeted \$7 million for this entity, which is the equivalent of \$13.4 million in 2022 prices. Officials who were working at the Public Defender Service at the time of the Revitalization Act said that the organization was facing major budget cuts that might have resulted in the reduction of as much as half the staff at the time.⁴⁰ The first year after the implementation of the Revitalization Act (1999), the federal government appropriated \$14 million for the Public Defender Service, which is the equivalent of \$25.3 million in today's prices.⁴¹ In Fiscal Year 2022, the budget for the Public Defender Service was \$46.2 million supporting 222 full-time equivalent positions.⁴² According to officials who previously worked at PDS, better pay tied to increased resources, eligibility for federal benefits, and organizational commitment to a more reasonable workload have potentially made jobs more attractive than they had previously been.⁴³

Table 4. Prosecution duties of the D.C. Office of the Attorney General and the U.S. Attorney for D.C.

Office of the Attorney General for the District of Columbia (local)	United States Attorney for the District of Columbia (federal)
<p>Prosecutes traffic violations, disorderly conduct, firearm registry violations, and other regulatory violations.</p> <p>Prosecutes civil cases.</p> <p>Prosecutes juvenile cases.</p> <p>Provides child support services including the enforcement of child support orders. Also handles all child support and neglect cases on behalf of the District's Child and Family Services.</p>	<p>Prosecutes most adult criminal cases in D.C. Superior Court and may prosecute certain 16 and 17-year-olds charged with murder, first degree sexual abuse, armed robbery, first degree burglary, and certain other violent crimes.</p> <p>Prosecutes all federal crimes.</p> <p>Represents the United States and its departments and agencies in civil proceedings filed in federal court in the District of Columbia.</p>

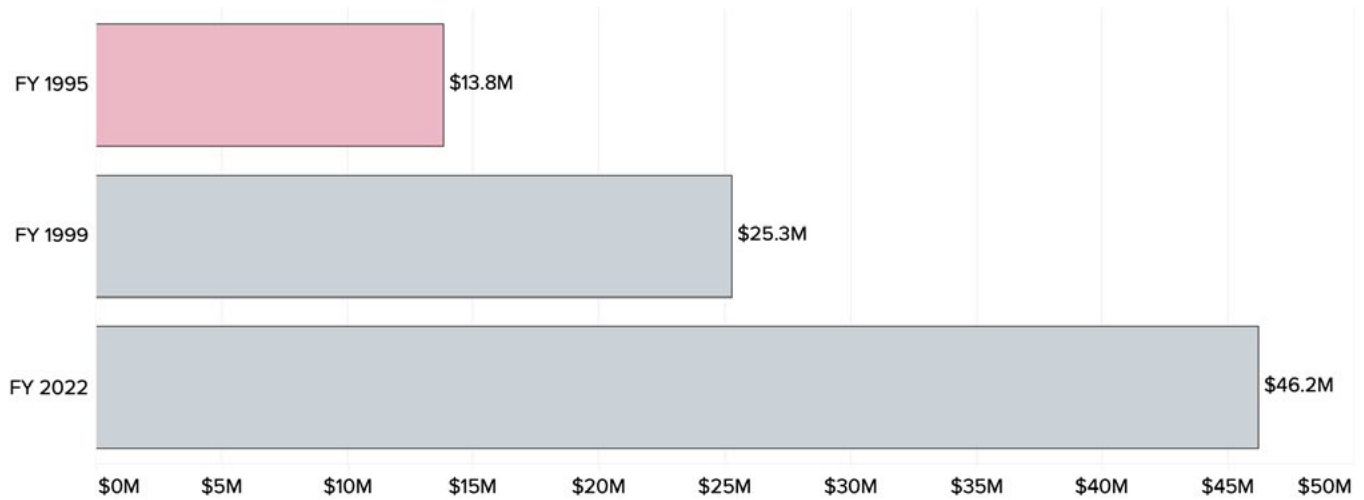
Figure 1. Criminal prosecution by USAO in the District of Columbia, number of cases filed, closed, and resulted in a sentence



Source: U.S. Sentencing Commission - USSC Offender Dataset (Standardized Research Data File) retrieved from the BJS Federal Justice Statistics Program website.



Figure 2. Funding for the Public Defender Service before and after the implementation of the Revitalization Act (expressed in 2022 dollars)



Sources: Committee of the Whole Report on the Fiscal Year 1995 Local Budget Act for the District of Columbia, Fiscal Year 1999 Federal Budget Books, and Fiscal Year 2022 Budget Request for the Public Defender Service.

Federal
Local



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Notes: The nominal values (\$7 million for Fiscal Year 1995 and \$14 million for Fiscal Year 1999) are adjusted for inflation using the Bureau of Labor Statistics' CPI Inflation Calculator too.

Pretrial Supervision: Pretrial Services Agency

The District's Pretrial Services Agency (PSA) was created by an act of Congress (the District of Columbia Bail Agency Act) in 1967.⁴⁴ Under the Revitalization Act, PSA was established as an independent entity within the Court Services and Offender Supervision Agency (CSOSA) in the Executive Branch of the Federal Government.⁴⁵ The main function of this agency was largely unchanged by the Revitalization Act, as PSA always provided services to both federal and D.C. Code offenders.⁴⁶

PSA submits release recommendations to D.C. courts on people arrested in D.C. and provides supervision and coordinated treatment services for released persons. These include assessments of treatment needs; a Drug Court program for defendants charged with misdemeanors or non-violent felonies, and a Specialized Supervision Unit specifically focused on defendants with mental health treatment needs. According to its Fiscal Year 2022 budget request documents, in 2021 the PSA supervised over 15,450 defendants on pretrial release, in addition to providing services such as court date notification and criminal

history checks for persons who were released on citation or personal recognizance, or whose charges were dismissed for 12,789 defendants. Combined, PSA served more than 28,240 defendants during this period in addition to conducting drug testing for 8,874 non-defendants.⁴⁷

PSA's current caseloads include individuals being supervised on a full range of charges from misdemeanor property offenses to felony murder, and most defendants (97 percent) are awaiting trial in D.C. Superior Court. As such, almost all the funding PSA receives from the federal government supports their D.C. work.

Pretrial services likely benefited from increased resources when the funding responsibility for PSA shifted to the federal government under the Revitalization Act. Prior to the implementation of the Revitalization Act, the District government typically allocated \$3.5 million for pretrial services—this is the equivalent of \$6.9 million in today's prices. In Fiscal Year 2022, the budget request for this agency was \$80 million supporting 325 full-time equivalent positions.

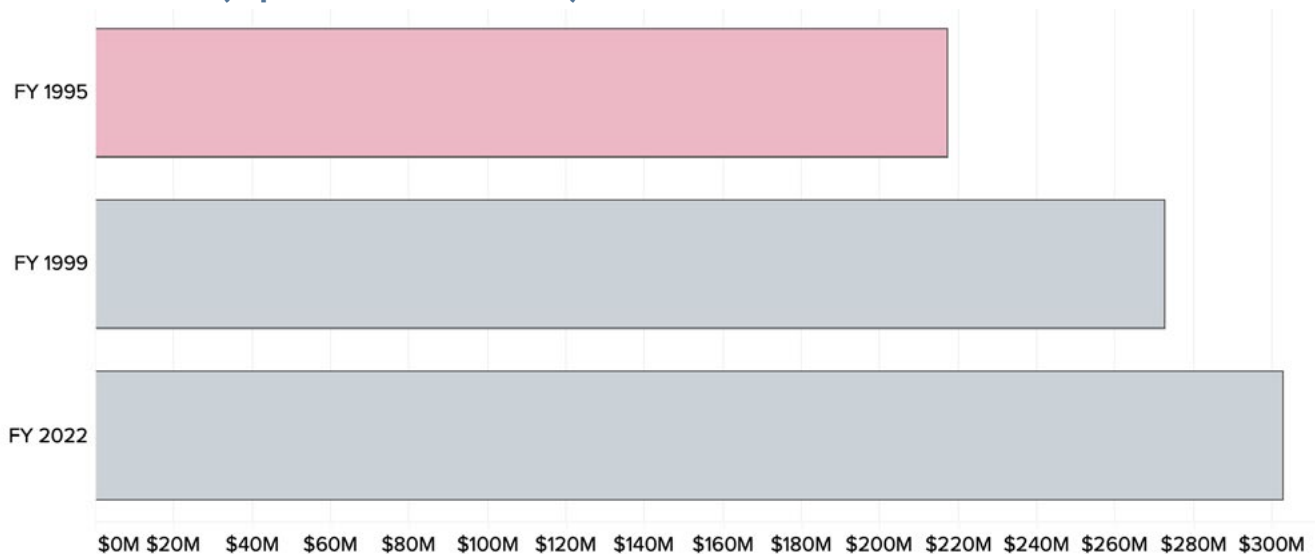
Adjudication: The D.C. Court System

The District’s Courts are made up of the Superior Court, the Court of Appeals, and the “Court System,” which provides technical and support services, including contracting and procurement, legal counsel, capital projects, facilities management, budget and finance, human resources, training, strategic management, information technology, and court reporting.⁴⁸ The D.C. Court of Appeals, the highest court of the District of Columbia, has a single appellate court that serves dual roles as both an intermediate court of appeals and a court of last resort.⁴⁹ The D.C. Superior Court is the trial court of general jurisdiction for the District of Columbia, handling all local trial matters. It also has a dispute resolution division, a social services division with a myriad of assistance programs for residents,⁵⁰ and runs the Crime Victims Compensation Program. Collectively the system employs nearly 1,500 employees including associate judges, magistrate judges, and senior judges, as well as professional staff. The court’s budget also includes defender services, which pays for legal and expert services for child abuse and neglect cases and the Guardianship Program, as well as defender services under the Criminal Justice Act (CJA).⁵¹ The structure and jurisdiction of D.C.’s courts did not change

with the Revitalization Act. The appointment of judges was codified in Home Rule, and the jurisdiction of the courts was established in 1970 when Congress established the Superior Court and the D.C. Court of Appeals (DCCA) as separate courts for the District of Columbia.⁵²

Per the Revitalization Act, the federal government funds the operations of the courts and maintenance of their infrastructure through Congressional appropriations. These include salaries and benefits for all staff, including the pension benefit contributions for all those eligible for a federal pension, as well as the funds necessary to maintain the buildings and IT infrastructure. At the time of the Revitalization Act, the District’s budget included approximately \$110 million for the operating expenses of the court system, including the defender services. This is the equivalent of \$217 million in today’s prices. The first year after the implementation of the Revitalization Act, the federal government appropriated \$108 million for the courts and \$43 million for the defender services, for a combined appropriation of \$151 million or the equivalent of \$272.8 million in today’s prices. In Fiscal Year 2022, the Court’s received \$303 million

Figure 3. Funding for the District’s Court system before and after the implementation of the Revitalization Act (expressed in 2022 dollars)



Sources: Committee of the Whole Report on the Fiscal Year 1995 Local Budget Act for the District of Columbia, Fiscal Year 1999 Federal Budget Books, and Fiscal Year 2022 Budget Request for the Public Defender Service.

Notes: The nominal values are adjusted for inflation using the Bureau of Labor Statistics' CPI Inflation Calculator too.

Legend:
■ Federal
■ Local



of funding. In addition, the federal government began contributing to the pension plan for the District's judges. This amount was \$5 million in 1999, and a Treasury Department report from 2019 show that the required contributions for the judges' pension plan is about \$15 million each year.⁵³

While appropriations for the courts have generally increased over time,⁵⁴ budgets have varied greatly, funding for defender services has declined since 2017, and the budget reduction of fiscal year 2018 caused a significant reduction of non-judicial staff (Figure 4).⁵⁵ The fiscal year 2018 budget cuts resulted in a staff decrease of more than 100 positions (approximately 10 percent). While some of this funding was restored in later years, only 16 of these positions

(primarily in juvenile probation supervision) were restored by fiscal year 2021 and nonjudicial staffing levels currently remain below 2017 levels.⁵⁶

For long periods of time, D.C. Courts have had high rates of judicial vacancies, more than twice as high as federal trial courts, and the process for filling judicial vacancies is under federal control. As of December 2021, federal trial courts in the United States had an average vacancy rate of approximately nine percent.⁵⁷ At that time, the D.C. Superior Court (DCSC) had 62 judicial seats, 14 of which were unfilled, resulting in a vacancy rate of over 20 percent. In the Court of Appeals, there are nine total seats and two vacancies as of December 2021, for a vacancy rate of 22 percent.⁵⁸ Of note, there have

Figure 4. Annual federal appropriations for D.C. Courts, by fiscal year



Source: D.C. Courts Statistical Summary Reports, various years.



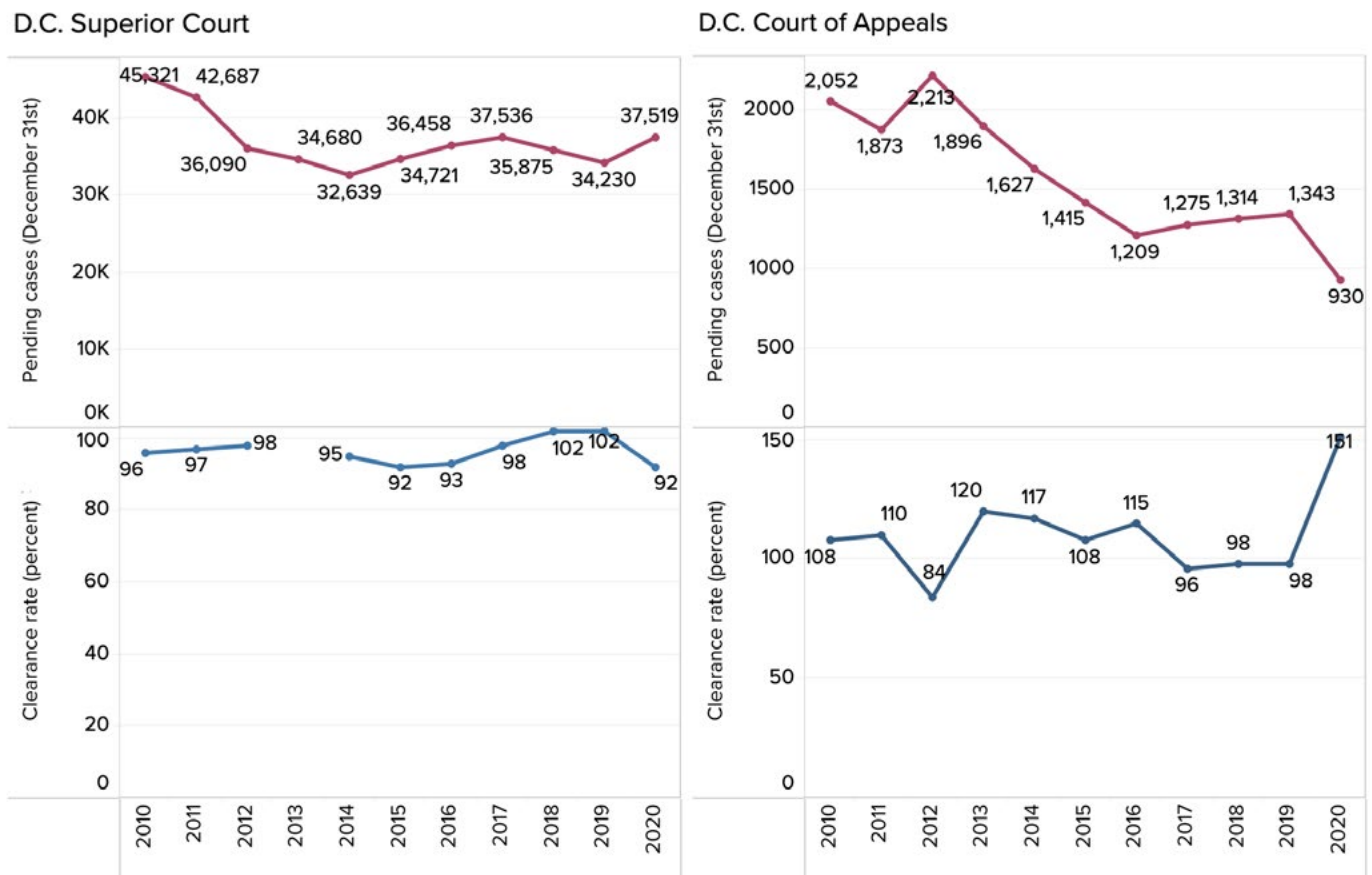
been seven judicial confirmations in December 2022, six to D.C. Superior Court and one to the Court of Appeals, bringing the vacancy rate to 12 percent and 11 percent, respectively.⁵⁹

The D.C. Judicial Nomination Committee—a committee made up of appointees by the President of the United States, the Mayor of the District of Columbia, the District of Columbia Council, two D.C. bar members, and Chief Judge of the U.S. District Court for the District of Columbia (a federal judge)—screens, selects, and recommends candidates for vacancies on the D.C. Superior Court and the D.C. Court of Appeals to the President, and the Senate confirms.⁶⁰ While the President then has 60 days

to nominate a candidate to the Senate, the Senate has no time limitations within which it must act.⁶¹ This practice has been in effect since the passage of the Home Rule Act of 1973.

Between 2013 and 2021, there have been five nominations for the Court of Appeals from the JNC to the President, with three names per nomination. This has resulted in one appointment in 2017 by President Trump. In the same time period, there have been 32 nominations from JNC for the D.C. Superior Court, which has resulted in 15 presidential nominations (9 by President Trump and 6 by President Obama).⁶²

Figure 5. Pending cases and clearance rate in D.C. Courts, 2010 to 2020



Notes: Clearance rate, a measure of court efficiency, is the total number of cases disposed divided by the total number of cases added to the caseload (i.e. new filings and reinstated) during a given time period. Rates of over 100% indicate that the court disposed of more cases than were added, thereby reducing the pending caseload.

The D.C. misdemeanor rate was not calculated for 2013 due to a pending audit and changes in methodology. As such, the 2013 Superior Court's overall clearance rate could not be calculated.

Source: Various District of Columbia Courts Statistical Summaries.



High judicial vacancy rates, which are potentially the consequence of the current appointment process, create high caseloads for judges. And the issue of judicial vacancy rates in the District is particularly pressing now, as the number of pending cases has increased dramatically in the District due to the COVID-19 pandemic. At present, the caseload is approximately 400 cases per judge in the civil division, when the ideal number is often cited as 250.⁶³ Additionally, D.C. had more than 10,000 criminal cases pending as of January 2022.⁶⁴ This means that many trials have been delayed. Pre-trial wait times have gone up significantly since the start of the pandemic (March 2020), from an average of 90 days to 220 days,⁶⁵ as trials were put on hold for over a year.⁶⁶ The most recent publicly available data (from 2022) show that of the approximately 1,400 people being held under the custody of DOC, approximately 60 percent are awaiting trial. As of April 2022, men held in pretrial with felony charges spent an average of 13 months (390 days) incarcerated, while women held pretrial with felony charges spent an average of over eight months (257 days) incarcerated.⁶⁷ Additional staff and resources may be necessary to help clear the backlog of cases that have built up. While both courts have been able to maintain a near-100 percent clearance rate (as of 2020)—meaning the judges have been able to dispose about the same number of cases as the number of new filings— they have not been able to significantly reduce backlog from previous years (Figure 5, previous page).⁶⁸

High caseloads cause administrative burdens on courts and can lead to burnout among judges. Additionally, studies have shown high vacancy rates to be associated with delays in trials and hearings, increased rates of prosecutors declining and dismissing cases, less time spent on cases, administrative burdens, and higher rates of guilty pleas.⁶⁹

Sentencing: Truth in Sentencing Commission

Federal interest in changing sentencing requirements precedes the Revitalization Act, beginning with the Violent Crime Control and Law Enforcement Act in 1994, which provided grants to states that enacted “truth-in-sentencing” policies.⁷⁰ However, the District was not following this practice. The Revitalization Act required that the District update its criminal code and make changes to the District of Columbia’s sentencing practices to align them with truth-in-sentencing policies. The Act created the Truth in Sentencing Commission (TIS Commission) to make recommendations to D.C. Council and change D.C. Code sentencing rules, changing District sentencing from an indeterminate to a determinate sentencing system and requiring the District to rewrite its criminal code to meet federal “truth-in-sentencing” standards.⁷¹

In the pre-2000 indeterminate sentencing system, sentences for felony convictions provided minimum and maximum prison terms, with eligibility for parole following completion of the minimum sentence. For

Table 5. Sentencing practices in D.C. pre- and post-Revitalization Act

Practice	Description	Applicability to D.C.
Indeterminate sentencing	Sentences have minimum and maximum terms, providing early release opportunities	Pre-Revitalization Act practice
Determinate sentencing	Sentences must have fixed sentence lengths	Post-Revitalization Act practice
Truth-in-sentencing	Requires that for sentences that include supervised release, supervised release is no more than 15 percent of the total sentence	Post-Revitalization Act practice
Mandatory minimums	In practice for particular charges (ex. First degree murder). Requires a minimum sentence length based on the charge and factors such as prior criminal history	After the Revitalization Act, 12 mandatory minimums have been in effect.

convictions after August 5, 2000, sentences must be determinate or have fixed sentence lengths. Determinate sentences may include a period of supervised release that is no more than 15 percent of the total sentence length.⁷² This proportion of amount minimum time that must be served in prison (85 percent of the sentence) is known as the “truth-in-sentencing provision,” and is in effect in many states around the country.⁷³

The federally-created Truth in Sentencing Commission made its formal recommendations to the D.C. Council in 1998, upon which its mandate expired. It was then replaced by the District of Columbia Advisory Commission on Sentencing (ACS), which was created by local act to make sentencing recommendations on the issues unresolved by the Revitalization Act.⁷⁴ The ACS was replaced by the D.C. Sentencing Commission in 2004, which was then replaced by the D.C. Sentencing and Criminal Code Revision Commission in 2006. The Commission’s Criminal Code Revision mandate concluded on September 30, 2016. Because of the scope of needed reforms to D.C.’s criminal code, in 2016 the Council split the D.C. Sentencing and Criminal Code Revision Commission into two agencies, forming the D.C. Sentencing Commission and the Criminal Code Reform Commission (CCRC). The fiscal year 2022 budget for the Criminal Code Reform Commission is \$907,000, funded locally.⁷⁵

Over time, multiple changes have been made to D.C.’s criminal code, including the prevalence of mandatory minimums in sentencing guidelines. Before the Revitalization Act, the District’s mandatory minimums were limited to certain kinds of violent offenses and were occasionally increased in length. For example, the mandatory minimum sentence before parole eligibility for a person convicted of first-degree murder increased from 20 years to 30 years in 1992.⁷⁶ After the Revitalization Act, 12 mandatory minimums were in effect, for crimes ranging from first degree murder to crimes when armed with a firearm and theft with more than one conviction.

In 2003, the Advisory Commission on Sentencing recommended the adoption of voluntary sentencing guidelines that work together with aforementioned sentencing practices. D.C. adopted these guidelines

in 2004 in the Structured Sentencing System Pilot Program Amendment Act.⁷⁷ Voluntary guidelines provide sentence length ranges based on the severity of the crime and prior criminal history. Judges can then impose sentences of probation, split sentences that include incarceration and supervised release, and prison-only sentences. Sentences can deviate from guidelines for ‘unusual circumstances,’ but all sentences must be at least the length of imposed mandatory minimums.⁷⁸ This type of system includes mandatory minimum sentence lengths but is less rigid than traditional mandatory minimum systems.⁷⁹

It is important to note that on November 15, 2022, the D.C. Council unanimously approved an overhaul of the city’s century-old criminal code that updates the definitions of criminal offenses, creates new grades of sentences based on the severity of the crime, eliminates most mandatory minimum sentences, and broadly expands the right to a jury trial for people charged with misdemeanors.⁸⁰

Incarceration: Department of Corrections and Bureau of Prisons

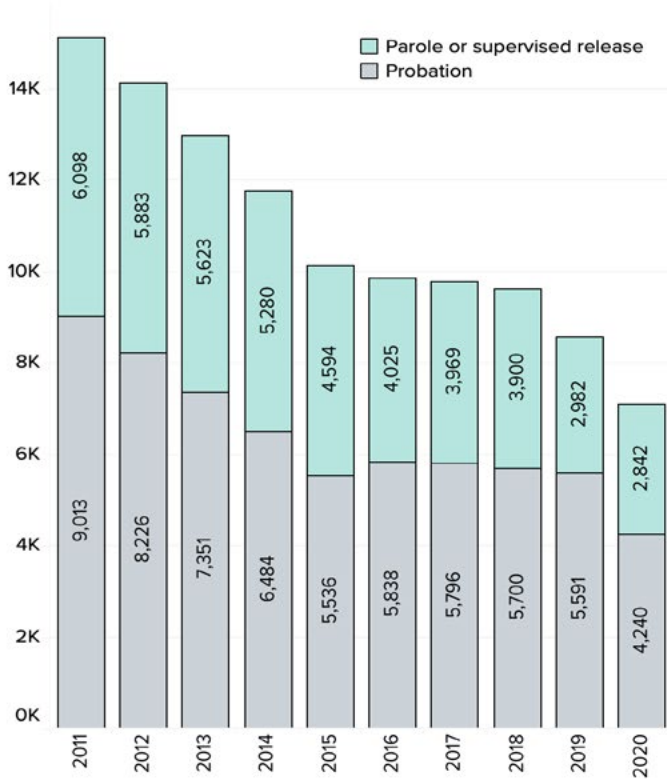
On a given day, over 22,000 residents of the District of Columbia can be justice-involved.⁸¹ As of August 2022, approximately 3,600 D.C. Code offenders were incarcerated, including 1,409 individuals in local jails under DOC custody, and 103 youth⁸² in local facilities.⁸³ In addition, there are an estimated 9,500 D.C. Code offenders on probation, parole, or supervised release supervised by CSOSA,⁸⁴ and approximately 4,000 D.C. Code offenders involved with the Pretrial Services Agency (Figure 6).

Department of Corrections

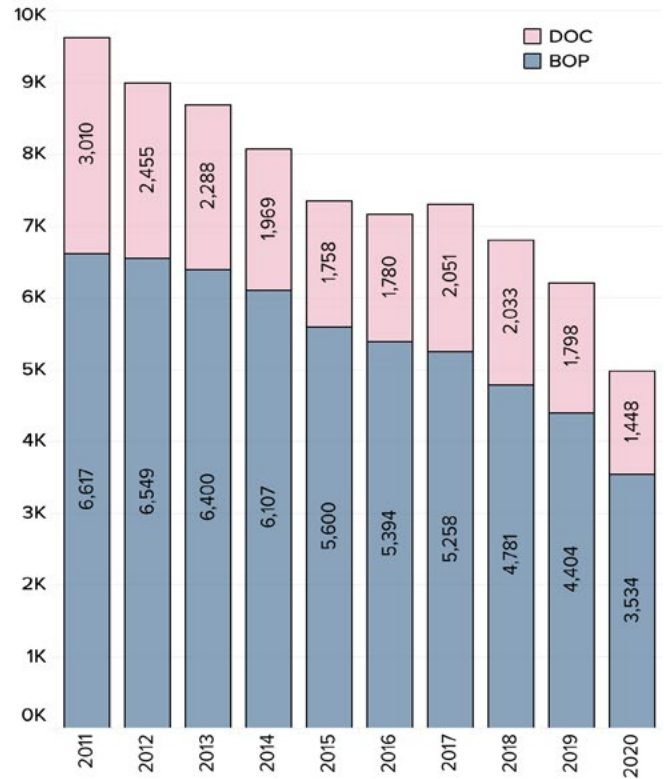
The D.C. Department of Corrections (DOC) operates two primary facilities, the Central Detention Facility (CDF), also known as D.C. Jail, and the Correctional Treatment Facility (CTF). These facilities are generally used for people awaiting trial and for people who received sentences of less than one year. The CDF opened in 1976 and was overcrowded from the start.^{85,86} Over time, the number of detained and incarcerated people in DOC custody has decreased, reducing problems of overcrowding. However, inspections have determined that other safety and health problems persist.⁸⁷ For example, the U.S.

Figure 6. Incarcerated D.C. Code offenders in jail, under probation, parole, or supervised release 2011 to 2020

D.C. Code offenders under CSOSA supervision



D.C. Code offenders incarcerated at BOP and DOC



Sources: D.C. Justice Statistical Analysis Tool, found at <https://dcjsat.net/>, Court Services and Offender Supervision Agency Congressional Budget Justification Fiscal Year 2023, Corrections Information Council Annual Reports, various years.



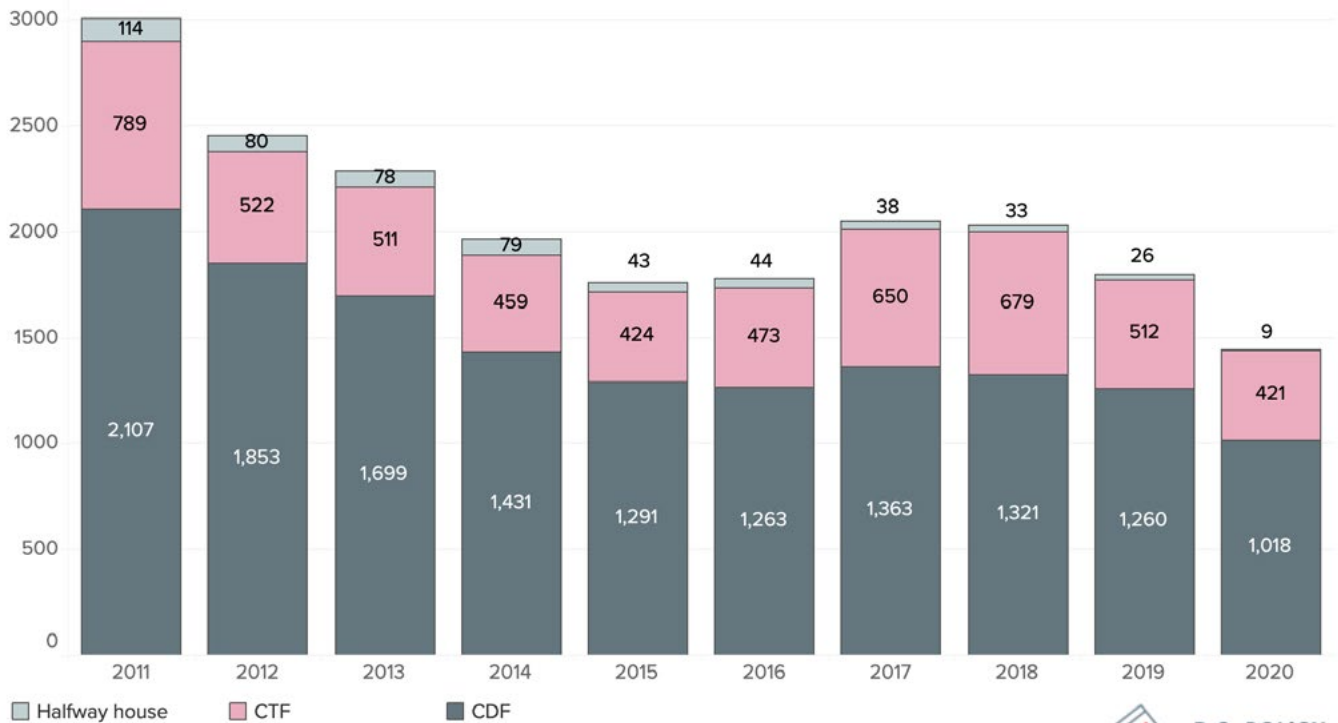
Marshals Service is currently not holding people under their custody in D.C. Jail, citing conditions of the facility.⁸⁸ Mayor Bowser’s most recent budget proposal (FY 2023) contained \$250 million in capital funding to rebuild the CTF over the next six years, including \$25 million to improve conditions for incarcerated persons in the CDF.⁸⁹

The CTF opened its doors in 1992, next to the CDF, as a minimum to medium security facility with 1,400 beds for youth, women, and people with physical and behavioral health needs. The CTF operations were contracted to CoreCivic (formerly the Corrections Corporation of America) for 20 years, and DOC resumed control of the facility in 2017. The facility is currently used for treatment and programming for people in custody. As of 2018, no

persons under 18 are housed in CTF, and instead are in the custody of D.C.’s Department of Youth Rehabilitation Services (DYRS).⁹⁰

Additionally, BOP and DOC contract with privately operated halfway houses. Halfway houses are the last stop for incarcerated D.C. Code offenders returning from BOP custody. In D.C. there is one halfway house for women, called Fairview. The only halfway house for men in D.C., Hope Village, closed in 2020. People who could provide an address were released to home confinement. If no address could be provided, they were returned to prison or sent to a different nearby halfway house.⁹¹ BOP has contracted with an organization called CORE DC to open a new halfway house in D.C., but it has not opened yet.⁹²

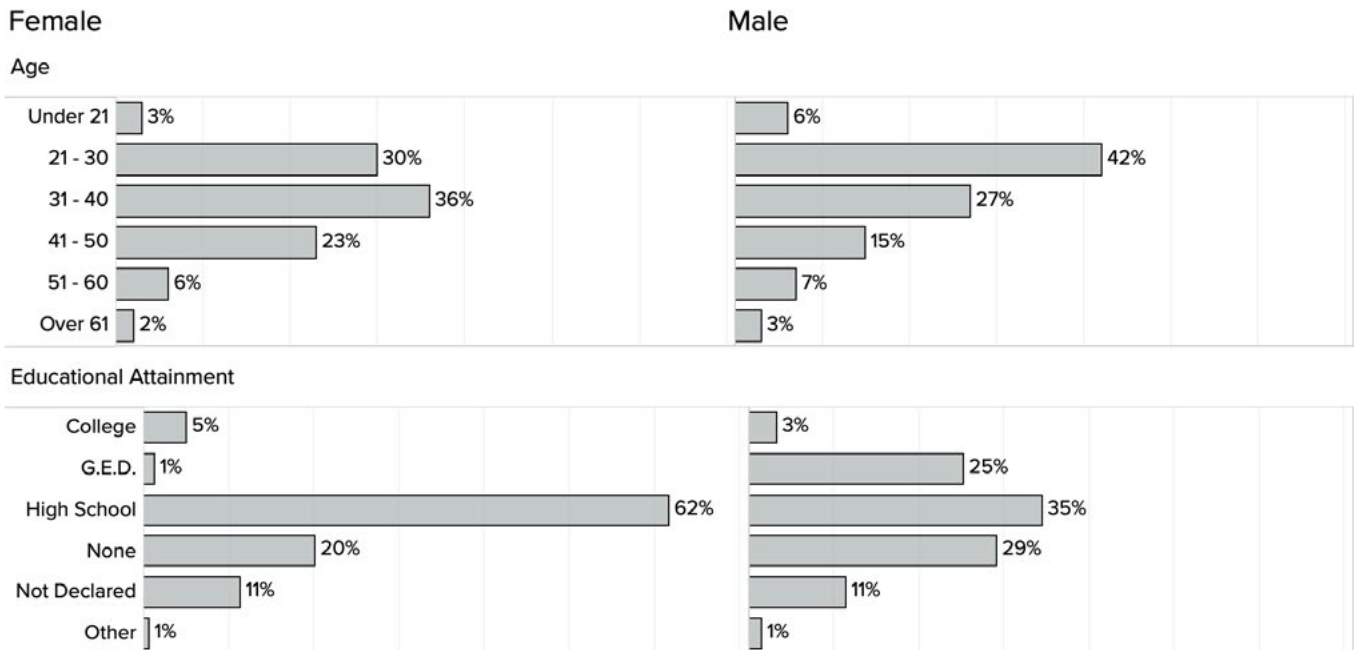
Figure 7. D.C. Code offenders in DOC custody by facility, 2011 to 2020



Source: D.C. Justice Statistical Analysis Tool, found at: <https://dcjsat.net/>



Figure 8. Characteristics of D.C. Code offenders under DOC custody, 2022



Source: D.C. Department of Corrections Facts and Figures, 2022



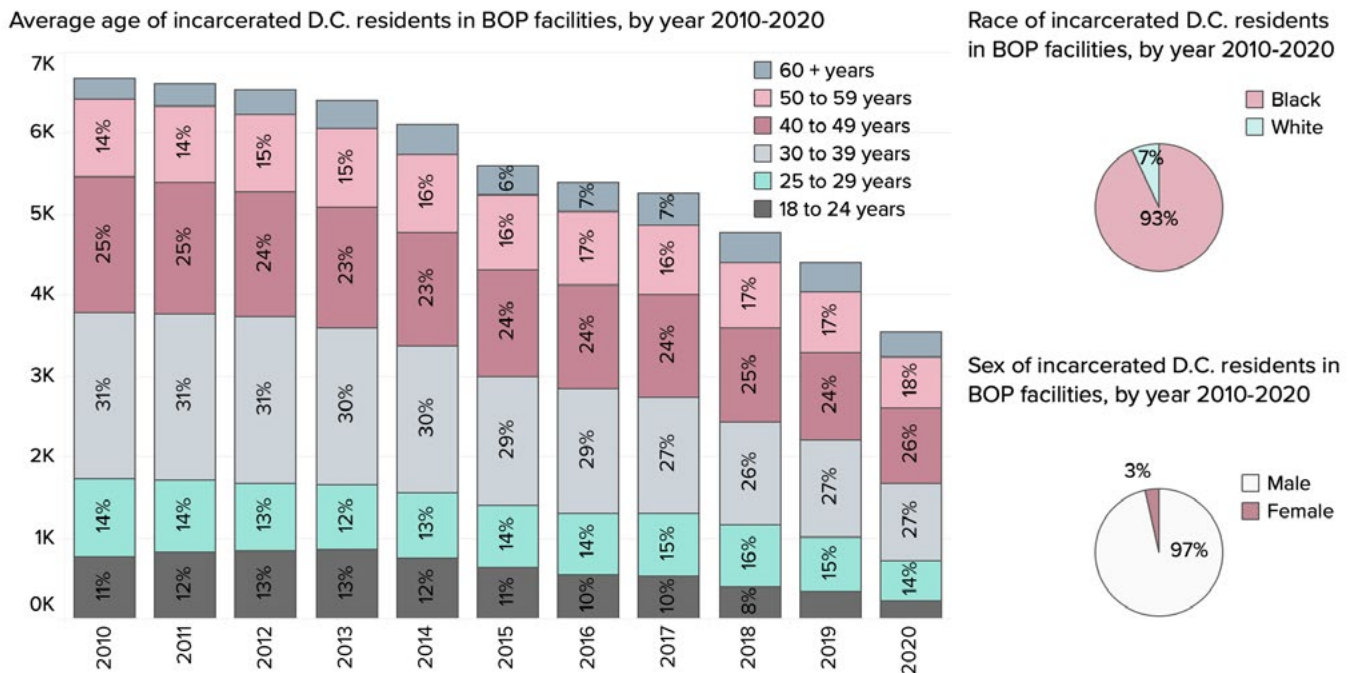
The District's Department of Corrections collects and disseminates information on inmate characteristics, including age, gender, and employment. These data show that most of the inmates are young Black men without a college degree (Figure 8). In the Department of Corrections system, as of July 2022, the daily average population was 1,333 men and 56 women. Of this population, 289 of the men (22 percent) and 55 of the women (98 percent) were at the Correctional Treatment Facility and 1 of the women was in a halfway house. Most people in the DOC system are Black (92.9 percent), young (men were most often aged 21-30 at 41.6 percent of the population, while the plurality of women were 31-40 years old at 36.4 percent of the population), and unemployed (54 percent of men and 60.6 percent of women). Around 60 percent of both men and women in the DOC system for the third quarter of 2022 were being held in pretrial, and a little over 14 percent of each population were reincarcerated within a 12-month period, or, in other words, were charged with an additional crime.⁹³

Bureau of Prisons

The Revitalization Act ordered the closing of the Lorton Correctional Complex, located in Fairfax County, Virginia, and transferred custody of D.C. Code offenders with a sentence of a year or longer to the Bureau of Prisons (BOP), to be sent to federal or privately run prisons.⁹⁴ The last incarcerated person was transferred out of Lorton in 2001.⁹⁵

While all D.C. Code offenders with sentences of over one year are held in Bureau of Prison (BOP) facilities, making BOP a large part of D.C.'s criminal justice system, D.C. Code offenders are a small share of the total BOP population.⁹⁶ As of August 2022, there were a total of 157,775 total federal inmates,⁹⁷ only 2,210 of which are D.C. Code offenders (1.4 percent).⁹⁸ BOP has not attempted to place them in a single facility within the existing system, or a facility where their chances of rehabilitation could be maximized. Reports from the District's Corrections Information Council often include observations of unmet needs for the District's incarcerated residents as well as examples of discrimination and violence in federal facilities.

Figure 9. Characteristics of incarcerated DC residents under BOP custody, 2010-2020

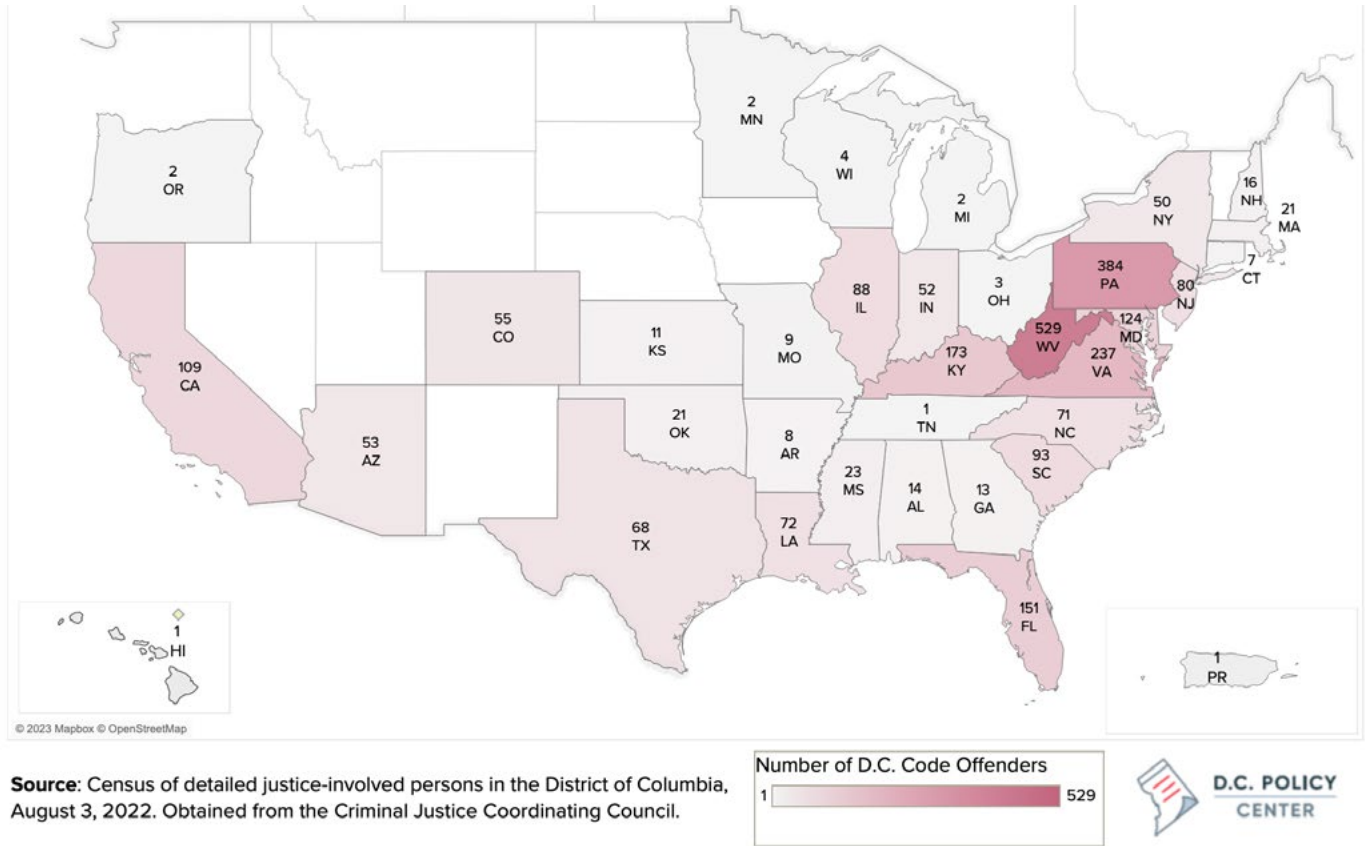


Note: An average is displayed for race and sex as proportions of incarcerated residents have remained fairly constant in the last 10 years. There was a listed race category of "other" that represented less than one percent, and was thus omitted.

Source: D.C. Justice Statistical Analysis Tool, found at <https://dcjsat.net/>



Figure 10. D.C. Code offenders in BOP custody by state, 2022



The number of D.C. Code offenders in BOP facilities has declined over time, but the share of inmates by age, race, and sex have remained relatively stable over the years (Figure 9). Slightly over a fifth of incarcerated D.C. residents under BOP custody are under the age of 30, and incarcerated D.C. residents are predominantly Black males.

No other state has a similar arrangement with the Bureau of Prisons, so it is difficult to compare the incarceration experience of D.C. Code offenders to code offenders in other states. However, desk research for this project showed that there are three main areas of potential impact on the experiences of D.C. Code offenders worth exploring. These include their distance from community and family, the differences between the characteristics of D.C. code offenders and federal code offenders under BOP custody, and the availability of and access to rehabilitation programs for D.C. code offenders.

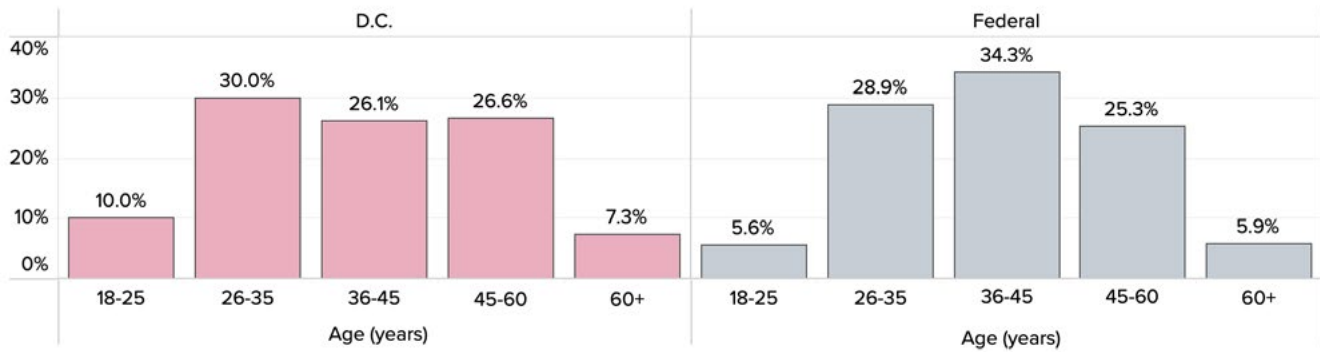
Location of D.C. Code Offenders under BOP Custody

Prior to the Revitalization Act, D.C. Code offenders served their sentences at the Lorton Correctional Complex, a medium security prison for convicted felons outside of D.C. In oral histories recorded in 2013,

D.C. Code offenders often mention that the proximity of Lorton to the District of Columbia allowed them to maintain ties to the community and be able to continue their relationships with family and friends.⁹⁹ After the Revitalization Act, Lorton was closed, and D.C. Code offenders were transferred to various federal facilities around the country. The transfer occurred in three stages, with the first prisoners transferred in March of 1998 and the last transferred in November of 2001.¹⁰⁰ The Revitalization Act requires D.C. Code offenders to be jailed within 500 miles of D.C. “to the extent practicable” (this is a standard BOP policy that is not specific to D.C., which has been codified under the First Step Act).¹⁰¹ However, according to BOP data, more than 45 percent of incarcerated D.C. residents are further away.¹⁰² Incarcerated residents can be held at any of the 122 facilities that BOP operates, as far away as California, Hawaii, or Puerto Rico (Figure 10).¹⁰³

The average distance between D.C. Code offenders and their communities and families is farther than the average distance in other states. The average distance between D.C. and D.C. Code offenders in BOP facilities is 818 miles.¹⁰⁴ While there is no recently available data, one study from 2001 found that the average distance

Figure 11. Age distribution of D.C. Code offenders and federal code offenders

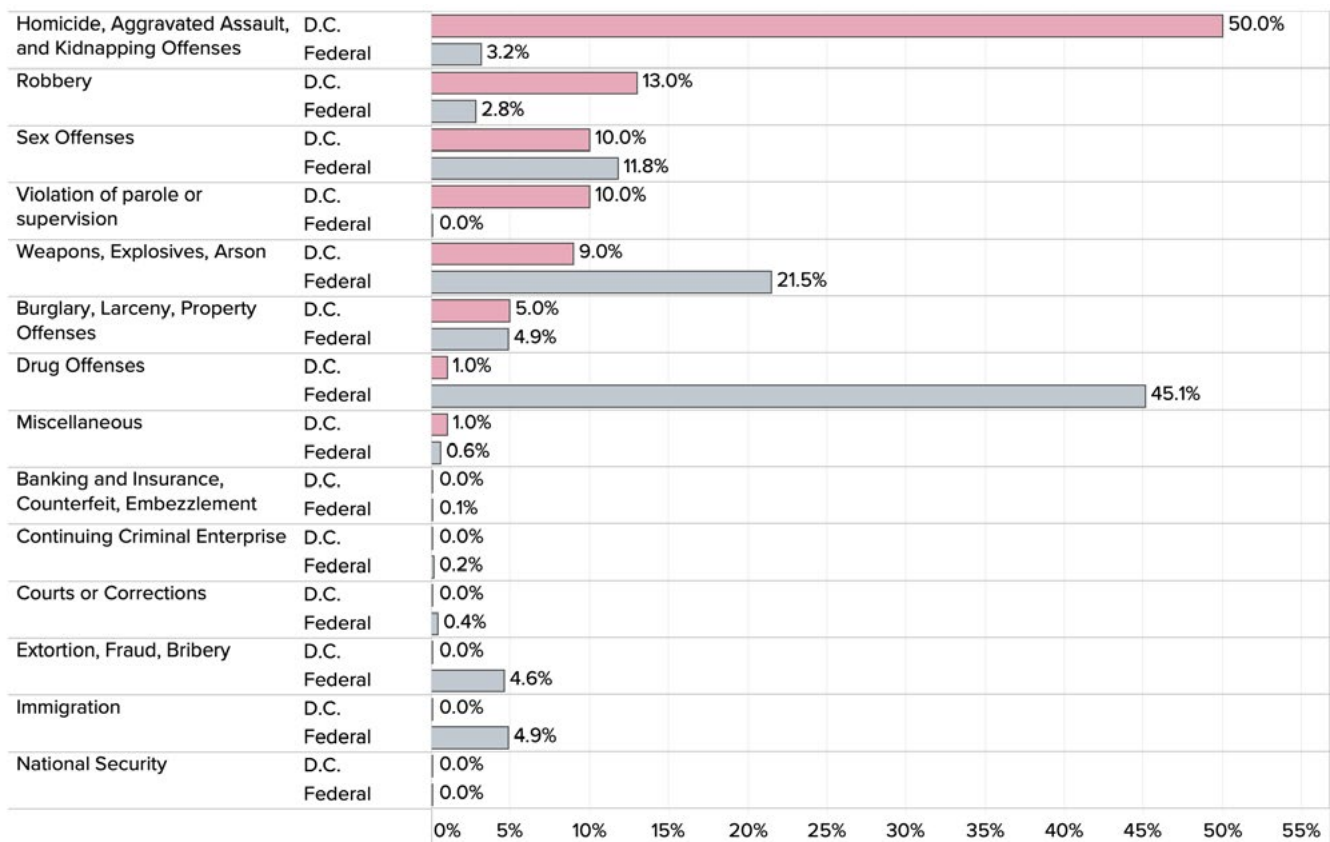


Source: Percentages for D.C. Code Offenders in BOP custody come from the Council for Court Excellence Analysis of BOP Data Snapshot from July 4, 2020, found at http://www.courtexcellence.org/uploads/publications/Analysis_of_BOP_Data_Snapshot_from_7420.pdf

Percentages for federal code offenders are reflective of the population as of July 2022 and come from the Federal Bureau of Prison Statistics, found at https://www.bop.gov/about/statistics/statistics_inmate_age.jsp



Figure 12. Offense type for federal offenders and D.C. Code offenders



Source: Percentages for D.C. Code Offenders in BOP custody come from the Council for Court Excellence Analysis of BOP Data Snapshot from July 4, 2020, found at http://www.courtexcellence.org/uploads/publications/Analysis_of_BOP_Data_Snapshot_from_7420.pdf

Percentages for federal code offenders are reflective of the population as of July 2023 and come from the Federal Bureau of Prison Statistics, found at https://www.bop.gov/about/statistics/statistics_inmate_offenses.jsp



between an incarcerated male and his home or family is 100 miles across all states, and the average distance between an incarcerated female and her home or family is 160 miles.¹⁰⁵

D.C. Code offenders being incarcerated far from D.C. can have negative consequences: Urban Institute research has shown that in-prison contact with family members is a predictor of strong family relations after release and lower recidivism rates.¹⁰⁶ Additionally, being out-of-state during incarceration may result in disruption of certain services. For example, D.C. Code offenders who are incarcerated at the D.C. Jail can have Medicaid coverage suspended instead of revoked, and automatically reinstated upon their release. In contrast, when D.C. Code offenders are incarcerated in BOP facilities, they must reapply for benefits, and could therefore experience gaps in health care coverage.¹⁰⁷

Characteristics of D.C. Code offenders and their security designation

D.C. Code offenders tend to have a very different demographic profile than the rest of the federal prison population. D.C. Code offenders are younger: 40 percent of D.C. Code offenders are under the age of 35, and 10 percent are under the age of 25. In contrast, only 34 percent of federal code offenders are under the age of 35.

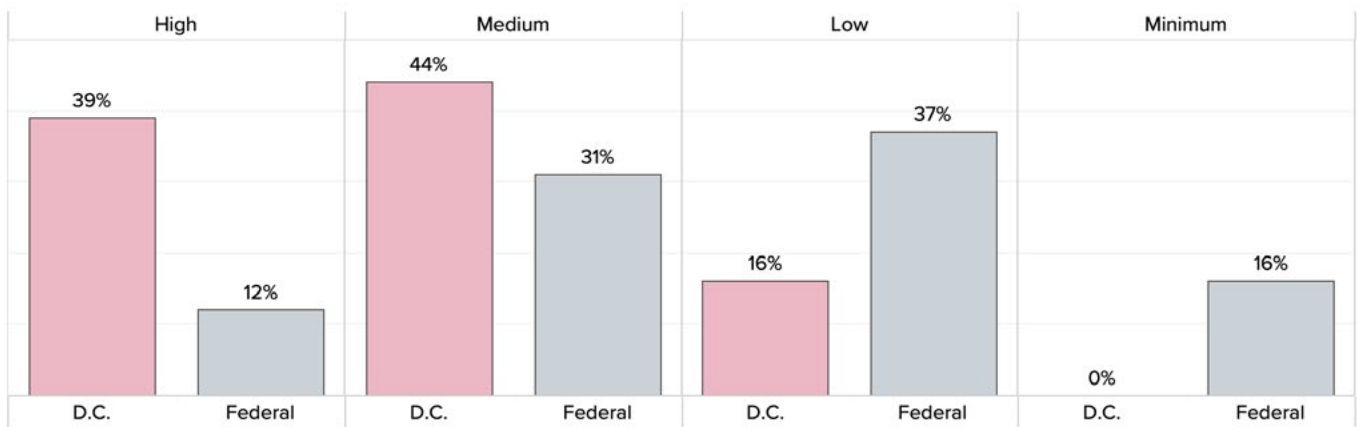
D.C. code offenders are also more likely be serving

time for violent crimes or for violating the terms of their parole or supervised release (Figure 12). Half the D.C. Code offenders serving time in BOP facilities are incarcerated for homicide, aggravated assault, or kidnapping, compared to only 3 percent of federal code offenders. In contrast, nearly half the federal code offenders are serving time for drug related charges. One in 10 D.C. Code offenders is serving time for violating their parole or supervision, whereas that share among federal code offenders is virtually zero.

These differences in population characteristics and criminal charges matter because they feed into BOP’s scoring system for assigning inmates to prisons of different security levels. BOP’s scoring system weighs age, sentence length, and sentence type in its risk assessments,¹⁰⁸ and given the nature of D.C. Code offender sentences and their age profile (multiple BOP formulas use age 25 as a cut-off point, since federal inmates in this age group are much more likely to be serving a life sentence¹⁰⁹), a larger share of D.C. Code offenders serve time in high- or medium-security prisons compared to federal code offenders.

Data from 2020 show that 39 percent of D.C. Code offenders serve time in high-security prisons, compared to 12 percent of federal code offenders. And over half of federal offenders are incarcerated in minimum or low security facilities, compared to less

Figure 13. Security level distribution for federal offenders and D.C. Code offenders



BOP Data Snapshot from July 4, 2020, found at http://www.courtexcellence.org/uploads/publications/Analysis_of_BOP_Data_Snapshot_from_7420.pdf

Percentages for federal code offenders are reflective of the population as of July 2023 and come from the Federal Bureau of Prison Statistics, found at https://www.bop.gov/about/statistics/statistics_inmate_sec_levels.jsp



than 17 percent of D.C. Code offenders (Figure 13).¹¹⁰

For D.C. Code offenders sentenced prior to August 5, 2000, BOP's scoring systems may have created additional unintended consequences. BOP systems for determining security level and programming are designed for determinate sentences. However, D.C. Code offenders sentenced in the pre-revitalization sentencing scheme (in 2020 this number was 611) have indeterminate sentences, or sentences with a minimum and a maximum sentence and parole eligibility following the minimum sentence served. As such, it is possible for those D.C. Code offenders to serve sentences that are much shorter than their maximum sentence. However, because BOP operates under a system with only one length for imposed sentences, when incarcerated D.C. Code offenders were placed in BOP custody, their sentence length was recorded as the maximum sentence length. At the extreme, some D.C. Code offenders may have life sentences as the maximum term but are eligible to reenter society following the completion of their minimum sentence. Federal inmates classified under life sentences are not assumed to reenter society and thus serve in facilities with little programming options preparing them for return. If D.C. Code offenders are grouped with federal code offenders in facilities with few or no rehabilitation programs, their success upon reentry could be impaired.¹¹¹

Access to rehabilitation programs during incarceration

Research shows that access to rehabilitation and educational programs may help returning citizens rebuild their lives.¹¹² A common concern with BOP facilities is that they don't always offer the types of programs that incarcerated D.C. residents may need. This has been a concern for D.C. Code offenders: CIC has, in the past, recommended that BOP fill education staff vacancies and provide more opportunities to acquire a GED as well as more employment opportunities for D.C. Code offenders.¹¹³

There also appears to be a mismatch between the types of programs the United States Parole Commission considers for release decisions for D.C. Code offenders, and programs available in the facilities in which D.C. Code offenders are held. In some cases, even when programs are present in facilities, they often have high waitlists, and BOP can deprioritize incarcerated persons or

render them ineligible until they are within a certain number of months of their release date.¹¹⁴ This is a particularly difficult situation for those who have been sentenced before August 2000 and therefore have indeterminate sentences. These code offenders do not have a determined release date until the USPC grants parole, and therefore could become precluded from many federal programs as participation in these programs requires an upcoming release date for program eligibility.

For example, one of the programs regularly required for parole release of drug offenders is the Residential Drug Abuse Program (RDAP), a program which often has waitlists of over 10,000 inmates. This program was not offered at high security facilities until 2013, and admittance is generally reserved for inmates who are at the end of their sentences, potentially excluding D.C. Code offenders with indeterminate sentences.¹¹⁵ In another example, USPC requires sex offenders to participate in sex offender treatment programming to be considered for parole, as treatment programs have been shown to reduce recidivism. However, sex offender programs are only offered at 2 of the total 122 BOP facilities and are only offered to inmates in the last three years of their sentence.¹¹⁶

When program completion is required for parole release, but the incarcerated person is not able to participate, USPC can work with BOP to ensure it is offered to that incarcerated person before the next parole hearing (typically held every three years). Additionally, in recent years, BOP has allowed some D.C. Code offenders to serve their remaining few months of their sentence in D.C. Jail rather than a BOP facility.

Fiscal implications of not having to operate a state-level prison system

Not having to maintain a state-level prison system has significantly reduced the cost burden on the District of Columbia. In the last year before the implementation of the Revitalization Act, the District government appropriated \$248 million for corrections (or the equivalent of \$575 million in today's prices), and a significant portion of this amount was for the operation of the Lorton Correctional Complex. It is not possible to compare this amount to what is now being spent in the federal budget for the custody of D.C. Code offenders because D.C. Code offenders are a small part of the population under BOP custody

Table 6. Estimated cost of construction and operating a prison

	4,000-bed facility	5,000-bed facility	6,000-bed facility
Construction Costs^A			
	\$385 million to \$500 million	\$481 million to \$625 million	\$560 million to \$750 million
Operating Expenditures			
Correctional and support personnel ^B	\$102.7 million	\$128.3 million	\$154.0 million
Meal Services ^C	\$8.4 million	\$10.5 million	\$12.6 million
Utilities and fixed costs ^D	\$5.9 million	\$7.4 million	\$8.9 million
Medical Expenses ^E	\$21 million	\$30 million	\$30 million
Education expenses ^F	\$3 million	\$4.3 million	\$4.3 million
Other Costs	\$10 million	\$10 million	\$10 million
Operating Expenditures, total	\$151 million	\$189.9 million	\$219.1 million
Budget reserve for capital needs^G			
	\$8.0 million	\$9.5 million	\$11.0 million
TOTAL ANNUAL BUDGETARY NEEDS	\$158 million	\$199.3 million	\$230.1 million

Notes:

^A Construction costs are based on three examples: Utah State Prison in Salt Lake City, UT (2022 delivery), a maximum-security prison in PA (2018 delivery), and the estimated cost of replacing Lorton facility developed in 1995 and adjusted for inflation. These estimates do not include the cost of land.

^B Developed using supervisor and staffing ratios based on ASCA data for states with comparable populations wage and salary data from BLS for supervisors of correctional officers and jailers, and support occupations for the metropolitan Washington area.

^C Based on budget data from facilities in West Virginia, Delaware, Utah, and the federal Westville correction center.

^D This estimate is based on: (1) similar expenditure figures in statewide correctional systems with inmate populations close to D.C.'s, and (2) facility-specific expenditure data from prisons approximately as large as D.C.'s might be.

^E Based on data from 10 states with a combination of direct, contract, and hybrid healthcare services, compiled by the Pew Charitable trusts, adjusted for D.C. area cost of living. The estimate is for 2,500 inmates (the number of inmates in BOP custody as of August 2022), at a cost of \$8,451 per inmate.

^F Based on research from RAND Corporation published in 2014, adjusted for inflation. This estimate assumes that DC would spend \$1,718 per inmate per year on 1,700 inmates (70 percent of all inmates under BOP custody).

^G Estimated at 5 percent of operating budget.

and their cost of incarceration is absorbed within the BOP's \$7.7 billion budget.

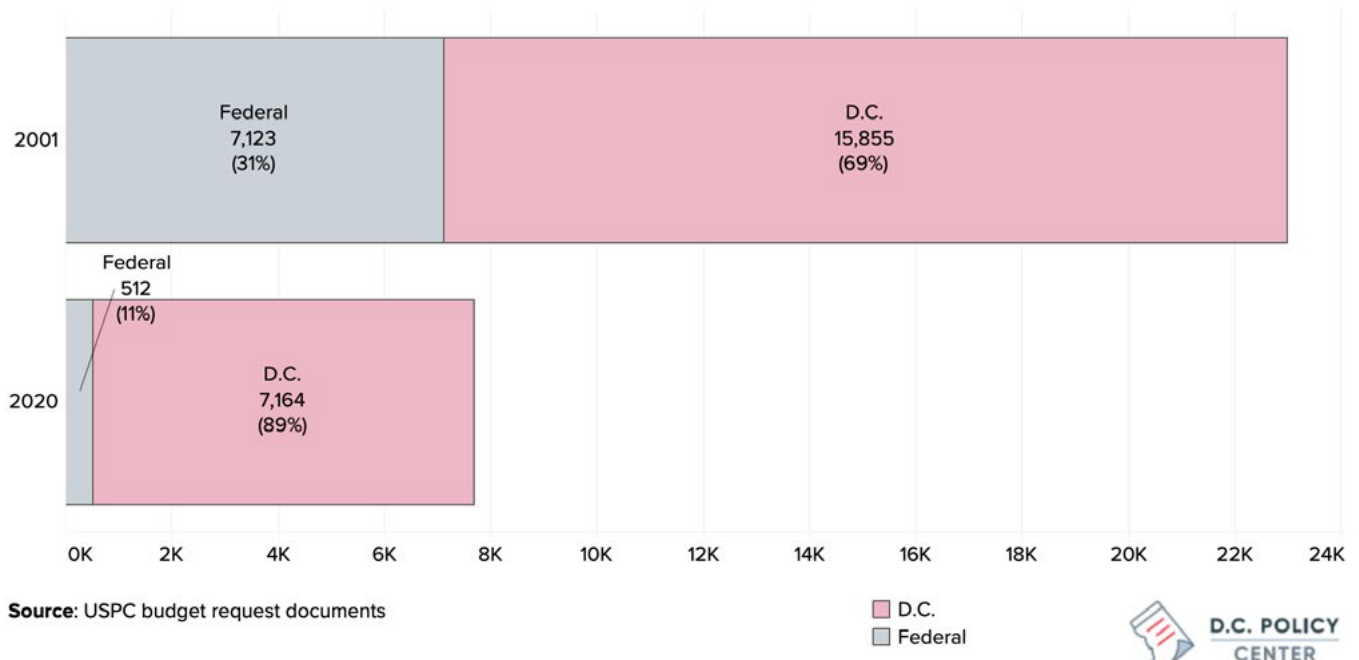
The D.C. Policy Center developed cost estimates of operating a prison in the District of Columbia and have found that the cost of constructing and running a state prison system to be substantial. We estimate that the cost of constructing a 4,000-bed facility could be approximately \$500 million, excluding the cost of land. In addition, the annual operating expenditures could be close to \$160 million. Table 6 provides these cost estimates, and the detailed cost analyses is presented in the Appendix to this report.

Parole: United States Parole Commission

The Revitalization Act transferred the authority over all decisions regarding the release of incarcerated District residents from the District's own Parole Board to the United States Parole Commission (USPC) as of August 2000. This change also gave the USPC responsibility for revocation decisions for the supervised release of D.C. Code offenders.

The U.S. Parole Commission oversees a variety of populations. USPC has jurisdiction over federal offenders who committed offenses before November 1, 1987 and are thus eligible for parole;¹¹⁷ Uniform Code of Military Justice offenders who are in the custody of the Bureau of Prisons; Transfer Treaty cases (United States citizens convicted in foreign

Figure 14. USPC Case load, 2001 and 2020



countries, who have elected to serve their sentence in this country); state probationers and parolees in the Federal Witness Protection Program; and all D.C. Code offenders eligible for parole or serving sentences that include supervised release. For D.C. Code offenders convicted before August 5, 2000, the United States Parole Commission has the power to grant or deny parole following the minimum determined sentence. For those convicted under the most recent sentencing rules, United States Parole Commission has the power to revoke community supervision if terms of release are violated.

Before the Revitalization Act, the USPC was set to be abolished. Parole was eliminated for federal inmates in 1984 and as the population of parole eligible inmates declined, USPC was set to be shut down by the early 2000s.¹¹⁸ With the passage of the Revitalization Act, the USPC gained a new population to oversee, but still must be reauthorized every two years.

D.C. Code offenders make up an ever-increasing share of USPC’s caseload. In 2002, the USPC had 22,978 offenders under its jurisdiction, and District Code offenders made up 69 percent of this group.¹¹⁹ By 2020, the share had gone up to 90 percent (7,164 out of the total caseload of 8,019).¹²⁰

It is difficult to discern whether the USPC is better resourced than the District’s own Parole Board at the time of its closure. At present, USPC’s budget is approximately \$15 million, with potentially a large share of these funds dedicated to the management of the D.C. caseload. USPC also supports a Residential Substance Abuse Treatment Program (RSAT) which has operated out of the D.C. Department of Corrections since 2009 to deliver substance abuse treatment in a correctional facility setting as an alternative for offenders who would otherwise face revocation for low-level violations related to drug addiction and community reintegration failures.¹²¹ In the last year of its operation, the D.C. Parole Board was funded with \$5.75 million (the equivalent of \$11.75 million in today’s prices), but this also included funds for supervision.

There is no publicly available data on release decisions made by USPC, or on the length of sentences served. As such, there is no way to compare release and revocation decisions from USPC to decisions made by the D.C. Parole Board. However, caselaw and testimony suggest that USPC has sometimes deviated from the guidelines developed by the D.C. Parole Board.

Decisions regarding parole eligibility

D.C. Code offenders sentenced before August 5, 2000 received indeterminate sentences, meaning that sentences had a minimum and maximum term for incarceration. After completion of the minimum term of incarceration, D.C. Code offenders are eligible for parole.

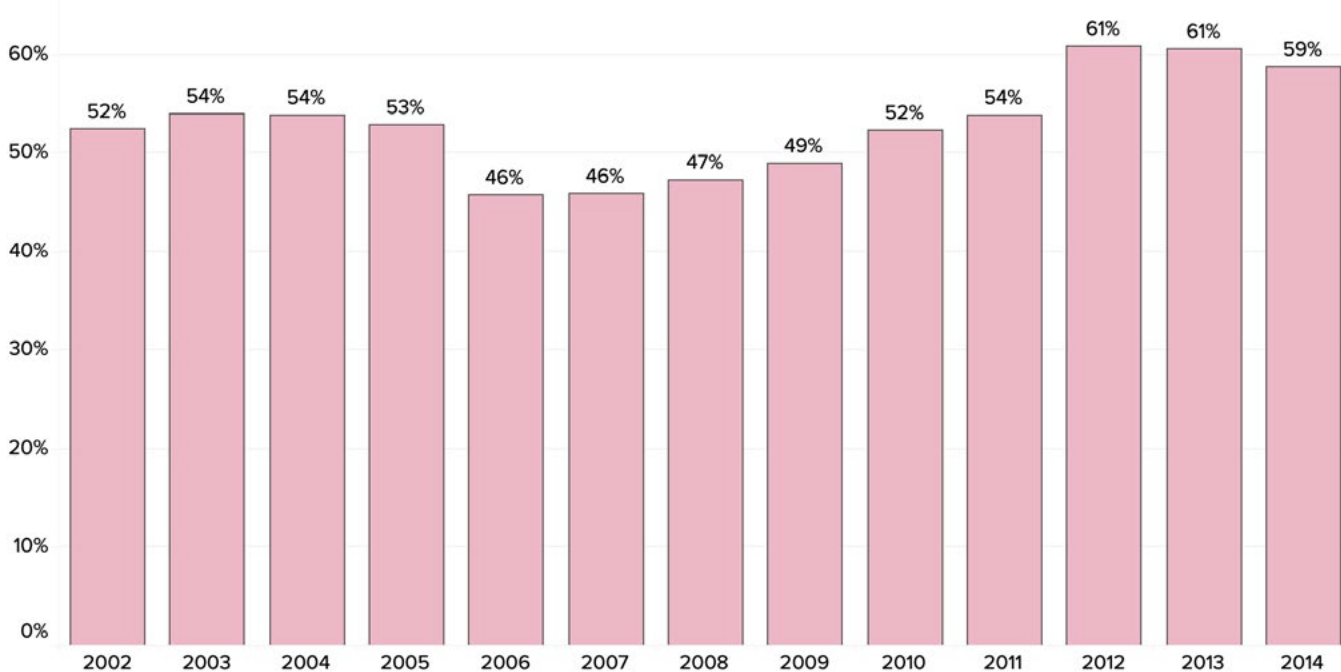
The D.C. Parole Board based its release decisions on guidelines that were updated several times within its history. From its creation in 1932 until 1972, the D.C. Parole Board relied on language in the D.C. Code.¹²² In 1972, the Board released a set of guidelines which consisted of a list of factors that the Parole Board was to consider when making decisions about release. These included prior criminal history, personal information including physical and emotional health, community resources available, and behavior while incarcerated. This decision-making framework for parole was codified in the D.C. Municipal Code of Regulations in 1987. The 1987 Regulations included a point system based on the following four factors: severity of the current offense, salient factor score,¹²³ negative institutional behavior, and program achievement.¹²⁴ In this time period, sentencing

operated in an indeterminate system, meaning that sentences had a minimum and maximum term for incarceration. In 1991, the Board adopted a policy guideline to define the terms used in the appendices to the 1987 Regulations to ensure their consistent application.¹²⁵

Under the 1987 Regulations (and the accompanying 1991 Guidelines), the D.C. Parole Board granted parole to most D.C. Code offenders within 12 months of their minimum sentence. Using data from 1993 to 1998, researchers showed that the D.C. Parole Board granted parole to 40.3 percent of D.C. Code offenders at their initial hearing, and, if not released then, parole was granted to 61.4 percent of D.C. Code offenders at their first rehearing (hearings were usually conducted yearly).¹²⁶ This implies that approximately 77 percent of D.C. Code offenders eligible for parole were released within one year of their initial eligibility date. Data suggest that a smaller share of D.C. Code offenders have been granted parole under the USPC jurisdiction.

When USPC took over parole decision responsibility from the D.C. Parole Board, guidelines for parole release changed from the D.C. Parole Board's 1987

Figure 15. Share of D.C. Code offenders who are parole-eligible and on parole, 2002 through 2014



Source: GAO (2015) Report No. GAO15-359



Regulations and 1991 Guidelines to the USPC’s 2000 Parole Guidelines. While the two sets of guidelines are similar in structure, in practice, the two systems could produce notably different outcomes due to differences in definitions and changes in scoring. Changes to the guidelines included a different scoring system that more heavily weighed the type of offense, changed definitions of program achievement and negative institutional behavior, and additional discretionary language.¹²⁷

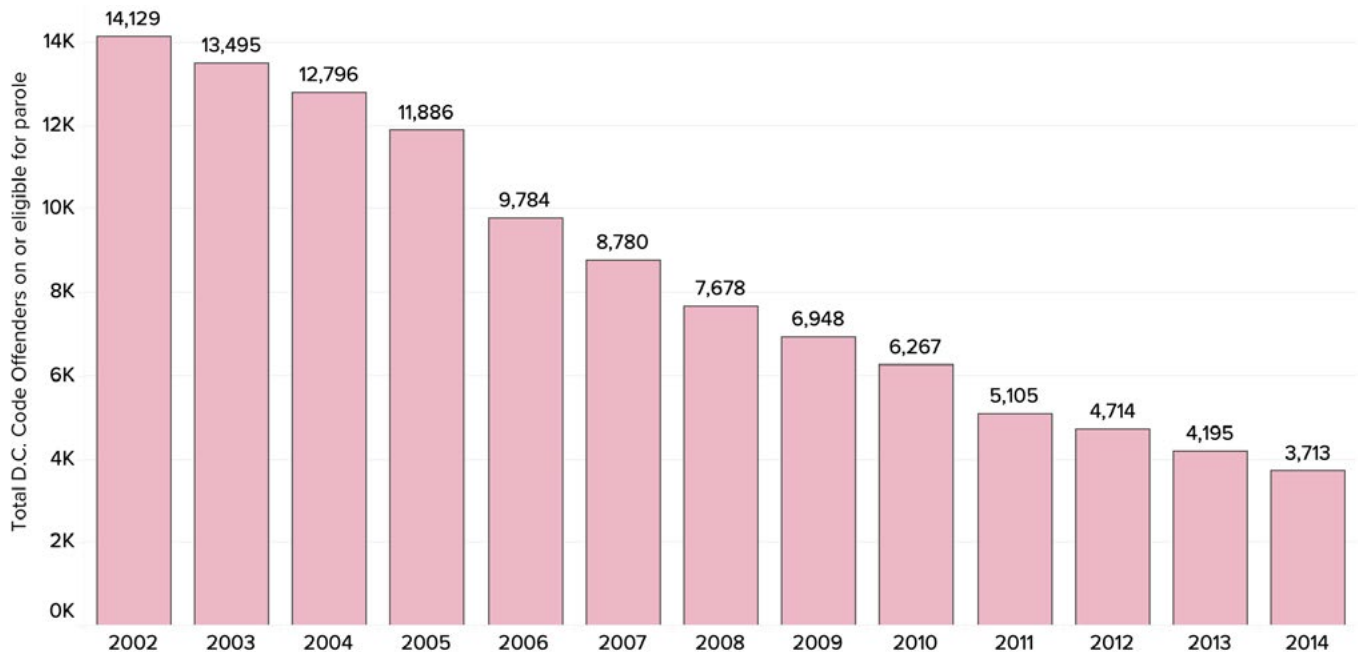
Data analyses conducted by the Government Accountability Office in 2014 show that between 2002 and 2014, on average 53 percent of D.C. Code offenders who are eligible for parole were on parole. The reduction in parole releases may be linked to the transfer from D.C. Parole Board to USPC. First, USPC hearings are generally conducted every three years, although current guidelines allow the commission to hold hearings every five years.¹²⁸ The lower incidence of release could be related to the lower frequency of hearings. It could also be related to the declining parole-eligible population: as time passes, a higher share of D.C. Code offenders sentenced before

August 5, 2000 would be serving longer sentences, associated with more severe crimes, and thus perhaps having a less favorable chance of obtaining a positive parole decision.

There is some evidence that, at least for some parole-eligible D.C. Code offenders, the switch from the District’s 1987 Regulations and 1991 Guidelines to USPC’s 2000 Guidelines resulted in unfavorable parole decisions. In a 2008 legal challenge regarding the imposition of USPC’s 2000 Parole Guidelines to D.C. Code offenders sentenced prior to August 5, 2000 (*Sellmon v. Reilly*),¹²⁹ U.S. District Court found that for some plaintiffs, the new guidelines used by USPC could result in an increased risk of prolonged incarceration, and granted rehearings to many plaintiffs sentenced between 1985 and 2000 who could factually demonstrate that the practical effect of the new policies substantially increased the risk of lengthier incarceration, given the particular facts of their case.¹³⁰

The research for this report could not identify in a single source that systematically tracked how many

Figure 16. Number of D.C. Code offenders who are eligible for parole, 2002 to 2014



Source: GAO (2015) Report No. GAO15-359



D.C. Code offenders were impacted by this court case, able to demonstrate that the new guidelines prolonged their period of incarceration, received a rehearing, and were eventually released. According to USPC's performance review for the Fiscal Year 2011 budget, the interim rules for the Sellmon cases were put into place in September 2009. That year, USPC held 65 rehearings¹³¹ and the next year, it held an additional 34 hearings. The budget request narratives beginning in fiscal year 2013 no longer included this metric, and therefore it is not known if additional rehearings were held. That year, USPC also revised the number of incarcerated D.C. Code offenders who are eligible for parole, although we cannot be sure that this is related to the Sellmon rules.¹³²

As of August 2020, there were 661 D.C. Code offenders in BOP custody who were sentenced under the pre-Revitalization indeterminate sentencing scheme (before August 5, 2000), over half of which had past their parole eligibility date (345 people). Of the total population of D.C. Code offenders in BOP custody, there were 231 people for which three years had passed since their parole eligibility date, 180 people for which six years had passed since their parole eligibility date, and 129 people for which over 9 years had passed since their parole eligibility date.¹³³

Decisions regarding supervised release

Sentences for D.C. Code offenders who were sentenced after on or after August 5, 2000 often include a period of supervised release following incarceration (incarceration must be at least 85 percent of their sentence). This allows them to return to D.C. under the supervision of a Community Supervision Officer but requires that they adhere to certain requirements like drug testing, maintaining employment, and regularly meeting with their supervising officer.

USPC has the authority to revoke supervised release if the terms are violated and can return individuals to prison for the remainder of the supervised release term. D.C. is the only jurisdiction in the U.S. with a board to decide cases on supervised release. In all other states, decisions on supervised release are decided by the courts.¹³⁴ In fiscal year 2020, D.C. supervised release accounted for 63 percent of USPC's work, D.C. parole accounted for 25 percent of USPC's work, and federal code offenders accounted for 12 percent.¹³⁵

CSOSA supervises all D.C. Code offenders on supervised release and submits requests for warrants to USPC if they determine that terms have been violated. Revocations can be due to 'technical violations' (which generally do not involve a criminal offense) such as missing meetings with their Community Supervision Officer, not submitting a drug test on time, testing positive for marijuana, and for new arrests, even if those arrests do not end in charges or conviction. D.C. Code offenders are often incarcerated while waiting for a hearing to determine if supervised release will be revoked, possibly affecting their employment, housing, and families. There is no publicly available data on USPC decisions regarding revocation of supervised release or length of incarceration following revocation of supervised release.

Officials at USPC noted that they have been working to reduce the number of revocations of supervised release. Changes have included reducing the average number of months of incarceration for revocations based on technical violations, as well as the implementation of an evidence-based system called the Short-Term Intervention of Success (SIS)/Pilot Project for Administrative Violators Expedited Resolution (PAVER). Ten years ago, there were approximately 750 people incarcerated for revocations, which is now down to under 100.¹³⁶

Supervision Services: Court Services and Offender Supervision Agency for the District of Columbia

The supervision of D.C. Code offenders on probation, parole, and supervised release falls in the jurisdiction of the Court Services and Offender Supervision Agency for the District of Columbia (CSOSA). CSOSA was established by the Revitalization Act and became an independent Executive Branch agency in 2000 following a three-year period of trusteeship, taking over the probation responsibilities formerly carried by the D.C. Superior Court Adult Probation Division. The Pretrial Services Agency (PSA) is a separate independent entity with separate allocations within CSOSA. Supervision functions are performed by the Community Supervision Program (CSP).

In FY 2021, CSP supervised 9,549 individuals, of which 90 percent were Black, 4 percent were white, and 5 percent were Hispanic. This population has high needs for support, as 7.5 percent had unstable living arrangements, 27.1 percent had mental health

needs, 25 percent had substance abuse needs, and 68.5 percent were unemployed when they started supervision. Of the population CSP supervised between fiscal year 2019 and 2021, 55 percent were under probation, 30 percent were under supervised release, and 12 percent were on parole.¹³⁷

D.C. Code offenders under probation typically remain under CSP supervision for nearly two years, D.C. Code offenders under parole for 12 to 18 years, and those under supervised release for typically longer than three years. The CSP caseload has decreased due to declining number of violent crimes in D.C., but the need for support remains high. The CSP programs have generally been successful: For example, in fiscal year 2020, of the 4,821 cases that exited, 71 percent of cases closed successfully, and 93 percent of closed cases did not result in revocation.¹³⁸

When supervision was under the District's jurisdiction before the Revitalization Act, its budget was included in the court's funding, but program level funding that can help discern this amount is not available. In the first year of the implementation of the Revitalization Act, the federal government budgeted \$43 million for supervision—or the equivalent of \$76.3 million in today's prices. It is unlikely that supervision received

such a large budget when funded by the D.C. government in the 1990s.

The federal resources available for CSOSA'S Community Supervision Program have increased over time. In fiscal year 2021, this amount was \$180 million. This level of funding, given the size of the population under supervision, is much greater than what states typically spend on community supervision. For example, New York's supervision agency's budget is approximately \$140 million for the supervision of nearly 36,000 individuals.¹³⁹ Minnesota's community supervision program supervises 20,000 individuals and receives an annual budget of approximately \$140 million.¹⁴⁰

4. Conclusions and main takeaways

When Congress enacted the Revitalization Act in 1997, its main goal was to put the District of Columbia on a viable fiscal path.

When the federal government assumed fiscal responsibility for pre-trial, trial, incarceration, parole, and supervision responsibilities, it relieved the District from fiscal obligations that accounted for an estimated 11 percent of the city's operating budget in 1998.

The main motivation for this report is to analyze the impact of the Revitalization Act on the District of Columbia's criminal justice system. In conducting this analysis, the D.C. Policy Center worked with the Criminal Justice Coordinating Council (CJCC) to meet with ten local and federal agencies to gather historical perspective, discuss the current status of each agency, and acquire data, when possible. The information presented in this report relies on multiple publicly available sources including annual reports of federal and local government entities, public databases, budget requests, congressional testimony, and case law. The D.C. Policy Center also conducted desk research of studies that provide historical and system perspectives.

It is difficult to provide an assessment of what the District's criminal justice system would have looked like if all of its components were under local control. Similarly, it is difficult to compare the District's criminal justice system to the systems in other jurisdictions on matters including funding, operations, and demographics of the District's incarcerated population. Therefore, the analysis in the report is focused on comparing funding availability

to the criminal justice system before and after the Revitalization Act, and providing performance metrics, when possible, with comparisons to such metrics prior to the Revitalization Act.

The first takeaway of this report is that publicly available information was insufficient to develop a clear picture of institutional practices and decision-making processes. To build this picture, the report had to rely on case law, testimony, and other secondary sources such as scholarly articles, reports, and third-party analyses, which may have potentially introduced anecdotes and interpretations from the authors of the said studies that could not be verified by data, into the analyses.

The lack of a repository of practices that shape the system may be linked to the intricate system of criminal justice agencies created by the Revitalization Act. As discussed, the District's criminal justice system is made up of federal, local, and independent entities sometimes funded by federal sources, sometimes funded by the District of Columbia government (and sometimes both). Entities that make up the system report to different authorities, and therefore may have different priorities. This means there is no single (or consistent) goal or performance target. This made it difficult to paint a full picture that tracks outcomes across the entire system.

The second takeaway of this report is that there were significant fiscal benefits from the federal takeover of various components of the criminal justice system—as intended by the Revitalization Act. At the time of its implementation, the District was relieved of criminal justice system related expenditures, which made up approximately 11 percent of the city's operating budget. Further, today,

federally funded entities receive budgets that are much higher than the inflation-adjusted budgets (i.e. adjusted for today's prices) they received from the D.C. government the last time they received local funds, as well as the federal budgets they received at the time of the transfer. That is, not only does the District not have to pay for these operating expenses, but the federally funded components of the criminal justice system are also much better resourced than they were when under District control.

The third takeaway is that some elements of the current system may have resulted in negative outcomes for District of Columbia residents. These include:

- High vacancies in courts and slow appointment of judges: While the current system imposes a timeline for the President to appoint a judge when there is vacancy in D.C. Courts, there is no timeline over which the Senate must hold a confirmation vote. This is the process for all Senate confirmations, not just for D.C. judges, but it has led to increased vacancies since there is little political pressure District voters can use to press the Senate for timely confirmation actions. While this issue is tied to the Home Rule Act of 1973 and not the Revitalization Act of 1997, the issue persists and has been exacerbated by the backlog of cases created by the COVID-19 pandemic.
- A prison system that may have contributed to reduced success upon reentry. D.C. Code offenders are only a small portion of the population under BOP custody, and they are housed in prisons that are far away from their families or communities. The Revitalization Act did not require BOP to place D.C. Code offenders in a particular facility or provide a particular type of environment. While it is BOP policy to place offenders within

500 miles of their home, when possible, over 45 percent of D.C. Code offenders are held more than 500 miles from D.C., which can result in cut ties with community, family, and result in disruption of services such as health care. While no publicly available data exists that systematically tracks how D.C. Code offenders have been treated and what types of rehabilitation activities they participate in, other research shows that D.C. Code offenders typically do not participate in educational programming and are sometimes placed in high-security prisons that do not offer rehabilitation or educational programs.

- A parole system that is not transparent. There is surprisingly little public information in the outcomes of parole hearings and whether USPC makes timely decisions to reduce the amount of time served after eligibility for parole or supervision. Additionally, data suggest that fewer D.C. Code offenders have been released on parole under USPC jurisdiction than under the jurisdiction of D.C.'s parole board.

The fourth takeaway from this study is that the District's criminal justice system, especially its parts funded by the federal government, remain extremely well resourced compared to what was available prior to the Revitalization Act (and often compared to what other states can spend). When compared in real terms adjusted for inflation, the District's pretrial services, public defender service, court system, and supervision entities receive funding that is far greater than the amount of funding that was available to them prior to the Revitalization Act. This has created access to an extremely successful public defender service and robust supervision services which have generally been successful in reducing recidivism and increasing post-reentry success.

5. Appendices

Appendix 1: Timeline of D.C. criminal justice agency creation, 1801 - 1995

1801: Circuit Court created, including Justices of the Peace and Orphans Court. D.C. local jurisdiction is under the Circuit Court.

1802: The original charter of Washington was approved. The city was granted centralized police authority, the power to establish patrols and impose fines, and the power to establish inspection and licensing procedures. The D.C. police had only an auxiliary watch with one captain and 15 policemen until the establishment of a formal police force in 1861.¹⁴¹

1838: Criminal Court created.

1861: The Metropolitan Police Department (MPD) was created, with an authorized force of 10 sergeants, up to 150 patrolmen, and up to 10 precincts.

1863: President Lincoln abolishes the Circuit Court because of perceived Southern loyalties of the sitting judges. Supreme Court of the District of Columbia is created. The new court had four judges selected based on political loyalties to the United States. Local jurisdiction switches to D.C. Supreme Court.

1870: Police Court created in 1891 (shares jurisdiction with D.C. Supreme Court).

1872: The first D.C. jail is built.¹⁴²

1893: Court of Appeals for the District of Columbia created. This court was later renamed the U.S. Court of Appeals for the District of Columbia in 1943.

1906: Juvenile Court created.

1909: Municipal Court created.

1910: Lorton Correctional Complex opened, including the Lorton Reformatory, originally named the District of Columbia Workhouse. Over the years, Lorton inmates constructed a railroad (1910), farmed cows and chickens and turkeys (1940s to 1960s), and the prison even served as a missile site for the US Army (1950s to 1970s).¹⁴³

1912: A women's workhouse was added to Lorton.

1932: The D.C. Parole Board is created.¹⁴⁴

1935: A juvenile facility and maximum security penitentiary were both added to Lorton.

1936: D.C. Supreme Court becomes the District Court for the United States.

1937: Tax Court is created.

1942: Municipal Court and Police Court become Municipal Court for the District of Columbia, The Municipal Court of Appeals for the District of Columbia becomes the Intermediary Court for D.C.

1946: The DC Department of Corrections (DOC) is established as an agency. DOC combines the first D.C. Jail (established 1872) with the Lorton Correctional Complex. (established 1910).¹⁴⁵

1948: U.S. Court of Appeals for the District of Columbia becomes a fully federal court alongside the U.S. District Court for the District of Columbia.

1962: The Municipal Court of Appeals becomes the District of Columbia Court of Appeals. Municipal Court becomes the D.C. Court of General Sessions.

1963: Pretrial Services Agency was created with a Ford Foundation grant. It became an official agency under the Executive Office of the Mayor with the passage of the Bail Agency Act in 1967. It was later renamed the D.C. Pretrial Services Agency in 1978, and then Pretrial Services Agency for the District of Columbia in 2012.¹⁴⁶

1970: Congress establishes separate courts for the District of Columbia: the D.C. Superior Court (DCSC) and the D.C. Court of Appeals (DCCA).¹⁴⁷ Local jurisdiction switches to DCSC and DCCA.

1972: D.C. Parole Board publishes its first set of parole guidelines. Previously governing rule came from the D.C. Code.

1973: Congress passed the D.C. Self-Government and Governmental Reorganization Act (Home Rule Act), granting the city limited local control.¹⁴⁸ The Home Rule

Act provided for an elected Mayor and a 13-member Council, delegating certain powers to the new government.¹⁴⁹ However, this new D.C. government was prohibited from taxing federal property and nonresident income.¹⁵⁰ Congress also retained legislative veto power over Council actions through passive oversight and required active approval of the District's budget as a part of the federal appropriations process.¹⁵¹

1976: The Central Detention Facility opens, located in southeast D.C.

1987: New guidelines for the D.C. Parole Board go into effect, which were later clarified in 1991.

1992: The Correctional Treatment Facility opens in D.C.¹⁵²

Appendix 2. Full list of agencies interviewed for this report

Bureau of Prisons, April 25, 2022

Department of Youth Rehabilitation Services, May 2, 2022

Pretrial Services Agency, May 2, 2022

Office of Victim Services and Justice Grants, May 3, 2022

Department of Corrections, May 11, 2022

D.C. Superior Court, May 12, 2022

D.C. Office of the Attorney General, May 19, 2022

U.S. Parole Commission, May 23, 2022

U.S. Marshals Service, May 26, 2022

CSOSA, August 8, 2022

Appendix 3. Methodology for developing a prison cost estimate

If the District were to take back responsibility for all D.C. Code offenders, it would have to build a new prison and operate it. The cost of a new prison system would be highly dependent on the level of programming and other policy decisions the District makes. These include the type of facility the District chooses to invest in, the policies it adopts in running the prison, and policies related to how the District builds the prison.

One path open to the District of Columbia is to build a unified system for the entirety of its incarcerated population—including a state prison, a jail, CTF, and halfway homes. Six other states, with populations similar to DC's have such systems, including Alaska, Connecticut, Delaware, Hawaii, Rhode Island, and Vermont.¹⁵³ This would allow city could leverage DOC's existing budget, existing facilities, and even settle on policies that reduce the number of incarcerated D.C. residents.

The District could even choose, in the short term, to contract with nearby states and pay a daily fee for each incarcerated citizen. However, if one goal of taking over the control of the prison system is to bring incarcerated people close to D.C., this option offers limited opportunities, given the limited availability of beds nearby: There are only 74 unfilled beds across Maryland. If the District were to lease these beds to house incarcerated DC residents, it would likely have to spend at least \$35,791 per inmate per year or \$2.65 million for all available beds.¹⁵⁴ Virginia appears to no longer contract with other states to hold inmates.¹⁵⁵ The next best alternative available to D.C. is West Virginia, which already houses the largest share of incarcerated D.C. residents. To provide services to D.C. Code Offenders and keep them close to the District, D.C.'s best option is to build a prison for incarcerated residents currently in BOP custody.

An important factor that would significantly impact costs is the size of the prison. At present, the total number of incarcerated D.C. residents, including those in CDF, CTF, under BOP custody or in halfway homes is approximately 5,200. This number has been declining over the years—it was over 8,000 in 2012—largely due to the reduction of the number of inmates under BOP custody, which itself has been driven by lower levels of violent and serious crime. Further, as noted elsewhere, different sentencing guidelines adopted under

statehood and a system that delivers less punitive parole decisions than currently handed out by USPC could significantly reduce the number of incarcerated residents, bringing the total incarcerated population to under 4,000. For these reasons, this report will provide a range for estimated costs: one alternative with 4,000 beds and another with 6,000 beds. When possible, the estimates also include per bed costs.

Examples from other states suggest that the cost of building a new prison for 4,000 to 6,000 inmates could range between \$400 million and \$750 million. The annual operating costs for such a facility would range between \$180 million and \$230 million depending on the capacity. To compare, the annual budget for the entire DOC including the expenditures for the two facilities it operates is approximately \$180 million. Of this amount, about 20 percent is allocated to functions related to agency management, and the rest are directly spent on costs associated with incarceration. This means that if the District builds a new facility that houses all incarcerated residents, including the current residents at the CTF and CDF, approximately \$140 million of existing DOC budget can be used to pay for the operating costs of the new prison. This would cover somewhere between 65 to 85 percent of operating costs, but create two to three times the current capacity under DOC.

Construction expenses

It is difficult to estimate the construction costs of this prison without any specific plans, but recent experience from other states show that these costs are substantial.¹⁵⁶ When Congress began exploring closing the Lorton Prison and replacing it with a new one in 1995,¹⁵⁷ one study from that time estimated that it would cost the District at least \$300 million to build a new prison with a capacity of 5,000 beds, provided that the city can find free land.¹⁵⁸ In today's dollars, this would be \$507 million.

Data from more recent prison construction projects show that the costs might be much higher than what was envisioned in 1995. Recently built prisons have generally integrated enhanced recreational amenities (gyms, classrooms, etc.) and modern technologies (keyless locks, etc.), raising construction costs. One such example is the Utah State Prison in Salt Lake City, UT, which is expected to be completed in 2022. This

Table 7. Estimated cost of construction for a new state prison, excluding land

	4,000 beds	5,000 beds	6,000 beds	Notes
Based on PA maximum security project (2018)	\$385 million	\$481 million	\$580 million	Estimate driven by “per bed” construction cost adjusted for inflation and location
Estimated based on Replacement cost for Lorton	\$405 million	\$507 million	\$610 million	1994 estimate adjusted for inflation
Based on UT construction (2022 delivery)	\$500 million	\$625 million	\$750 million	Estimate driven by “per bed” construction cost adjusted for location

Note: The estimated per bed costs for the Utah project is \$125,000. The estimated per bed cost of construction for the PA project is \$96,000.

is a facility with a planned bed capacity of 3,600.¹⁵⁹ It is estimated to cost \$592 million to construct, and the state is also paying \$100 million to purchase the land.¹⁶⁰ Project information suggests that construction costs are approximately \$125,000 per bed. This would imply that a 4,000-bed facility would cost approximately \$500 million to construct and a 6,000-bed facility would cost \$750 million, when adjusted for the higher labor costs in the D.C. area. Another example is the recently completed maximum security facility in Collegeville, PA, which has a bed capacity of 3,830 and cost the state of PA \$350 million to construct (excluding the cost of land, which was \$50 million). The PA construction costs suggest that replicating the project for a 4,000-bed facility would require \$385 million and for a 6,000-bed facility, the cost would be \$580 million. We estimate that the District would need to allocate \$500 to \$750 million to pay for the construction of a prison.

Operating expenses

A prison will require ongoing operational expenses related to prison programs, ranging from healthcare to education. Expense predictions presented in this brief draw on cost data from: (1) corrections budgets in states with inmate populations comparable to D.C.’s,¹⁶¹ and (2) budgets specific to correctional facilities approximately as large as D.C.’s might be. This cost estimate falls within the range of corrections expenditure figures from states with comparable inmate populations.

Some operating costs would depend on the prison capacity and whether the District unifies the city jail, the Correctional Treatment Facility, and a state prison in a single building.¹⁶² These include the costs associated

with staffing of correctional officers and day to day needs of individuals such as meals and uniforms. Other operating costs would largely be driven by need. For example, health care services will likely be more targeted towards the state-prison population who would return from BOP custody to DOC custody under statehood. The current jail population would also need health services, but given that their average stay in D.C. jail is 31 days, this population would not be the main recipient of health (and especially mental health) services beyond what is already provided by DOC. Similarly, education services would largely target the longer-term population.

Staffing and personnel expenses

Across state prison systems, personnel expenses (excluding personnel related to medical care)—including salaries, overtime, and benefits—make up more than two-thirds (68 percent) of total spending.¹⁶³ These costs depend on the inmate to personnel ratio and will also partly be driven by prison design. Research on other state prison systems show that the typical inmate to correctional officer ratio could be as low as 3.5-to-1 (Maryland) and as high as 21-to-1 (California). The nationwide average is 6.4-to-1 for correctional officers.¹⁶⁴ However, this ratio is much lower—3.7—in states with inmate populations most comparable to D.C.¹⁶⁵ Additionally, the prison would have to hire other non-correctional personnel.¹⁶⁶ These ratios suggest that the District might have to hire anywhere between 1,368 and 2,053 employees for a new prison, including correctional officers, supervisors, and other employees that would fill support roles. Based on the salaries that these occupations command in the region, the total

Table 8. Estimated personnel needs and cost (excluding healthcare providers) in the new prison

	4,000-bed capacity	5,000-bed capacity	6,000-bed capacity
Correctional staff ^A	800	1,000	1,200
Supervisors ^A	281	351	422
Other ^B	287	359	431
Total	1,368	1,711	2,053
Correctional Staff Salaries ^C	\$56,764,800	\$70,956,000	\$85,147,200
Supervisor Salaries ^C	\$29,290,897	\$36,613,622	\$43,936,346
Other staff salaries ^C	\$16,645,966	\$20,807,458	\$24,968,950
Total	\$102,701,664	\$128,377,080	\$154,052,496

Notes:^A Based on ASCA data for states with comparable populations.^B Based on data from US Department of Justice.^C The annual salary for correctional officers in the Washington metropolitan area is \$59,130 for supervisors of correctional officers and jailers is \$86,840, and for support occupations is \$48,270. The estimates all use 20 percent allowance for fringe benefits and taxes.**Table 9. Estimated cost of healthcare per inmate per year**

Type	State	State budgeted cost	Adjusted for D.C.
Contract	Delaware	\$8,408	\$9,102
	Nebraska	\$8,583	\$10,786
	New Mexico	\$12,293	\$16,377
	West Virginia	\$3,970	\$4,708
Direct Services	Alaska	\$7,239	\$7,775
	Hawaii	\$5,422	\$5,188
	South Dakota	\$5,626	\$7,196
	Utah	\$4,560	\$5,638
Hybrid	Montana	\$8,084	\$9,894
	Rhode Island	\$7,593	\$7,850
Average		\$7,178	\$8,451

Source: Pew Charitable Trusts, Prison Health Care: Costs and Quality How and Why States Strive for High-Performing Systems. Cost of living adjustments for D.C. are based on cost of living index created by the Missouri Economic Research and Information Center.

personnel costs could range anywhere between \$103 million and \$154 million. These estimates are in line with what other states are spending on correctional personnel¹⁶⁷ (excluding costs related to medical professionals in states that directly provide healthcare for the correctional system).¹⁶⁸

Healthcare expenses

All state prison systems provide healthcare services—including mental and behavioral care¹⁶⁹—but each system organizes services differently. Some have

in-house programs with paid staff and directly provide healthcare, others contract this function out, and others use a hybrid system. Healthcare expenses include costs of compensating of medical professionals, equipment, and residential and continuing care initiatives such as substance abuse programs.¹⁷⁰ The funding for these services can be also scattered around state budgets, recorded sometimes in correction agency budgets and other times in mental health or health department budgets.

An examination of these different arrangements for states with comparable prison populations suggest that states spend as low as \$3,970 per year per inmate (West Virginia), and as high as \$12,293 per inmate (New Mexico) on healthcare in prisons. The average cost of healthcare for the group is \$7,178 per inmate per year. However, many of these locations have lower costs-of-living than D.C. Adjusting these costs for the relatively higher cost in the area produces a per inmate annual cost estimate of \$8,451. It is important to note that not all populations will have similar healthcare needs, especially if the District chooses a unified system that combines a jail with a prison.

If the main recipients of health care services are long-term incarcerated residents, which now stands at approximately 2,500, then the annual spending on health care will be approximately \$21 million. This number could decline if the revised criminal code or a new parole board results in fewer incarcerated residents. It could also be higher if the health care needs of incarcerated D.C. residents are greater than the needs of prison populations in other states.

Educational expenses

In 2016, the U.S. Department of Education reported that over 70% of U.S. inmates wanted to pursue academic programs in 2014.¹⁷¹ While all did not ultimately enroll, the District would do well to offer educational options to as many interested inmates as possible. As the RAND Corporation noted in 2014, correctional education reduces recidivism; dollars spent on education in prison are dollars saved on reincarceration.¹⁷²

D.C. could anticipate yearly educational programming expenses of roughly \$3 million to meet the needs of its

longer-term prison population. This estimate assumes that D.C. would spend \$1,718 per inmate per year on 1,750 inmates (70 percent of all inmates under BOP custody). The yearly per-inmate expenditure figure reflects the median of the RAND Corporation’s 2014 estimate that educating an inmate for a year costs, on average, \$1,400-1,744, adjusted for inflation.

Dining expenses

D.C. could anticipate dining services expenses of approximately \$2,108 per inmate per year. This would require an annual expenditure of \$8.4 million to \$12.6 million, depending on the prison population. This estimate is based on: (1) food expenditure figures in statewide correctional systems with inmate populations close to D.C.’s, and (2) facility-specific expenditure data from prisons approximately as large as D.C.’s might be. The estimate reflects a slight reduction of the average cost obtained using the data below, because the prisons and prison systems listed serve, on average, more inmates than D.C.’s would. The average food expenditure was \$8.79 million for a population of 5,202 inmates.¹⁷³

Utilities and other fixed costs

D.C. could anticipate of \$5.9 million to 8.9 million for utilities and other fixed costs, excluding capital investments and land related costs. This estimate is based on: (1) similar expenditure figures in statewide correctional systems with inmate populations close to D.C.’s, and (2) facility-specific expenditure data from prisons approximately as large as D.C.’s might be. Average overhead expenditures were \$5.9 million for a population of 4,346 inmates.¹⁷⁴

Table 10. Estimated costs of meal services

System (year of information)	Annual budget	Per inmate	Per inmate, adjusted for inflation and location
West Virginia (2019)	\$7,860,000	\$1,232	\$1,479
Delaware (2017)	\$15,500,000	\$2,818	\$3,221
Utah (2012)	\$7,820,000	\$1,399	\$1,950
Westville Correction Center (2019)	\$1,368	\$1,711	\$2,053
Average			\$2,108

	4,000-bed	5,000-bed	6,000-bed
Estimated annual cost of meals	\$8,430,015	\$10,537,519	\$12,645,023

Other costs

Prisons incur miscellaneous costs unrelated to those listed above including uniform purchases, employee training, travel, and inmate labor compensation. These expenses vary substantially according to variables such as inmate population growth, employee turnover, and facility wear. For these reasons, as well as due to a dearth of sufficiently disaggregated data from other states, it would be difficult to offer accurate estimates of D.C.'s future expenses. \$10 million serves as a placeholder estimate for miscellaneous expenses.

Capital reserve

The District would have to create a capital reserve to meet the longer-term upkeep of its prison. We used in our estimates a capital reserve equal about 5 percent of annual operating budget.

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Endnotes

¹ The 1990-91 recession was one of the shortest and mildest recessions in the U.S. history. The recession lasted for 8 months from June 1990 to March 1991, but employment did not recover until 1992.

² General Accounting Office (1995), “District of Columbia Financial Crises, Statement of John W. Hill, Jr. Before the Subcommittee on the District of Columbia, Committee on Appropriations, and the Subcommittee on the District of Columbia, Committee on Government Reform and Oversight, House of Representatives.”

³ Bouker, J. (2008). Appendix 1 - The D.C. Revitalization Act: History, Provisions and Promises.

⁴ District of Columbia Financial Responsibility and Management Assistance Act of 1995, Pub. L. 104-8 (1995).

⁵ The high spending in Medicaid was due to two factors. First, while the District’s median income was higher than the fifty states, concentrated poverty meant a large share of residents were eligible for Medicaid. Second, because of the high median income, the District had to match 50 percent of all Medicaid expenditures—the highest match rate possible under the federal formula.

⁶ Prior to Home Rule in 1974, all D.C. government employees were technically federal government employees eligible for pension. When D.C. received Home Rule, these employees were reclassified as D.C. government employees, and city became liable for their pension benefits, which was estimated to be \$2 billion and was entirely accumulated by the federal government. Over the next twenty years, this unfunded pension liability grew to \$5 billion.

⁷ By 1995, Lorton had around 7,300 inmates, or 44 percent more than intended for that facility.

⁸ “Prison Set Ablaze During Riot.” (1986). Chicago Tribune.

⁹ Public Law 93-198; 87 Stat. 774 D.C. Official Code § 1-201.01 et seq. Approved December 24, 1973.

¹⁰ The District’s Attorney General is responsible for the prosecution of minors.

¹¹ Code of the District of Columbia § 1–204.33. Nomination and appointment of judges.

¹² “About DOC.” DOC.

¹³ “History of the DC courts.” District of Columbia Courts.

¹⁴ For a brief period, the PDS was under the CSOSA umbrella.

¹⁵ US General Accounting Office, “D.C. Criminal Justice System: Better Coordination Needed Among Participating Agencies.”

¹⁶ First enacted in 1984, truth in sentencing laws require offenders to serve a substantial portion of their sentence in prison. In 1994, the U.S. Congress authorized funding through the Violent Crime Control and Law Enforcement Act of 1994 for incentive grants that allowed states to receive funding for building more state prisons and jails in return for adopting truth in sentencing provisions. By 1998, 27 states and the District of Columbia had met the eligibility criteria for the Truth-in-Sentencing program. Another 13 states have adopted truth-in-sentencing laws requiring certain offenders to serve a specific percent of their sentence in prison. For details, see Ditton and Wilson (1999).

¹⁷ Revitalization Act at §§ 11202. The Revitalization Act originally stipulated that at least 2,000 D.C. Code

offenders be housed in privately-operated facilities by December 31, 1999, and 50 percent of D.C. sentenced felons be held in private facilities by September 30, 2003. This requirement was superseded by a provision in Public Law 106-553, enacted on December 21, 2000. This provision stated that starting in fiscal year 2001, D.C. Code offenders will only be placed in privately-operated facilities if necessary, based on Federal classification standards or threats to public safety. Public law 106-53. (2000, December 21). 106th Congress. Retrieved from <https://www.congress.gov/106/plaws/publ53/PLAW-106publ53.pdf>.

¹⁸ Revitalization Act at §§ 11241.

¹⁹ In FY 2021, the total budget for USPC was \$13,539,000. U.S. Department of Justice. (2022). “United States Parole Commission: FY 2023 Performance Budget.”

²⁰ In 1979, the Congress enacted the District of Columbia Retirement Reform Act of 1979 to address the ongoing concerns with the underfunding of the District’s pension plans. At the time of the enactment of the Home Rule Act, the plans had about 7,700 retirees and about 14,100 active plan participants as of January 2, 1975.

²¹ But because of the cash difficulties, the District had to defer its contributions in fiscal year 1994. For more details, see Statement of John W. Hill, Jr. Before the Subcommittee on the District of Columbia (1995).

²² The Revitalization Act required that the Truth in Sentencing Commission “convert the District’s sentencing system for all subsection (h) felonies from an indeterminate system of minimum and maximum prison terms, with parole, to a determinate system with a single prison term imposed, at least 85 percent of which the defendant would be required to serve, followed by a period of supervision following release from incarceration.” This meant longer sentences in almost all cases. The Commission submitted its legislative recommendations to the D.C. Council on February 1, 1998. D.C. Council did not have the ability to amend this language—it could either fully accept the proposals or fully reject them—which would have allowed the Attorney General to adopt the final legislation in whatever way she deemed appropriate. The bill was enacted as the Truth in Sentencing Amendment Act of 1998 (DC Law 12-165; DC Code § 24-203.1 et seq.).

²³ “Truth in sentencing commission.” Truth in Sentencing Commission.

²⁴ By 2000, 16 states and the District of Columbia had changed their sentencing practices to impose determinate sentences, and the federal government was offering funds to states to make the switch. In FY 1998’s

budget, the Violent Offender Incarceration and Truth-in-Sentencing (VOI/TIS) Incentive Formula Grant Program provided funds to states for multiple purposes. Half of the funds were for states to build or expand correctional facilities and jails. The other half of the funds were made available as incentive awards to states that implement truth-in-sentencing laws. “Violent offender incarceration and truth-in-sentencing (VOI/TIS) incentive program: Overview.” (2012). Bureau of Justice Assistance.

In a survey of 27 states who met federal grant requirements for truth-in-sentencing laws, 15 states said that federal grants were a factor in the change of law. “Truth in sentencing: Availability of federal grants influenced laws in some states: Report to congressional requesters” (1998). GAO.

²⁵ CJCC is funded from both federal sources (60 percent) and local budgets (40 percent).

²⁶ There are many law enforcement agencies in the D.C. with the authority to place individuals under arrest, many of which are federal. Law enforcement agencies include the United States Secret Service, United States Marshals Service, United States Capitol Police, the Federal Bureau of Investigation. A list of agencies that cooperate with MPD can be found at Covered Federal Law Enforcement Agencies. (n.d.). Retrieved from <https://mpdc.dc.gov/page/covered-federal-law-enforcement-agencies#:~:text=The%20Police%20Coordination%20Act%20covers,Squadron%2C%20Bolling%20Air%20Force%20Base.>

²⁷ For details, please see Public Welfare Foundation, “D.C.’s Justice Systems: An Overview.”

²⁸ The U.S. Attorney prosecutes most adult criminal cases in the Superior Court. In cases involving juveniles, traffic violations, or certain low-level “quality of life” misdemeanors, the Office of the Attorney General of the District of Columbia is the prosecutor.

²⁹ For details, see Bouker, “The D.C. Revitalization Act: History, Provisions and Promises.”

³⁰ D.C. Law 15-335. Department of Youth Rehabilitation Services Establishment Act of 2004. <https://code.dccouncil.gov/us/dc/council/laws/docs/15-335.pdf>

³¹ Stana, R., D.C. criminal justice system: Better Coordination needed among participating agencies (2001). Washington, D.C.; U.S. General Accounting Office.

³² Council for Court Excellence and State Justice Institute, “Journalists’ Handbook to the Courts in the District of Columbia.”

³³ Moyd et al., Restoring Control of Parole to D.C.

³⁴ This office prosecutes federal crimes, a function also performed by the U.S. Attorney's offices in other states. Unlike other offices, this office represents the United States and its departments and agencies in civil proceedings filed in federal court in the District of Columbia.

³⁵ Email received from USA Graves on April 22, 2022.

³⁶ These include local funds, special purpose funds, and dedicated funds.

³⁷ The federal funds largely support "Child Support Services" authorized under Title IV-D of the Social Security Act, which performs duties such as locating absent parents, establishing paternity, monetary orders, medical support orders, collecting ongoing support and enforcing delinquent support orders.

³⁸ The Public Defender Service, "Mission & Purpose."

³⁹ PDS generally handles more serious criminal cases including felony cases, criminal appeals, parole revocations, and all defendants in the District of Columbia Superior Court requiring representation at Drug Court sanctions hearings. CJA attorneys (who are private attorneys who have been screened, put on a panel, and are paid on a case by case basis), handle less serious criminal cases.

⁴⁰ Interview with D.C. Superior Court, May 12, 2022.

⁴¹ Various budget documents used for the analyses in Table 1.

⁴² Public Defender Service Fiscal Year 2023 Congressional Budget Justification, (2022).

⁴³ Interview with DCSC, May 12, 2022.

⁴⁴ Public Law 89-519, 80 Stat. 327, enacted on July 26, 1996.

⁴⁵ Pretrial Services Agency for the District of Columbia. "Budget Request for Fiscal Year 2022."

⁴⁶ Interview with Pretrial Services Agency, May 2, 2022.

⁴⁷ "Court Services and Offender Supervision Agency for the District of Columbia FY 2021 Agency Financial Report." Budget and Performance (2021). Pretrial Services Agency.

⁴⁸ District of Columbia Courts. "2019 Annual Report."

⁴⁹ D.C. is one of the 11 jurisdictions in the country with a single appellate court. For details, see D.C. Access to Justice Commission, "Delivering Justice: Addressing Civil Legal Needs in the District of Columbia," 82.

⁵⁰ These include translation services, navigators, specialized services for veterans, services for disabled residents, mental habilitation advocates for residents with disabilities and mental health services for court participants. There are also services for juveniles, and civil and legal assistance programs. For details see District of Columbia Courts, "2019 Annual Report."

⁵¹ District of Columbia Courts, "Fiscal Year 2022 Budget Justification."

⁵² "History of the DC courts." District of Columbia Courts.

⁵³ GAO, "United States Department of the Treasury District of Columbia Pensions Program Actuarial Valuation Report."

⁵⁴ For details see Budget Request narratives for various years available on the D.C. Courts website.

⁵⁵ Justices are appointed by the president and thus outside of Court staffing authority to hire or let go. As over 75 percent of Court budgets go toward salaries and benefits, non-judicial staff had to be let go.

⁵⁶ FY 2022 Court budget justification.

⁵⁷ This includes justices of the Supreme Court, judges of the Circuit Courts of Appeal, judges of the District Courts, judges of the Court of International Trade, and judges of the United States Court of Federal Claims and the United States territorial courts.

The federal judicial vacancy count on 12/1/2021. Ballotpedia.

⁵⁸ Alexander, K. L. (2022). "Biden nominates three new judges to D.C. Courts." The Washington Post.

Flynn, M. (2022). "Senate moves to confirm new D.C. judges amid vacancy crisis." The Washington Post.

Flynn, M.; Brice-Saddler, M. (2022). "D.C. courts 'sound the alarm' on judicial vacancies as local officials demand movement in Senate." The Washington Post.

⁵⁹ Austermuhle, M. (2022, December 16). Senate confirms seven judges for D.C. Courts, addressing vacancy 'crisis'. DCist. Retrieved December 20, 2022, from <https://dcist.com/story/22/12/16/senate-confirms-7-dc-judges/>.

⁶⁰ For details see Judicial Nomination Commission, "About JNC."

⁶¹ Other states are not reliant on congress or the President to nominate judges. While states can use a variety of methods as part of the judicial selection process, many states use a form of election at some level of court. In 22 states, judges are selected through either partisan or non-partisan elections, and in 16 states judges are appointed by the governor and subsequently go through retention elections.

⁶² “District of Columbia Judicial Nomination Commission Report of Recommendations and Chief Judge Designations and Presidential Appointments to the District of Columbia Court of Appeals and the Superior Court of the District of Columbia May 8, 1975 to September 30, 2021.” Judicial Nomination Commission. (2021).

⁶³ Bannon, “The Impact of Judicial Vacancies on Federal Trial Courts.”

⁶⁴ This more than doubles 2020’s judicial caseloads, partly due to an over year-long pause in jury trials due to the COVID-19 pandemic.

Flynn, M., & Brice-Saddler, M. (2022). “D.C. courts ‘sound the alarm’ on judicial vacancies as local officials demand movement in Senate.” The Washington Post.

⁶⁵ Interview with Pretrial Services Agency, May 2, 2022.

⁶⁶ Le Dem, G. (2021). “With jury trials on pause, a growing number of inmates are being held indefinitely at the D.C. jail.” DCist.

⁶⁷ “DOC Facts and Figures, April 2022”

⁶⁸ For details, see Budget Request narratives for various years available on the D.C. Courts website.

⁶⁹ Yang, “Resource Constraints and the Criminal Justice System: Evidence from Judicial Vacancies on JSTOR”; Austermuhle, “Judges Say ‘Unprecedented’ Vacancies At D.C. Court Are Slowing The Legal System | DCist.”

Bannon, A. (2014). “The impact of judicial vacancies on Federal Trial Courts.” Brennan Center for Justice.

⁷⁰ “District of Columbia Sentencing Commission history and Timeline.” District of Columbia Sentencing Commission History and Timeline.

⁷¹ The Revitalization Act required that the Truth in Sentencing Commission “to convert the District’s sentencing system for all subsection (h) felonies from an indeterminate system of minimum and maximum prison terms, with parole, to a determinate system with a single prison term imposed, at least 85 percent of which the defendant would be required to serve, followed

by a period of supervision following release from incarceration.” This meant longer sentences in almost all cases. The Commission submitted its legislative recommendations to the D.C. Council on February 1, 1998. Because Council did not have the ability to amend this language—it could either fully accept the proposals or fully reject them—which would have allowed the Attorney General to adopt the final legislation in whatever way she deemed appropriate. The bill was enacted as the Truth in Sentencing Amendment Act of 1998 (DC Law 12-165; DC Code § 24-203.1 et seq.). For details, see District of Columbia Sentencing Commission, “History of the District of Columbia Sentencing and Criminal Code Revision Commission.”

⁷² Truth in sentencing commission. “Truth in Sentencing Commission.”

⁷³ Ditton, P., Wilson, D. (1999). “Truth in sentencing in state prisons.”

⁷⁴ Advisory Commission on Sentencing Establishment Act of 1998, D.C. Law 12-167, D.C. Code § 3-101 et seq.

⁷⁵ “Fiscal Year 2022 Approved Budget and Financial Plan, Volume 2”. Office of the Chief Financial Officer. Page 509.

⁷⁶ Sabol, et al. Influences of Truth-In-Sentencing Reforms on Changes in States’ Sentencing Practices and Prison Populations, Final Report. NCJ 195161. Urban Institute.

⁷⁷ District of Columbia Sentencing Commission history and Timeline. “District of Columbia Sentencing Commission History and Timeline.”

⁷⁸ The District of Columbia Sentencing Commission. (2022). “Voluntary Sentencing Guidelines Manual.”

⁷⁹ Advisory Commission on Sentencing. (2003). Sentencing and criminal code revision commission 2003 Annual Report. “Sentencing and Criminal Code Revision Commission 2003 Annual Report.”

⁸⁰ Austermuhle, M., “D.C. Council approves sweeping overhaul of Criminal Code, though changes won’t take effect until 2025.”

⁸¹ Criminal Justice Coordinating Council, “One-Day Estimate of Justice System Involved Individuals within the District of Columbia.”

⁸² The number of youth who are justice involved has gone down significantly over time, from over 1000 youth to around 100 in 2022. This is largely due to diversion courts, prosecution choices from the Attorney General, and restorative justice programs.

Interview with the Department of Youth Rehabilitation Services, May 2, 2022

⁸³ Most but not all D.C. Code offenders are District residents. Additionally, individuals in DOC custody can include those under the jurisdiction of MPD, the US Marshal Service, and more.

Census of Detained Justice-Involved Persons in the District of Columbia, August 3, 2022. Obtained from CJCC.

⁸⁴ Most recent data are from 2021. For details, see “CSOSA.” Also see Robin Selwitz, “Obstacles to Employment for Returning Citizens in D.C.” on the life outcomes of returning citizens under CSOSA supervision.

⁸⁵ District Task Force on Jails & Justice, “Jails & Justice: A Framework for Change.”

⁸⁶ In 2007, the CDF’s capacity was capped by DOC at 2,164 people. D.C. Department of Corrections, “Correctional Facilities.”

⁸⁷ For details, see Patterson et al., “Poor Conditions Persist at Aging D.C. Jail; New Facility Needed to Mitigate Risks.”

⁸⁸ Lynch, S. N. (2021). “U.S. Marshals to remove 400 detainees from D.C. Jail due to poor conditions.”

⁸⁹ Gathright, J. (2022). “D.C. mayor Bowser’s budget proposal includes funding to replace troubled jail.”

⁹⁰ This practice ended with the passage of D.C. Law 21-238, the Comprehensive Youth Justice Amendment Act of 2016.

⁹¹ Many D.C. Code Offenders are currently placed at VOA Baltimore (34 out of 91 total as of August 3), 29 were in home confinement, and 9 in the Wilmington, DE RRC.

Census of Detained Justice-Involved Persons in the District of Columbia, August 3, 2022. Obtained from CJCC.

⁹² Lerner, K. (2020), “Closure of D.C.’s only men’s halfway house leaves residents scrambling for a safe place to live.”

⁹³ D.C. Department of Corrections, “Facts and Figures, July 2022.”

⁹⁴ Revitalization Act at §§ 11202.

⁹⁵ The Washington Post. (2001), “Inmates moved; Lorton shut after 91 years.”

⁹⁶ The number of D.C. Code Offenders has decreased significantly over time, but it has always been a small subset of the overall population. The population has been decreasing as the number of people released significantly outpaced the number of people admitted. This has been further exacerbated by the pandemic, as there were no trials or court proceedings for over a year.

⁹⁷ BOP, “Federal Bureau of Prisons Population Statistics.”

⁹⁸ Census of Detained Justice-Involved Persons in the District of Columbia, August 3, 2022

⁹⁹ Lorton Prison Stories Project (2014). Available at <https://lortonprison.blogspot.com>.

¹⁰⁰ When this transfer was completed, there were 6,082 D.C. Code offenders under BOP custody. This group collectively made up 4 percent of federal prison population. For details, see Roman & Kane (2016).

¹⁰¹ Some D.C. Code offenders are more likely than others to be housed more than 500 miles away, due to specific needs of D.C. Code offenders and availability in federal facilities. People more likely to be housed further away include inmates with significant medical needs who must be placed in our Federal Medical Centers, special management inmates (for example, inmates requiring protective custody); and ‘discipline cases’.

Lappin, H. (2010), “Housing D.C. Felons Far Away From Home: Effects on Crime, Recidivism, and Reentry.”

¹⁰² Calculation based on locations provided in the Census of detailed justice-involved persons in the District of Columbia, August 3, 2022. Obtained from the Criminal Justice Coordinating Council.

¹⁰³ According to the most recently available data, federal prisons and contract facilities in West Virginia hold the largest number of D.C. residents, followed by Pennsylvania. These are followed by facilities in North Carolina, Virginia, Kentucky, South Carolina, New Jersey, Florida, Maryland, and California.

¹⁰⁴ This number is an average of distance between the locations of D.C. Code offenders in BOP facilities, weighted by the number of D.C. Code offenders in each BOP facility. The average distance between D.C. and the BOP facilities (not weighted by the number of D.C. Code offenders in each location) is 1,400 miles. The names of BOP facilities and number of D.C. Code offenders in each facility were acquired from the census of detailed justice-involved persons in the District of Columbia, obtained from the Criminal Justice Coordinating Council in August 2022.

¹⁰⁵ This is a widely cited statistic, but the original estimate can be found in Hagan & Coleman (2001).

¹⁰⁶ La Vigne, N. (2014), “The cost of keeping prisoners hundreds of miles from home.”

¹⁰⁷ D.C. Legislation from 2015 allowed for the “suspension of coverage” while a person is incarcerated rather than “termination”. DOC sends a list to the Department of Health Care Finance, which manages Medicaid, monthly to let them know about people being released. When people are released, their status is changed back to active and they can immediately access health insurance. BOP does not release lists of people being released, and thus local agencies are not notified to restart service provision.

Council for Court Excellence. (2016). “Beyond Second Chances - Returning Citizens’ Re-Entry Struggles and Successes in the District of Columbia.”

¹⁰⁸ Browning, “Three Ring Circus: How Three Iterations of D.C. Parole Policy Have up to Tripled the Intended Sentence for D.C. Code Offenders.”

¹⁰⁹ Browning, “Three Ring Circus: How Three Iterations of D.C. Parole Policy Have up to Tripled the Intended Sentence for D.C. Code Offenders.”

Percentages for D.C. Code Offenders in BOP custody come from The Council for Court Excellence Analysis of BOP Data Snapshot from July 4, 2020, found at http://www.courtexcellence.org/uploads/publications/Analysis_of_BOP_Data_Snapshot_from_7420.pdf.

¹¹⁰ Percentages for D.C. Code Offenders in BOP custody come from The Council for Court Excellence Analysis of BOP Data Snapshot from July 4, 2020, found at http://www.courtexcellence.org/uploads/publications/Analysis_of_BOP_Data_Snapshot_from_7420.pdf.

Percentages for federal inmates are reflective of the population as of July 2022 and come from Federal Bureau of Prison inmate statistics, found at https://www.bop.gov/about/statistics/statistics_inmate_age.jsp.

¹¹¹ Browning, S. (2016). Three Ring Circus: How Three Iterations of D.C. Parole Policy Have up to Tripled the Intended Sentence for D.C. Code Offenders.

¹¹² See for example the 2016 report from the Charles Colson Task Force on Federal Corrections available at <https://www.urban.org/sites/default/files/publication/77101/2000589-Transforming-Prisons-Restoring-Lives.pdf>.

¹¹³ District of Columbia Corrections Information Council, “USP Victorville Inspection Report.”

¹¹⁴ For example, applications for the Residential Drug Abuse Treatment Program (RDAP) must be within 36 months of their release date. This same requirement is in place for many other programs include sex offender treatment. Ellis, A. and Bussert, T. “Residential Drug Abuse Treatment Program.”

Rodd, “D.C.’s Broken Parole System”

¹¹⁵ RDAP eligibility information can be found at Council for Court Excellence. (2020). “Analysis of BOP data snapshot from July 4, 2020 for the District Task Force on Jails & Justice.”

¹¹⁶ Rodd, “D.C.’s Broken Parole System.”

¹¹⁷ Importantly, in 1984, the Congress eliminated parole for federal defendants convicted of offenses committed after November 1, 1987.

Sentencing Reform Act of 1984 was enacted as a part of the Comprehensive Crime Control Act of 1984 (Pub. L. 98–473, S. 1762, 98 Stat. 1976, enacted October 12, 1984.)

¹¹⁸ Fulwood, I. “History of the Federal Parole System.”

¹¹⁹ GAO, “U.S. PAROLE COMMISSION: Number of Offenders under Its Jurisdiction Has Declined; Transferring Its Jurisdiction for D.C. Offenders Would Pose Challenges.”

¹²⁰ U.S. Department of Justice, “U.S. Parole Commission FY 2021 Budget Request.”

¹²¹ The RSAT program has a capacity of 75 beds for males, 25 beds for women, and a program length of up to 120 days, with 30 days of community-based inpatient or outpatient treatment.

¹²² The language in the D.C. Code, which still exists today but is superseded by agency guidelines, states that for a release it must “appear to the Board of Parole that there is a reasonable probability that a prisoner will live and remain at liberty without violating the law, [and] that his release is not incompatible with the welfare of society.” D.C. Official Code § 24-404 (2001).

¹²³ Salient factor score (SFS) is a system that creates a number score between 1 and 10 based on the following 7 items: prior convictions, prior commitments, age at first commitment, whether the commitment offense involved auto theft or checks, whether parole had ever been revoked or the inmate is a probation violator, history of opiate dependence, and verified employment or full-time school attendance for at least 6 months during the last 2 years in the community. The higher the score, the higher the probability of release and lower risk of reoffense.

Hoffman, P. B., & Adelberg, S. (1980). "Salient Factor Score - A Nontechnical Overview. Federal Probation," 44, 1, 44-52.

¹²⁴ Browning, "Three ring circus: how three iterations of DC parole policy have up to tripled the intended sentence for DC Code offenders."

¹²⁵ Op.cit. Ellen Segal Huevelle, District Judge, May 5, 2008. Sellmon v. Reilly, 551 F. Supp. 2d 66 (D.D.C. 2008).

¹²⁶ Sabol, et al. "Sentencing and Time Served in the District of Columbia Prior to 'Truth-in-Sentencing.'" NCJ 191860.

¹²⁷ First, both guidelines use a point system called the Salient Factor Score (SFS), a system that creates a number score based on several items including prior convictions, prior commitments, age at first commitment, whether parole had ever been revoked or the inmate is a probation violator, history of opiate dependence, and verified employment or full-time school attendance for at least 6 months during the last 2 years in the community. The higher the score, the higher the probability of release. The 2000 guidelines adjust the SFS for the violence of the current offense, negative institutional behavior, and program achievement. Additionally, the 2000 guidelines include weights for criminal history, creating higher scores for people with a prior record, give a point benefit to being over the age of 41, and, unlike the 1987 guidelines, do not give a point boost to incarcerated people with no history of heroin or opioid dependence. All of these changes factor into the final Grid Score, which can determine parole eligibility. Second, the 2000 guidelines' definition of negative institutional behavior is much more broad than previous definitions, encompassing many BOP administrative procedures and as much as tripling the amount of time before incarcerated people were eligible for parole. Every disciplinary infraction adds two months to each parole eligibility date, and any behavior that violates criminal laws could add anywhere from 8 months to 120 months to an incarcerated person's sentence. Third, the definition of program achievement narrowed in the 2000 guidelines, from sustained effort and completion of an educational or vocational program to "superior" program achievement, a metric which has no definition in the guidelines. Even when achieved, "superior program achievement" can only subtract up to one third of the time spent in said programming from an imposed sentence. Fourth, the 2000 guidelines include language that affords additional discretion in parole decisions surrounding unusual circumstances, defined as "case-specific factors that are not fully taken into account in the guidelines, and that are relevant to the grant or denial of parole."

Steinberg, J., Ramsey, K. (2018). "2018 Parole Practice

Manual for the District of Columbia."

Browning, "Three ring circus: how three iterations of DC parole policy have up to tripled the intended sentence for DC Code offenders."

¹²⁸ Rodd, "D.C.'s Broken Parole System."

¹²⁹ Tony R. SELLMON, et al, Plaintiff, v. Edward F. REILLY, Jr., Chairman of the United States Parole Commission, et al., Defendants. Civil Action No. 06-01650 (ESH).

¹³⁰ Sellmon v. Reilly, 551 F. Supp. 2d 66 (D.D.C. 2008).

In 2016, a similar lawsuit, Daniel V. Fulwood required that USPC apply the D.C. Parole Board's 1972 guidelines to D.C. Code Offenders sentenced before 1985.

Daniel v. Fulwood, 893 F. Supp. 2d 42 (D.D.C. 2012)

¹³¹ "United States Parole Commission Fiscal Year 2021 budget request," Performance and Resource Table.

¹³² It is important to note that data submitted to GAO in response to a data request show a different history. The table below summarizes the differences.

	USPC budget request documents	GAO report
2002	6,021	6,718
2003	5,430	6,223
2004	4,888	5,920
2005	4,213	5,600
2006	4,100	5,312
2007	3,075	4,757
2008	3,099	4,050
2009	2,539	3,547
2010	3,546	2,989

¹³³ People may be counted more than once in this data. For example, someone who is nine years part their eligibility date is also six and three years past.

Council for Court Excellence. "Analysis of BOP data snapshot from July 4, 2020."

¹³⁴ Interview with USPC, May 23, 2022.

¹³⁵ "United States Parole Commission Fiscal Year 2022 Performance Budget", USPC.

¹³⁶ Interview with USPC, May 23, 2022.

¹³⁷ Court Services and Offender Supervision Agency, "Fiscal Year 2023 Budget Request."

¹³⁸ CSOSA, “CPS Fiscal Year 2022 Congressional Budget Justification published on May 28, 2021.”

¹³⁹ See New York State Assembly Annual Report (2020) for more information.

¹⁴⁰ See Minnesota Department of Corrections: 2022-23 Biennial Budget (2021) for more information.

¹⁴¹ Brief history of the MPDC. Brief History of the MPDC. (n.d.). Retrieved July 11, 2022, from <https://mpdc.dc.gov/node/226472>

¹⁴² DOC, “About DOC.”

¹⁴³ Tang, J. (2020). “Here’s a fascinating story about the old Lorton, Virginia prison.”

¹⁴⁴ Browning, S. (2016). Three Ring Circus: How Three Iterations of D.C. Parole Policy Have up to Tripled the Intended Sentence for D.C. Code Offenders. *Georgetown Journal of Law & Public Policy*, 14(2), 577-598.

¹⁴⁵ DOC, “About DOC.”

¹⁴⁶ “PSA’s History and Role in the Criminal Justice System,” Pretrial Services Agency.

¹⁴⁷ “History of the DC courts.” District of Columbia Courts.

Wheeler, “No escaping the history of Lorton Prison.”

¹⁴⁸ Pub. L. No. 93-198, 87 Stat. 774 (enacted December 24, 1973).

¹⁴⁹ Currently, the only elected governance body in the District was the School Board, which has its own contentious history with the federal government. Just like governance over the city, governance over schools frequently shifted between elected and appointed boards over the District’s history. In 1968, the Congress adopted legislation (Public Law 90-202) to create a fully elected school board with 11 members.

¹⁵⁰ It was also prohibited from changing the Federal building height limitation, altering the court system or changing the criminal code until 1977.

¹⁵¹ In a 1983 decision, the Supreme Court invalidated one-house legislative vetoes in *INS v. Chadha* (Supreme Court of the United States, *INS v. Chadha*, 462 US 919. That decision required Congress to modify the procedure for ordinary District legislation and for amendments to the District Charter. Congress

decided to make amendments proposed by the District presumptively valid, unless Congress enacted and the President signed a joint resolution of disapproval. In so doing, Congress left in place the narrow limitations on the District’s Charter amendment authority.

¹⁵² DOC, “Correctional facilities.”

¹⁵³ Thigpen and Hutchinson, “A Review of the Jail Function within State Unified Corrections Systems.”

¹⁵⁴ Maryland’s correctional system has about 74 unfilled beds, all located at the medium-security Eastern Correctional Institution in Westover. Given current per-inmate expenses at that facility (\$35,791 per inmate per year), to rent all 74 unfilled beds would cost at least \$2.65 million yearly.

¹⁵⁵ Green, F. “Va. Accepts Prisoners from Virgin Islands under Old Contract.”

¹⁵⁶ This number of beds is based on current averages. It is possible with a different court and parole system that the average number of residents will decrease.

¹⁵⁷ U.S. Congress, “H.R. 461, Closing of Lorton Correctional Complex: Committee on Government Reform and Oversight.”

¹⁵⁸ Bureau of Justice Assistance, “Emerging Issues on Privatized Prisons.”

¹⁵⁹ Carlise, “New Utah Prison Is Running about 20% over Budget, 18 Months behind Schedule, and Will Hold Fewer Inmates than Planned.”

¹⁶⁰ DCFM, “Prison Development Budget.”

¹⁶¹ The following states were considered whenever data was available. Inmate population figures are based on 2015 Pew estimates from Huh et al., “A Report from Prison Health Care: Costs and Quality How and Why States Strive for High-Performing Systems.”:

- Alaska: 5,997 inmates
- Delaware: 6,860 inmates
- Hawaii: 5,669 inmates
- Montana: 4,591 inmates
- Nebraska: 5,380 inmates
- New Mexico: 6,996 inmates
- Rhode Island: 3,182 inmates
- South Dakota: 3,588 inmates
- Utah: 6,973 inmates
- West Virginia: 6,912 inmates

¹⁶² While this is the most cost-effective solution, it is possible that separate prison and jail facilities would break up criminal networks and thus be more desirable as a system.

¹⁶³ Mai and Subramanian, “The Price of Prisons: Examining State Spending Trends, 2010-2015.”

¹⁶⁴ Association of State Corrections Administrators, “ASCA Responses: Staff to Inmate Ratio Survey.”

¹⁶⁵ Inmate-to-security officer ratios: Delaware: 3.7, Nebraska: 4.1, New Mexico: 2.9, West Virginia: 4.5, Rhode Island: 3.4, Montana: 3.6. The average security officer-to-inmate ratio among these states is 3.7.

¹⁶⁶ Zeng, “Jail Inmates in 2016.”

¹⁶⁷ Personnel expenses include salaries & overtime, as well as benefits and other expenses tied to prison employees.

¹⁶⁸ It is important to note that this excludes healthcare personnel. Some states directly provide medical care, and Vera includes public medical professionals’ salaries and benefits within total personnel expenses. To isolate the expenses tied to salaries and benefits of non-medical public employees, the following calculations were made:

1. Subtracting Vera’s estimates of non-personnel-related medical expenses (column C) from Pew’s estimates of total medical expenses in those states (column B), to obtain personnel-driven medical expenses (column D).
2. Subtracting personnel-driven medical expenses (column D) from Vera’s estimate of total expenses related to public employees (column A).

	A. Total personnel (medical + non-medical) expenses (Vera)	B. Total medical (personnel + operational) expenses (Pew)	C. Non-personnel medical expenses (Vera)	D. Personnel-related medical expenses (IMPLIED) (B – C)	E. Non-medical personnel expenses (IMPLIED) (A - D)
AK	\$196,057,071	\$43,412,600	\$19,612,034	\$23,800,566	\$172,256,505
HI	\$103,796,706	\$23,465,881	\$8,670,540	\$14,795,341	\$89,001,365
UT	\$111,253,640	\$31,797,675	\$12,818,155	\$18,979,520	\$92,274,120
SD	\$33,373,151	\$19,910,914	\$20,825,314	-\$914,400 (N/A)	N/A

Expense estimates offered by Vera and Pew are inconsistent, which prevented meaningful calculation. Based on this we estimate the following spending:

- Alaska: \$172.2 million
- Hawaii: \$89 million
- Utah: \$92.3 million

- Delaware: \$131.6 million
- New Mexico: \$106.4 million
- West Virginia: \$99.9 million

¹⁶⁹ Mental and behavioral health programming, which includes services ranging from psychiatric care to substance abuse treatment, is highly varied across the US. In designing its own service plans, D.C. could consider the following policies which have proven successful in other facilities:

- Respectful treatment of inmates, facilitated by highly educated staff and low staff-to-inmate ratios
- Opportunities for community engagement, ranging from peer mentorship to membership on a resident committee that provides feedback to facility administrators
- Promotion of inmates’ engagement with family members and community members outside of prison
- Provision of reentry planning services
- Implementation of positive incentives for good behavior and self-improvement
- Preventing sustained vacancies in staff positions and maintaining diverse staff corps
- Creating varied and flexible treatment plans, allowing patients access to group and individual treatment plans with appropriate levels of confidentiality
- Reinforcing communication between doctors and patients, and improving patients’ awareness of their own treatment plans
- Expanding extracurricular programming
- Ensuring inmates’ access to high-quality amenities, such as libraries and commissaries
- Using body cameras to increase behavioral accountability among both staff and residents
- Ensuring stable and continuous care for inmates entering and leaving the facility

¹⁷⁰ Among the subset of these states offering Pew detailed employment breakdowns, mental healthcare providers held, on average, 22% of full-time medical provider positions.

State	Physicians	Dentists	RN, RNP, RA	Other	Psychiatrists and mental health	% Mental health
AK	3	2	146	9	43	21.18%
HI	6	1	78	16	49	32.66%
DE	9	7	200	64	47	14.37%
NM	9	7	147	33	56	22.22%
MT	3	3	38	17	14	18.66%

¹⁷¹ Rampey and Kieper, “Highlights from the U.S. PIAAC Survey of Incarcerated Adults: Their Skills, Work

Experience, Education, and Training: Program for the International Assessment of Adult Competencies: 2014.”

¹⁷² Davis et al., How Effective Is Correctional Education, and Where Do We Go from Here? The Results of a Comprehensive Evaluation.

¹⁷³ Food expenditures for selected statewide correctional systems:

- West Virginia state (6,830 inmates): [\\$7.86 million](#) (2019)
- Delaware (5,500 inmates): [\\$15.5 million](#) (2017)
- Utah (5,590 inmates): [\\$7.82 million](#) (2012)

Facility-specific food expenditures:

- Westville Correctional Center (Indiana, 2,889 inmates): [\\$3.98](#) (2019)

¹⁷⁴ General operational expenditures for statewide correctional systems:

- West Virginia state (6,830 inmates): [\\$7.62 million](#) (2019)
Figure listed as specifically pertaining to “utilities”
- Delaware state (5,500 inmates): [\\$8.3 million](#) (2017)
Figure listed as specifically pertaining to “energy”

Facility-specific operational expenditures:

- Idaho (ISCC Boise, 2,164 beds): [\\$5.6 million](#) (2019)
- Indiana (Westville Correctional Center, 2,889 inmates): [\\$2.09 million](#) (2019)