

VOICES FOR REFORM IN DC:

*Recommendations
for improving
reentry following
long prison terms*

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EXECUTIVE SUMMARY

Over the past decade, the legal landscape concerning the sentencing of children under the age of 18 has evolved dramatically. There have been a series of U.S. Supreme Court decisions based on the premise that children have diminished criminal capacity and a greater capacity for change. Consequently, the Court has ruled that those who commit crimes as children should be treated differently than adults for the purposes of sentencing. Based in part on that revised legal landscape, in November 2016, the Council of the District of Columbia (DC Council) passed landmark criminal justice reform legislation: the Incarceration Reduction Amendment Act (IRAA).¹ According to that act, a person who has served 15 years or more in prison for an offense committed before their 18th birthday can petition the Superior Court of Washington, DC for consideration of a reduction in their sentence. The court must consider 11 statutory factors, including whether the defendant poses a danger to the community and whether the interest of justice warrants a sentence reduction.²

As of July 19, 2021, 74 people have petitioned for release under IRAA, and 65 people have been released.³ Most of the individuals who have been released had served decades in prison, beginning when they were still children or young adults. Transitioning from prison to the community is difficult under the best of circumstances. However, the reentry experience is profoundly more complicated for people who went to prison as children, often with limited education and significant exposure to trauma, and spent all their adult lives behind bars. The racial disparities in the criminal justice system nationwide are reflected in those who qualify for IRAA, with Black men comprising 98 percent of eligible petitioners.

All of those who are eligible, at this point, are male. They are individuals who have grown up in prison, most of whom have never lived in a free society as adults. Most are coming home in their late-30s to mid-40s without learning the necessary life skills typically acquired between adolescence and adulthood. For example, most of these

1 The Campaign for the Fair Sentencing of Youth participated in the enactment of IRAA, including educating lawmakers about the recent U.S. Supreme Court decisions on youth sentencing and national reforms, drafting the bill language, and preparing families and formerly incarcerated youth to testify in support of the bill.

2 See DC Code 24-403.03.

3 Personal Communication to Author, James Ziegler, Executive Director, Second Look Project, July 19, 2021



individuals have never been traditionally employed and therefore lack references and professional networks; most have never had a driver's license or rented their own apartment; they lack a credit history and basic financial literacy; and they frequently have never been in a romantic relationship as a free adult.

Providing reentry support for the IRAA population is uniquely challenging. It requires a thorough assessment to determine whether services available in the District are sufficiently aligned with the needs of those returning to the community. To answer this question, it was necessary to hear directly from impacted individuals about the experiences faced by those who have sought or are seeking relief under IRAA to determine the gaps in supports and services and the challenges faced by IRAA returning citizens.

We also spoke with reentry providers and other critical stakeholders in the District. Based on these conversations, we outline key recommendations for the DC Council, the U.S. Attorney's Office (USAO), the Federal Bureau of Prisons (BOP), the DC Jail, business leaders, social service agencies, and community partners.

This community assessment was finalized in 2020, before the approval of the Second Look Amendment Act of 2020. While the recommendations and information were researched for the population returning home under the 2016 legislation, JPI remains confident that the same set of reforms are required for those newly eligible.

RECOMMENDATIONS⁴

Effective social policies are crucial to ensuring a successful reentry for those incarcerated for lengthy sentences. The following are a few recommendations meant to deepen and expand the conversation surrounding the supports needed for those returning home:

SHORTEN THE REVIEW PERIOD BETWEEN IRAA HEARINGS

Currently, individuals denied release under IRAA must wait three years before another review. We recommend this period be shortened to two years. Notably, judges often cite changes and participation in programming they expect to see that can be accomplished in shorter periods.

Keeping individuals in prison for unnecessarily long periods is expensive, inhumane, and counterproductive to successful reentry preparation.

Responsible stakeholder(s): DC Council

INCREASE ACCESS AND EFFICACY OF INSTITUTION-BASED PROGRAMMING

Individuals are transferred to the District from the BOP and are housed in the DC Jail while awaiting a hearing for their petition for review under IRAA. While programming and services in the BOP are not ideal, there are more resources available in federal prison versus the DC Jail. The District must expand and increase access to programming that promotes successful reentry, mainly because individuals awaiting resentencing may be in the DC Jail for months or years.

Also, programs within institutions need to be more robust and provide skills that help secure employment upon release.

⁴ These recommendations were originally drafted prior to the global health pandemic of COVID-19 which, in the spring of 2020, drastically shifted the fiscal, health and wellness priorities of the DC region. On March 13, 2020, President Donald Trump declared a national emergency, which was followed by a series of declarations from Mayor Muriel Bowser with directives and steps needed to protect public health. On April 1, 2020, in response to an increasing number of confirmed cases of COVID-19 within Washington, DC and the surrounding area, Mayor Bowser issued a Stay-at-Home order for DC residents. Simultaneously, reports began to emerge, regarding increasing numbers of incarcerated individuals and correctional officers at the DC Jail and within BOP facilities who have tested positive for the COVID-19 virus.

The District also needs to provide programming for IRAA candidates at the DC Jail that includes financial literacy, technology proficiency, health insurance 101, and job application and interview skills.

Responsible stakeholder(s): DC Council, DC Jail, BOP, Community Partners

IMPROVE COORDINATION BETWEEN DC JAIL, READY CENTER, AND COMMUNITY- BASED REENTRY PROVIDERS

The District must improve reentry preparation by more effectively connecting the returning population with services, support, and documentation while still incarcerated. IRAA releasees typically only learn of their impending release within 30 days. Meanwhile, the READY Center starts prepping individuals at 30 days from release. Current reentry providers in Washington DC are in the perfect position to help the READY Center prepare individuals for reintegration but need to have access to the population while still in the DC Jail. IRAA petitioners' release plans must be prepared in coordination with all relevant government agencies and community reentry providers before release. And every individual must have all necessary documentation and identification before ever leaving the DC Jail.

Finally, the District should explore ways to provide support and services to those IRAA grantees who move to live with family in neighboring jurisdictions.

Responsible stakeholder(s): DC Council, DC Jail, Community Partners

EXPAND TRAINING AND SKILL DEVELOPMENT THAT PROVIDE A PATHWAY TOWARDS EMPLOYMENT AND/OR ENTREPRENEURSHIP UPON RELEASE

There is a lack of training for jobs that provide a livable wage or career path. Too often, individuals must secure multiple low-wage, part-time, and/or "gig" jobs to make ends meet, inhibiting them from pursuing careers that offer better long-term earnings and stability.

Hiring restrictions for individuals with a felony criminal record are also an unnecessary impediment to successful reentry and drive people leaving prison into jobs that do not pay well and lack advancement opportunities. The District should examine all of its collateral consequences of a felony conviction and repeal those that pose barriers to a successful transition home.

In addition, the District should work to expand the capacity of the employment and entrepreneurship programs, including the Georgetown Pivot Program and other similar programs, to provide support and training for entrepreneurial aspirations of individuals returning to the community.

Finally, the District should explore ways to provide support and services to those IRAA grantees who move to live with family in neighboring jurisdictions.

Responsible stakeholder(s): DC Council, Department of Employment Services, Community Partners, Foundations/Grantors, Businesses/Corporations

INCREASE AFFORDABLE HOUSING

As Washington, DC officials, advocates, and others work to mitigate the affordable housing crisis in the District, they must consider the needs of formerly incarcerated individuals.

Leadership must adjust policies, practices, and services accordingly to ensure this population has sufficient access to safe, sustainable, and affordable housing. The District of Columbia Housing Authority should also implement practices to incentivize property owners to rent to returning citizens to address the lack of safe, affordable, sustainable housing.

In addition, funds for housing support should also be made available to those IRAA releasees living with family. While they may not have their own residence, they are still accruing housing and food costs that are often insurmountable if they do not have access to a steady income.

Additionally, those costs are a burden on family members that can result in further hardships.

Finally, the District should explore ways to provide support and services to those IRAA grantees who move to live with family in neighboring jurisdictions.

“STAYING WITH FAMILY AND FRIENDS IS OK, BUT WITHIN ONE YEAR OR TWO YEARS, PERMANENT HOUSING OR VOUCHERS FOR IT SHOULD BE PROVIDED.”

Responsible stakeholder(s): DC Council, Government Agencies, Community Partners, Foundations/Grantors

INCREASE THE REPRESENTATION OF DIRECTLY-IMPACTED INDIVIDUALS IN LEADERSHIP AND OTHER POSITIONS IN REENTRY PROGRAMS

Community-based transition and long-term programs that work with people before and immediately following release and organizations that provide ongoing services must hire directly-impacted individuals with lived experience in prison as part of their leadership and staff teams. These individuals bring specific and necessary experience and perspective and help make the transition smoother for those returning home.

Several IRAA grantees have taken on critical roles to support reentry, including working with the Campaign for Fair Sentencing of Youth, Changing Perceptions, Justice Policy Institute and others.

Responsible stakeholder(s): DC Council, Government Agencies, Community Partners, Foundations/Grantors

INTRODUCTION

HISTORY

Throughout the last decade, significant strides have been made to end extreme sentencing for individuals sentenced to prison as children. During that time, the United States Supreme Court's trilogy of decisions confirmed that children are constitutionally different from adults and criminal sentencing should reflect these differences. In *Roper v. Simmons* (2005), the Court struck down the death penalty for children, finding that it violated the 8th Amendment's prohibition against cruel and unusual punishment.⁵ The Court emphasized empirical research demonstrating that children are developmentally different than adults and have a unique capacity to grow and change as they mature.⁶ In *Graham v. Florida* (2010), the Court struck down life-without-parole sentences for non-homicide offenses, holding that states must give children a "realistic opportunity to obtain release."⁷ In *Miller v. Alabama* (2012), the Court struck down life-without-parole sentences for most homicide offenses. It ruled that sentencing courts must "take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison" any time a child faces a potential life-without-parole sentence.⁸

In January 2016, the Supreme Court ruled in *Montgomery v. Louisiana* that its *Miller v. Alabama* decision applies retroactively to individuals serving life without parole for crimes they committed while under age 18. As the Court explains in *Montgomery*, the *Miller* decision "did more than require a sentencer to consider a juvenile offender's youth before imposing life without parole; it established that the penological justifications for life without parole collapse in 'light of the distinctive attributes of youth.'"

While the District of Columbia does not have any individuals serving life without parole for crimes committed as children, more than 200 individuals convicted of crimes as children are serving sentences of 20 years or more. In addition, the United States Parole Commission's (USPC) overly restrictive release policies resulted in many long prison sentences functioning like a life sentence. There is a real question as to whether the USPC's review of these cases rose to the level of "meaningful," which sparked demands for the adoption of a court-based review.

In November 2016, the DC Council unanimously passed the IRAA, which aligned the

5 *Roper v. Simmons*, 543 U.S. 551 (2005).

6 *Id.*

7 *Graham v. Florida*, 130 S. Ct. 2011 (2010).

8 *Miller v. Alabama*, 132 S.Ct. 2455 (2012).

District with the current understanding of maturity and brain science among young people. Further revisions to IRAA were passed by the DC Council in 2018 and went into effect in May 2019. The current law is that individuals who have served at least 15 years in prison can petition the court for a hearing to determine eligibility for release. Individuals are provided with three opportunities for judicial review of their sentence at three-year intervals. Filing a petition does not guarantee release. In fact, filing a petition under IRAA usually includes a lengthy process compared to other release standards. This process typically entails collecting various documents, including childhood records, interviewing family and friends, planning for housing and employment, and compiling a mitigation packet. This packet includes a brief history of the petitioner's childhood life and circumstances leading up to imprisonment, as well as a comprehensive summary of all events that have occurred during imprisonment.

THE NEED FOR AN ASSESSMENT OF REENTRY SUPPORT IN THE DISTRICT

As of September 30, 2020, 53 people have been released following an IRAA resentencing hearing by the Washington, DC Superior Court. These individuals went to prison as children, often without having even earned a high school diploma. They grew up among tremendous violence and trauma and spent all their adult life behind bars. The unique needs of reentry preparation and support after release to the community are profound. IRAA is an unprecedented policy, so the District lacks necessary information about its capacity to serve this population. In response, the Justice Policy Institute and the Campaign for the Fair Sentencing of Youth (CFSY) assessed the available support and services for returning citizens.

In this report, we share the insight of those currently petitioning the court for resentencing under IRAA legislation while also documenting the challenges facing those returning home from incarceration when attempting to secure housing, education, employment, healthcare, and other necessary resources. This report's observations and recommendations reflect the realities faced by individuals three years after the passage of IRAA legislation and more than two years after the first IRAA grant.

The purpose of this assessment is to provide a comprehensive overview of what capacity currently exists, what is working well, obstacles to successful reentry, and opportunities for improvement. The voices of impacted individuals, family members, service providers, and other stakeholders reflected in this report's recommendations should inform a more responsive allocation of existing reentry resources. The District must strengthen and expand the available support for those returning home from extreme sentences after spending decades in our criminal justice system.

This report should catalyze conversations and actions to elevate programs and policies

that work while reducing barriers to successful reintegration. We hope that this report furthers our collective understanding of children sentenced to extreme prison sentences in Washington, DC, and the plight of those returning home. We believe that a firm commitment by stakeholders to allow those released to engage with their families and the broader community will give those returning home a fair chance to live up to their fullest potential, benefiting us all.

METHODOLOGY

This assessment's information expands upon previous work by the CFSY, coupled with mostly anecdotal knowledge collected over the past few years. Before the passage of IRAA, the CFSY began engaging with family members of those who were serving extreme sentences, individuals who were currently serving sentences for crimes committed as children, formerly incarcerated individuals, lawyers, advocates, and loved ones of individuals who have been victims of serious crimes. Each voice played an integral role in ensuring that those sentenced as children in the District of Columbia were afforded a meaningful opportunity for release.

A more formal data collection plan was created in the spring of 2019 and implemented between April 2019 and April 2020 (though some of the methods are ongoing). CFSY revised many of the data collection modes in response to the emergence of COVID-19 in the District beginning in March 2020.

The data collection methods included face-to-face interviews, phone interviews, focus groups, and paper surveys distributed to individuals at various stages of the process (incarceration, pending resentencing, returned to society) who received extreme sentences as children. In addition to community meetings focused on reentry, CFSY staff also attended court hearings of petitioners and visited with some of the individuals housed at the DC Jail during various stages of the resentencing process. The CFSY also held in-person meetings for family members of people eligible to petition under IRAA and monthly meetings for loved ones who served extreme sentences alongside family members of victims. Finally, CFSY staff met with various community stakeholders, the DC Council, and other government officials.

The Justice Policy Institute also conducted semi-structured interviews with several returning IRAA grantees, stakeholders, and reentry providers.

THE RESENTENCING PROCESS

The IRAA resentencing process can be quite lengthy. Both prosecutors and defense

attorneys gather information to provide the judge with the information necessary to make a well-informed determination. IRAA legislation requires judges to consider 11 factors outlined in the statute to guide their decision as to whether an individual is fit to return to society.

As detailed in the **DC Code 24-403.03**:

Together, the 11 factors provide judges with a more comprehensive picture of the individual. Instead of relying solely on the type of crime committed, or the victim's characteristics, these factors allow judges to consider the context in which the crime was committed. Circumstances to account for include the home environment during the time of the crime and obstacles they have faced and overcome during incarceration.

There are two critical elements of the resentencing process that impact reentry: the family's role in the release plan and the time between hearings for those denied by the court.

First, the release plan for an IRAA petitioner is essential. The court wants to know where an individual will live, with whom he will be living, and what services and supports exist to ensure a successful transition back to the community. The answer for many IRAA grantees is to return to live with their family. The family's role is unique because it can be both a bridge and a barrier to successful reentry. Despite the challenges accessing and maintaining social supports during incarceration, families can serve as a significant socializing and stabilizing force throughout the entire journey from initial imprisonment to reentry. The strength or weakness of an individual's support system is consistently considered as a critical factor for those petitioning the court under IRAA. In the motions presented, the experience of the individual and their family dynamics in childhood is important. In an overwhelming majority of the cases presented thus far, individuals experienced various levels of physical, sexual, and emotional abuse during childhood.

DC Code 24-403.03

.... The court shall issue an opinion in writing stating the reasons for granting or denying the application under this section.

(c) The court, in determining whether to reduce a term of imprisonment pursuant to subsection (a) of this section, shall consider:

(l) The defendant's age at the time of the offense;

The history and characteristics of the defendant;

Whether the defendant has substantially complied with the rules of the institution to which he or she has been confined and whether the defendant has completed any educational, vocational, or other program, where available;

Any report or recommendation received from the United States Attorney;

Whether the defendant has demonstrated maturity, rehabilitation, and a fitness to reenter society sufficient to justify a sentence reduction;

Any statement, provided orally or in writing, provided pursuant to DC Official Code § 23-1904 or 18 USC § 3771 by a victim of the offense for which the defendant is imprisoned, or by a family member of the victim if the victim is deceased;

Any reports of physical, mental, or psychiatric examinations of the defendant conducted by licensed health care professionals;

The defendant's family and community circumstances at the time of the offense, including any history of abuse, trauma, or involvement in the child welfare system;

The extent of the defendant's role in the offense and whether and to what extent an adult was involved in the offense;

The diminished culpability of juveniles as compared to that of adults, and the hallmark features of youth, including immaturity, impetuosity, and failure to appreciate risks and consequences, which counsel against sentencing them to lengthy terms in prison, despite the brutality or cold-blooded nature of any particular crime; and

Any other information the court deems relevant to its decision.

In addition, these are individuals who are serving, or have served, sentences for felony convictions, and Washington, DC does not currently have a prison to hold those convicted of felony charges. This means that, post-sentencing, they were turned over to the Federal Bureau of Prisons (BOP) to be housed in one of the Bureau's 120 facilities across the country. Some are serving time in facilities located as close as Cumberland, Maryland, whereas others are as far away as Victorville, California. This geographical distance dramatically impacts the ability of many families to stay connected over the years. For some, years or even decades may pass with the only connection being 15-minute collect phone calls.

All of this makes it incredibly difficult for individuals to maintain contact and build relationships with social connections outside of prison. Due to the extreme length of their sentences, some have lost touch with parents and other family members altogether, or these critical social connections have withered. Often families are working hard to secure and save money for legal expenses and ensure their loved one has money for weekly commissary. The additional cost of transportation to travel to a federal prison, in a different state, only further drains their limited resources. Many simply cannot afford to visit in person, so when some individuals return to Washington, DC for IRAA hearings, it is the first time their family members have seen them in years, or in some cases, decades.

Family members who last knew and lived with their loved one when they were a teenager are now required to adapt to their loved one as a middle-aged adult. All these factors contribute to a logistically and emotionally complicated reunification process post-release.

Recognizing the importance of family and the barriers to establishing relationships, in 2018, the DC Department of Corrections (DOC) launched their Family Reunification Day program, with a charge to prepare residents for reentry by connecting or reconnecting those incarcerated with their loved ones. In June 2019, individuals housed at DC Jail's Central Detention Facility and Central Treatment Facility participated in their first IRAA Family Day event. The event provided a space for family members to gather with their incarcerated loved ones and hear from a panel of individuals discussing the transition back into society and what that often means for families. There were vendor tables staffed by local government agencies and social service providers, including Catholic Charities, Mayor's Office of Returning Citizens Affairs (MORCA), the Court Services and Offender Supervision Agency (CSOSA), the Free Minds Book Club, and others. During the event, to prepare those eligible under IRAA to reunite with their families, small group conversations of eight to ten people were convened. This allowed for smaller, more intimate discussions about any concerns about the various components of transitioning home.

"IF FAMILY WAS MY SUPPORT SYSTEM," BUT... EVEN WHILE LIVING WITH FAMILY, "I WAS STILL HOMELESS. IT'S STRESSFUL LIVING WITH FAMILY. WHEN I FIRST GOT OUT, IT WAS LIKE LIVING WITH A BAD CELLMATE. I HAD FAMILY ISSUES WITH MY UNCLE IN A BIG THREE-BEDROOM HOUSE."

Events such as these allow families to engage with their loved ones while serving as an introduction to the reentry process itself, which can be paramount to a successful return to society. Unfortunately, however, there are few such programs in prisons and fewer available upon release. Many of the barriers described here - e.g., geographical distance between the place of imprisonment and the reentry community - also create obstacles for the system to support family engagement and family strengthening efforts. Additional services and resources that promote family relationships and encourage a family support network are needed.

It is important to note that while family support is crucial to reentry, the experience of living with family after returning under IRAA has been mixed. One person commented: "Staying with family and friends is ok, but within one year or two years, permanent housing or vouchers for it should be provided." Another recipient stated, "If it weren't for my family, I would have been displaced by now." Finally, one IRAA grantee observed that "If family

was my support system," but went on to say that ultimately, even while living with family, "I was still homeless. It's stressful living with family. When I first got out, it was like living with a bad cellmate. I had family issues with my uncle in a big three-bedroom house."

In addition, many petitioners were planning to return to live with family in Maryland or Virginia. This has caused some significant challenges. One person noted: "I was denied benefits because my family lived in Maryland and I was living with them after I was released. They never tell us that if your family lives in Maryland and you move to Maryland, you will not qualify for reentry benefits from DC." Another IRAA grantee commented: "When I got out, I was living with my family in Maryland because that was the only place I had to live. My mother took me to the READY Center, and I was denied DC benefits."

A second issue with the resentencing process that has implications for reentry concerns the time between IRAA hearings. In instances of a denial, the law allows for an additional review after three years. In denial orders, judges can (and should) stipulate what changes must take place within those three years to warrant reconsideration and secure a favorable response. Many individuals can complete this additional programming and other stipulations in fewer than three years, often even within a year. This means once they have completed the requirements, they must still wait for the full three years before being eligible to file for relief. And once the hearing process is underway, it can take upwards of a year to complete. This presents apparent complications for reentry planning, particularly if an individual completes vocational training while in prison and then must wait for years before being released and applying for a job.

PROGRAMMING WITHIN THE SYSTEM

All the individuals who have petitioned for release under IRAA have used their time in prison to take advantage of the available programming in BOP facilities. Unfortunately, the minimal programming available in the BOP means that individuals incarcerated in the system must often take duplicative courses or participate in programs that are not tailored to their specific needs. Also, more often than not, the nature of the extreme sentence they are serving prohibits them from taking many of the available classes. Priority is given to those who have shorter sentences and will be released sooner. For example, as explained during a focus group session, a person with 100 years is given priority for programming over most individuals who qualify under IRAA. The federal prison system goes by the "back number," so if you have a 35-to-life sentence, because of that "life" tail, you take a back seat to the person who has a 100-year sentence. This policy contributes to a loss of hope and, ultimately, motivation to engage in programming or other rehabilitation efforts.

Once in Washington, DC, a few programs are available for individuals that provide a pathway to reentry, or, at a minimum, provide an opportunity for individuals to pursue

their goals of having a positive impact in the community. However, experiences with these services varied. Several individuals with whom we spoke said they had little to no engagement with reentry preparation, planning, or a case manager while awaiting their resentencing hearing. On the other hand, another respondent reported, "at the jail I had the Hope Foundation, Thinking for Change, Industrial Bank, and a lot of other classes that helped me."

Individuals have the opportunity to take courses through local universities such as Ashland or Georgetown. Through a partnership between Georgetown's Prisons and Justice Initiative and the DOC, the Georgetown Prison Scholars Program⁹ was launched at the DC Jail in January 2018.

Through this program, individuals can take both non-credit and credit-bearing classes covering English, philosophy, debate, and government. The courses allow students to pursue traditional higher education in the same structure as conventional university classes.

In 2018, the DOC established a specially designed unit for young men 18 to 25 years of age, modeled after a similar program in Connecticut. The Young Men Emerging Unit (YME) provides a therapeutic and rehabilitative environment, which research shows increases the chances of successful reentry upon release. The YME is designed, managed, and staffed by individuals serving lengthy prison terms in the BOP who were transferred back to the DC Jail, awaiting a hearing on their IRAA petition or other court proceedings. These individuals serve as mentors to the young people in the YME and share their wisdom while providing guidance. Messages and coaching are more effective when delivered by someone with a shared experience. Since 2018, 13 individuals who qualify for IRAA have served as mentors in the YME unit.

It is important to note that COVID-19 has impacted the delivery of programming in the DC Jail. We heard from a DC Jail staff member who is working hard to provide reentry support, but identified some challenges with the telework policy, "[w]e have streamlined everything and pivoted from being told we would be home for two weeks to now six months of teleworking status. Since April, the reentry coaches email, call, and text guys to check in on them to see if they need any help. We have adapted to the process, and I am very impressed. We are still responding to all of our mail that comes into the office, we are still sending out cards, and we are still making copies of the guys' resumes on Wednesdays and Fridays from 3 p.m. to 5 p.m."

9 <https://prisonsandjustice.georgetown.edu/programs/scholarsprogram/>

AFTER RESENTENCING

DC residents released from prison following a successful IRAA petition and sanctioned by the court to be on parole, probation, or supervised release in Washington, DC are supervised by CSOSA. As of September 2020, all the resentencing's have included probation for some period, varying from three to five years. The local jurisdiction manages the terms and conditions of supervision in those cases that an individual decides to live outside of Washington, DC.

For those supervised in the District, once someone is released from the DC Jail, he has a follow-up appointment with CSOSA. The individual is assigned a Community Supervision Officer (CSO) who will oversee their case for the duration of their term. Clients are given an assessment and the Community Supervision Team determines a level of supervision. Check-ins with CSOs range from weekly to monthly, and some releases include a requirement of weekly urinalysis screenings, even for those who have never struggled with substance use or abuse. While monitoring those under supervision, CSOSA provides information that helps individuals access employment, receive mental health and/or substance abuse treatment, and obtain housing.

In April 2019, CSOSA began to implement High-Intensity Supervision in addition to the existing levels (Intensive, Maximum, Medium and Minimum). As the name indicates, those deemed as needing high-intensity supervision, typically based on the circumstances of their underlying crime and their level of reentry needs, receive more intense, stricter monitoring at the onset of their probation, with a goal of eventually moving down to a less intense model.

In August 2019, many of the IRAA releasees were contacted by their CSOs, noting a change in their conditions. Some individuals were required to undergo psychological evaluations despite having lived in the community for nearly a year. Other IRAA individuals' requirements varied from updating their restrictions to include urinalysis to requiring more frequent contacts with their CSO.

"WE NEEDED MORE. I NEEDED MORE CARE THAN THE AVERAGE PERSON WHO HAS DONE THREE OR SIX MONTHS. I NEEDED CLASSES, COUNSELING. THEY NEED TO HIRE SOMEONE TO GO INSIDE THE BOP TO TEACH THOSE WHO ARE FILING UNDER IRAA WHAT THEY WILL NEED TO START DOING...THEY NEED TO IDENTIFY ALL THE IRAA GUYS AND TELL THEM WHAT IS AVAILABLE. THEY NEED TO BE EXPOSED TO THOSE SERVICES."

Despite the changes, those released under IRAA generally describe their CSOs as helpful, respectful, and accommodating. However, harsher and unpredictable supervision conditions can affect the success of the reentry process. For example, more frequent reporting requirements can jeopardize someone's ability to work or attend classes. Ideally, decisions to impose stricter supervision are made after thoughtful consideration of each

individual's circumstances.

The goal should always be to ensure completion of supervision and a successful reentry experience. Unfortunately, this has not always been the case. For many individuals with whom we spoke, the experience of transitioning out of prison after having served a lengthy prison term was overwhelming, and they were unable to access the necessary supports and services. "Adjustment and transition were harder than I thought they would be. Technology has changed, and after spending more than two decades in prison, I was trying to figure out how I was going to survive. The adjustment mentally was challenging. I had to adjust mentally to the free world and have plenty of self-care. After adapting to the prison environment for so long, it can be very stressful. It was mentally challenging living with family and adjusting to living with them too."

Others expressed similar concerns about not being prepared for their release. "We needed more. I needed more care than the average person who has done three or six months. I needed classes, counseling. They need to hire someone to go inside the BOP to teach those who are filing under IRAA what they will need to start doing while there. Being at the jail, I took a lot of those classes. They need to identify all the IRAA guys and tell them what is available. They need to be exposed to those services. They need to know because they are going to be lost when they get to the jail."

For some, the reentry support was helpful, but not wholly sufficient. "MORCA provided me with a voucher. I paid for everything else. I paid for my ID, learner's permit, driver's license. If I didn't have housing already, I would not have been able to do that. The only reason I got that voucher from MORCA was because Ms. Jackson saw me over at the jail. My family and Free Minds have been the most consistent support for me."

The lack of a universally accepted identification card also posed problems. "Finding independent living, finding a job, health care, opening a bank account, but without my DC DMV ID, all of that is impossible to do. The reentry ID didn't meet my needs. My release papers gave me better access than the reentry ID. I can't even get my Social Security card replaced without an ID. Everything starts online there. They ask for my ID number off my DMV-issued ID for my Social Security card and to open up my bank account."

For others, the mental toll of being released to the community and reconnecting with their family comes with significant challenges. "I needed mental health support. My judge sent me to a place, but he told me that the IRAA support group was the therapy I needed. We all needed each other more, and we understood one another. I was coming home from work, and I would go straight to my room. My family didn't understand me at first." Having the support of other IRAA recipients cleared certain individuals' mental health challenges.

Some service providers noted the unique challenges of transportation around the District for this population. “What we lacked at that time was transportation to help them because their needs were unique; they would need help learning their way around on the bus, subway, and coming to the support groups. We knew most of them were coming from an environment where they did not feel comfortable independently navigating the transportation system.”

The COVID-19 crisis has made the process of reentry for IRAA releasees even more complicated, primarily due to widespread confusion about what support and services have been suspended or discontinued. “The places (READY Center, MORCA, Mental Health, DMV) I needed the most weren’t operational due to COVID-19, and I was told that most programs were defunded. The DMV was closed when I was released on 4/28/20. It took me 75 days to get an appointment to get an ID, and then it took three weeks after my appointment to get my ID.”

FINDING EMPLOYMENT

Researchers cite a positive correlation between maintaining employment post-release and successful reentry. At the same time, individuals who experience incarceration are unemployed for eight times longer than their peers who have not been incarcerated.¹⁰ A lack of access to employment, especially jobs paying a sustainable living wage, is one of the most significant barriers to successful reentry for formerly incarcerated individuals. Those returning to DC after decades of incarceration are now adults in a free society for the first time (having been incarcerated as children). They also return to a city that has experienced significant change due to gentrification and are thrust into a rapidly changing economy and labor market highly reliant on technology.

Typically, individuals who experience their first incarceration as children endure more prolonged periods of unemployment than individuals who experience their first incarceration when they are older.¹¹ The inadequate access to programming in prison has precluded many individuals from acquiring the skills necessary to work in modern society. “They need to supply us with what we need today. Job openings, resume skills. I mean, a real resume that would get me hired and not just a resume style.” Two IRAA grantees reported during a support group meeting that they lost jobs because they were unable to provide sufficient identification to human resources.

In addition, more opportunities for training and apprenticeships to prepare individuals for careers that earn livable wages are necessary. Otherwise, these individuals are forced to seek multiple part-time positions that may meet their short-term goals of paying

10 Amanda Emmert, *Doing Time and the Unemployment Line: The Impact of Incarceration on Ex-inmates' Employment Outcomes*, (Crime and Delinquency; 2018).

11 Ibid.

bills, but inhibit long-term advancement and upward mobility. This was a familiar refrain: "Employment was something I needed. It started out rough for me with three different temp jobs and making a little bit of money was hard."

District stakeholders, including the government, non-profit and community-based organizations, offer some employment support at release, such as "jobs opportunities, stipends when they first come home, training of some sort with pay, Lyft credits to get around, counseling services, just an all-around holistic approach." However, one person reported problems accessing that support. "I needed more than employment that paid a living wage. The \$9 or \$10 an hour job wasn't enough. I feel like companies that were hiring us were taking advantage of us too." That same individual reported that moving out of the jurisdiction created another problem: "I needed a job, but because I went to Maryland, I couldn't benefit from MORCA, DOES, or any other benefit in DC."

Over the past decade, how people find employment and work has changed dramatically. Job searches are most frequently online today, and many people who have been released under IRAA needed help navigating that process. Online job search sites, such as Indeed and ZipRecruiter, are particularly challenging for individuals returning to the community.

There were also technological challenges for people released under IRAA once they secured employment, such as reporting timecards. "I was going to work for months without logging in my hours because I forgot the specific password and username. It locked me out of the system for clocking in and out. My supervisor made me learn how after telling me that if I didn't get paid it wasn't his fault. So, my stepdaughter deleted my old profile and created me another."

With technological advances has come a new phenomenon -- a "gig economy." In this new way of working, individuals are paid by the job or project instead of receiving a salary or hourly wage. Companies such as Lyft, Uber, Airbnb, or TaskRabbit are examples. While many people use this type of job as a primary or supplemental source of income, those coming home under IRAA are often excluded from these opportunities due to the seriousness of their crime and restrictive hiring policies that require background checks.

Despite these realities, employment has not been a significant barrier for those released under IRAA - at least before COVID-19. In September 2019, 90 percent of the individuals who were home due to their resentencing had secured jobs or internships that provided them with stipends. While finding a job had not been an impediment for many people who have been recently released, underemployment and access to reliable, affordable transportation to jobs remained an ongoing issue. In March 2020, quarantines and lockdowns in the region resulted in many businesses in the area temporarily closing their

doors. As companies began to see losses due to closures, layoffs began to follow. In the week ending on March 28, Washington, DC residents filed 14,868 new claims.¹² Roughly 64,000 initial claims for unemployment benefits were received in the first five weeks of the mayor's emergency declaration. Hiring virtually came to a halt for jobs deemed non-essential. While the hope is that many of the businesses will not succumb to the economic pressure of COVID-19, it is a reality for which IRAA releasees are particularly vulnerable.

During focus group discussions, many of the individuals who have returned home are looking to further entrepreneurial pursuits. Although a few programs in the Washington, DC area have begun to enhance their models to include a component for entrepreneurial learning, there is a lack of programs that provide a full scope of services that have flexible schedules to allow individuals to learn more about those pathways while at the same time earning meaningful wages to meet their basic needs.

"I WAS DENIED BENEFITS BECAUSE MY FAMILY LIVED IN MARYLAND AND I WAS LIVING WITH THEM AFTER I WAS RELEASED. THEY NEVER TELL US THAT IF YOUR FAMILY LIVES IN MARYLAND AND YOU MOVE TO MARYLAND, YOU WILL NOT QUALIFY FOR REENTRY BENEFITS FROM DC."

Noting a need to expand opportunities for those returning home, the Washington, DC Council unanimously passed the Incarceration to Incorporation Entrepreneurship Program Act of 2015 (IIEP).¹³ The bill broadened the opportunities for returning citizens by providing business and microenterprise development training. It also provided guidance on the process of becoming a certified business enterprise, technology training, and ongoing mentorship and support. It was an innovative approach to providing a pathway to opportunities that have not been easily attainable for those impacted by the criminal justice system. The committee report for the legislation concluded:

"The Committee believes that this bill is critical to the District's workforce policies that promote full employment by providing returning citizens and their families the economic security they need to lead productive and sustaining lives. B21-463 would align the District of Columbia laws with the necessary economic stability of a large population of District residents who deserve a second chance and who simply seek to return to the District and participate in the American dream."

Unfortunately, the bill was never funded and subsequently was repealed through legislation in September 2019. Such programming is needed more than ever. Advocates have suggested using social impact bonds or pay-for-success contracts to bridge the

¹² <https://www.washingtonpost.com/dc-md-va/2020/04/02/coronavirus-dc-maryland-virginia-live-updates/>

¹³ <http://lims.dccouncil.us/Legislation/B21-0463>

funding gap required for such initiatives. Social impact bonds are a contract between the public sector and a private party/entity. The latter commits to pay for “improved social results that can lead to public-sector savings.”¹⁴

SECURING HOUSING

Across the nation, many individuals return home from prison to a difficult housing situation. Many lack access to permanent housing and need to rely on friends, family, or supportive transitional housing. Unfortunately, the supply of transitional housing is far short of the documented need. According to the United States Interagency Council on Homelessness, approximately 48,000 people entering shelters every year are from prisons or jails.¹⁵ Housing stability reduces the chance that justice-involved individuals will have further contact with the justice system. Over the past few decades, housing has become increasingly unaffordable for Washington, DC’s low-income residents, and those with felony convictions are often ineligible for subsidized housing options.

Most people released from prison ultimately live with their relatives upon release. Most of the individuals released under IRAA to date live with a sibling, parents, or significant other. This can create financial and emotional stress for the family. Many families had to make changes to their homes and routines to prepare for their loved ones (i.e., buying beds, linens, storage, etc.). These adjustments came at additional cost to family members, and those who have been released do not take the sacrifices made lightly. During focus group sessions with those released from IRAA, discussions surrounded the need for housing to be more independent and not feel as though they are a “burden” to family members.

Many individuals felt as though there were no housing resources or options provided to them, and they continue to worry about what would happen if, for any reason, their family dynamics changed. Individuals recognize that their criminal record, low income, and lack of credit history limit the number of places where they can access housing. It is vital that any efforts to address the housing crisis also remove the collateral consequences that restrict or outright prohibit individuals from leaving prison from securing housing in this region. People returning home from incarceration need to be part of the community. This not only benefits them but, as those who have recently been released under IRAA display, it helps us all.

In Washington, DC, affordable housing is a crucial problem for individuals returning home. A recent Washington Post article, highlighting the critical shortage of affordable housing

14 <https://www.ncsl.org/research/fiscal-policy/funding-social-programs-with-social-impact-bonds.aspx>

15 <https://www.usich.gov/solutions/criminal-justice/>

in the region, noted that along with traffic gridlock and a lack of qualified workers, it is one of the three main challenges holding the region's economy back.¹⁶ In that same article, the impending displacement of households is expected if the current trajectory does not change:

"The study found that 493,000 households in the region are at risk of displacement in coming years as rents and property taxes rise. Of those, 220,000 households have annual incomes below \$75,000 and thus are at the most risk of being forced to relocate...Since 2010, only 10 percent of the new housing units in the region have cost \$1,299 a month or less, and thus were affordable for households with annual incomes of \$54,300 or less, according to the Urban Institute.

"ADJUSTMENT AND TRANSITION WERE HARDER THAN I THOUGHT THEY WOULD BE. TECHNOLOGY HAS CHANGED, AND AFTER SPENDING MORE THAN TWO DECADES IN PRISON, I WAS TRYING TO FIGURE OUT HOW I WAS GOING TO SURVIVE. THE ADJUSTMENT MENTALLY WAS CHALLENGING. I HAD TO ADJUST MENTALLY TO THE FREE WORLD AND HAVE PLENTY OF SELF-CARE. AFTER ADAPTING TO THE PRISON ENVIRONMENT FOR SO LONG, IT CAN BE VERY STRESSFUL."

"The study says the region will have to raise that share to 38 percent between now and 2030 to produce the 141,000 new units needed in that price range."

During focus group discussions, it was clear that this challenge is already well known. All participants were well aware of the lengthy waitlists for housing options in the Washington, DC area. While staying with loved ones or family members meets the immediate need to secure initial housing arrangements during reentry, these situations should not be considered a solution. Securing permanent housing must be a cornerstone of the District's reentry strategy.

And it is clear from the experiences of IRAA releasees that current supports are not sufficient. Many people with whom we spoke pointed to "finding independent living" as the most difficult challenge of their reentry experience. Many also expressed concern about the quality of transitional housing. One person said, "I wanted to live in a nice quiet neighborhood. The only thing that I knew was available was a rooming house in a red-light area (Changing Perception)." That same individual also expressed frustration with the process of accessing housing and other benefits. "What I needed was help to get independent living. Changing Perceptions has agreed to help me, but I found out about them too late to fully benefit from the services they are offering."

16 https://www.washingtonpost.com/local/dc-regions-leaders-face-big-challenges-as-they-tackle-affordable-housing-shortage/2019/09/03/8d155496-ce77-11e9-8c1c-7c8ee785b855_story.html

The emergence of COVID-19 in the District has also complicated matters for those individuals seeking housing support upon release from the DC Jail. One IRAA recipient observed, “It was unfortunate that I came out in the heart of COVID-19. I am eligible for housing, but the DC Housing Authority is closed, and they are not seeing anyone. I have medical issues that qualify me for those housing benefits.”

According to a 2019 point-in-time count, nearly 4,000 single adults were experiencing homelessness in the District.¹⁷ As shelters and local housing officials attempt to effectively quarantine and embrace the CDC’s social distancing guidelines,¹⁸ it makes the task of placing individuals into appropriate housing, both temporary and permanent, increasingly difficult. Many regions have looked to hotels that are experiencing low vacancy rates amidst the pandemic as a way to keep hotels afloat and to appropriately self-isolate individuals in hopes of slowing the spread of the virus. In early April, California’s Governor Gavin Newsom and New York City Mayor Bill de Blasio launched initiatives to relocate a portion of those experiencing homelessness to private hotel rooms.¹⁹ While Washington, DC has taken some steps to do so, there is not currently a budget allocated specifically for this effort.

ACCESSING HEALTH CARE

Most IRAA releasees reported being able to secure Medicaid within the first few weeks of returning home. However, many have not had the opportunity to get a routine check-up or learn about the process of finding a doctor. While in prison, many reported only going to “sick-call” when absolutely needed. Every person in the BOP had to pay a \$2 co-pay for medical visits unless deemed indigent (less than \$6 in their account for the past 30 days). Many report being sent back to the commissary to buy expensive items, from the limited array of options, as a way to address their health concerns.

Educating IRAA releasees about navigating the healthcare system is critical for individuals returning home from lengthy sentences. This may help alleviate confusion and the difficulties of dealing with the health care bureaucracy. One person expressed frustration with accessing even basic information. “I had no medical benefits and I didn’t know that I could’ve gone to MORCA to take care of that stuff.” “I was brought to the READY Center and I was just flat denied from the resources, twice, and I was asked to provide medical records. That really threw me for a loop.” In addition to a general overview of the system, guidelines on best practices for the frequency of checks (i.e., routine physicals, dental, vision, prostate, etc.) would be beneficial. One IRAA releasee observed, “So many of us

17 https://d3n8a8pro7vhmx.cloudfront.net/dcpit/pages/1/attachments/original/1573657040/2019_DC_PIT_R_results.pdf?1573657040

18 <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html>

19 <https://www.citylab.com/equity/2020/04/homeless-shelter-coronavirus-testing-hotel-rooms-healthcare/610000/>

learned more about our health from the medical facility while we were incarcerated. We were going to the dentist for routine cleaning, vision, check-ups, or blood work. The only problem on the outside is navigating the system of Medicare and Medicaid. Once I created an account in the system, it was easy after that. I called, and they pointed me in all the right directions to go. Providing those phone lines is easier than reading any material to me.”

One model for the District is the Transition Clinic (TC), opened in 2006 by San Francisco’s Department of Public Health.²⁰ TC provides transitional and primary care for returning citizens in San Francisco. The mission of TC is to promote a healthy reintegration, improve healthcare utilization, and decrease recidivism in San Francisco.²¹

COMMUNITY OF SUPPORT

One of the most notable findings among those sentenced to extreme sentences as youth is the extraordinary sense of community among the group. In a sense, if you compare them to children matriculating through school, you can understand the importance of forging relationships and friendships along the way. Many have experienced long-standing trauma coupled with negative encounters resulting from infamous “neighborhood beefs or rivalries” that pre-dated their incarceration, some even resulting in the death of associates or loved ones. This makes the fraternity all the more impressive.

“FINDING INDEPENDENT LIVING, FINDING A JOB, HEALTH CARE, OPENING A BANK ACCOUNT, BUT WITHOUT MY DC DMV ID, ALL OF THAT IS IMPOSSIBLE TO DO... I CAN'T EVEN GET MY SOCIAL SECURITY CARD REPLACED WITHOUT AN ID.”

They are intimately familiar with each other’s cases, often due to years of equipping themselves to be self-advocates and supporting each other with research and case law. They shared meals, read books together, studied law, played sports, and provided encouragement and moral support when needed. As they transition back home, they collectively identify resources to help each other with a successful reentry experience. One will find organically structured daily or weekly calls among IRRA releasees to see how each is faring with their newfound freedom. In fact, they have spent more time with each other than they have with family members.

The benefit of learning how to navigate new spaces from individuals with shared experiences is invaluable. Many of the interviewed individuals spoke highly of Project

20 Various Authors, *Transitions Clinic: Creating a Community-Based Model of Health Care for Recently Released California Prisoners*, (SAGE Journals: 2010).

21 Ibid.

Empowerment, a DOES program that provides education, training, and employment opportunities. They describe the majority of the people in the office as having similar lived experience, which enables them to “explain things in a way that is understandable, displays an awareness for the struggles that they have, and know what they need.” The District has recognized the importance of peer support during reentry. “There was a shift in resource priorities when we saw people start coming home under IRAA. We felt it was a lot of pressure on the IRAA population. They were back in the community with unique needs, so we created the IRAA support group with the CFSY to give them a space they can call their own, and we felt they would know how to relate to each other.”

Programs and opportunities for “peer-to-peer” engagement are crucial for those returning home. Having individuals who have successfully navigated the same challenges that you are facing is extremely helpful.²² Organizations that provide direct services to individuals returning home from prison should ensure that spaces of this nature exist.

SUMMARY

At the time of this report, around 25 percent of those who qualify for an IRAA hearing are home since the first individual was released nearly 30 months ago. The extent to which gaps and needs exist may evolve as the length of time individuals are home increases and more people return home due to a successful IRAA petition. This holds true now more than ever as we continue to struggle with the COVID-19 crisis and the pandemic’s catastrophic economic impact. For that reason, continuous assessment and monitoring are needed to ensure that we are in the best position to take a proactive approach in ensuring successful reintegration for individuals returning home.

22 https://www.washingtonpost.com/local/public-safety/former-dc-inmates-use-virtual-meetings-for-support-encouragement-as-they-adjust-to-life-outside-prison/2020/07/08/b6c2dbc2-bae6-11ea-bdaf-a129f921026f_story.html

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