Negative: D.C. Parole

By Luke Carlsen

***The United States Federal Government should significantly reform its policies regarding convicted prisoners under federal jurisdiction***

Case Summary: The US Parole Commission and the federal Bureau of Prisons currently have jurisdiction over offenders who committed their crimes in the District of Columbia. DC offenders are locked in federal prisons, regardless of what type of crime they committed. A local “city” crime or a big “federal” crime, doesn’t matter, all DC offenders go to federal prison because the Constitution gives the federal government jurisdiction over the District. There is no “state” prison in DC because it’s not a state. Some DC prisoners are eligible for parole and most of them will at some point be eligible for “supervised release” (operates very much like parole, except not called that). AFF plan removes jurisdiction of the US Parole Commission over DC offenders and hands responsibility back to the local government of DC, where it used to be until 1998, when the federal government took it over. The Plan hands it back and tells DC to create their own Parole Board, which a lot of DC political leaders, including the Mayor of Washington DC, advocate. Unfortunately, though DC claims to want this plan, they actually have taken no actions that they need to take to implement it. It has been offered to them in the past and they ignore it, even while saying they want it.  
 And the goal of the plan, to get more parole and let DC offenders out of prison more often, is a bad goal. Parole is a bad thing, and the less we grant it, the better.

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Negative: D.C. Parole

INHERENCY

1. Plan already underway

D.C. already planning for local parole control in November 2022

*NPR October 28th 2021 (National Public Radio is an American privately and publicly funded non-profit media organization)* [*https://www.npr.org/2021/10/28/1049303477/after-prison-he-followed-the-rules-but-a-parole-mishap-delayed-his-full-freedom*](https://www.npr.org/2021/10/28/1049303477/after-prison-he-followed-the-rules-but-a-parole-mishap-delayed-his-full-freedom) *(accessed 9 Nov 2021)*

“The parole commission has reduced its office space in D.C. and is now down to 43 employees. The panel's authority is set to expire in November 2022, unless Congress again acts to reauthorize it.This autumn, the D.C. government has begun planning to create a parole council under local control and has enlisted experts, including Moyd, to help with the particulars.”

2. New guidelines are solving in Status Quo

USPC has new guidelines to reduce revocation of parole

Jenny Gathright 2020 (journalist) 16 November 2020 “Public Defenders In D.C. Say The U.S. Parole Commission Is Keeping Too Many People Jailed During The Pandemic” <https://dcist.com/story/20/11/16/us-parole-commission-dc-jail-coronavirus-covid19-pandemic/> (Accessed 18 Nov 2021)

“In March, Congresswoman Eleanor Holmes Norton [urged the parole commission](https://norton.house.gov/media-center/press-releases/norton-calls-on-us-parole-commission-to-use-its-authority-to-protect-dc) to release people who were incarcerated for technical violations, writing that the commission had “the authority to protect the health of individuals under its jurisdiction without jeopardizing public safety.” In response, the U.S. Parole Commission [put out new guidelines](https://washingtoncitypaper.com/article/175770/us-parole-commission-bends-to-demands-from-defense-attorneys-and-del-eleanor-holmes-norton/) that said it would stop issuing warrants for certain technical violations. The guidelines also recommended that the commission should no longer revoke parole for people who were arrested for new alleged crimes but who ultimately weren’t prosecuted, had their charges dropped, or were acquitted.”

USPC has new guidelines easing the rules that were revoking parole for DC offenders

Jenny Garthright for WAMU November 25th 2020 "A Look At Parole Jailings In D.C. During The Pandemic” <https://wamu.org/story/20/11/25/a-look-at-parole-jailings-in-d-c-during-the-pandemic/> Accessed November 15th 2021

“In response, the U.S. Parole Commission [put out new guidelines](https://washingtoncitypaper.com/article/175770/us-parole-commission-bends-to-demands-from-defense-attorneys-and-del-eleanor-holmes-norton/) that said it would stop issuing warrants for certain technical violations. The guidelines also recommended that the commission should no longer revoke parole for people who were arrested for new alleged crimes but who ultimately weren’t prosecuted, had their charges dropped or were acquitted.”

3. Existing rules

USPC already uses the DC parole laws to judge DC offenders

The United States Department of Justice No date found on page"FREQUENTLY ASKED QUESTIONS” <https://www.justice.gov/uspc/frequently-asked-questions#q46> Accessed November 15th 2021

“Does the U.S. Parole Commission apply federal parole procedures and guidelines at parole hearings for D.C. Code inmates? No. The U.S. Parole Commission applies D.C. parole laws and regulations in making its parole decisions. The Parole Commission amended the rules of the D.C. Board of Parole in 1998 to improve the quality of parole hearings, to include in the point score many of the predictive factors that were formerly used to go above the guidelines, and to establish specific rehearing schedules. However, the amended "point score" will be used only at initial hearings conducted after August 5, 1998. At rehearings for applicants who were denied parole by the D.C. Board of Parole, the 1987 point score will continue to be used.”

HARMS / SIGNIFICANCE

Most people don't have their parole revoked

Jenny Garthright for WAMU November 25th 2020 "A Look At Parole Jailings In D.C. During The Pandemic” <https://wamu.org/story/20/11/25/a-look-at-parole-jailings-in-d-c-during-the-pandemic/> Accessed November 15th 2021

“According to data from CSOSA — the agency that supervises D.C. residents on probation and parole — most people do not ultimately end up having their parole revoked, but many await that decision while locked up. A recent[report from](https://www.prisonpolicy.org/blog/2020/10/28/dc_technical_violations/)The Prison Policy Initiative, a research group that advocates against mass incarceration, found that for people in the D.C. Jail whose most serious alleged offense was a parole violation, the average length of stay is nearly four months. Andrea Fenster, who authored the report, says this *“*could in some cases actually outlast even full misdemeanor sentences*.”*The report also found that in 2019, 40% of parole violations in D.C. deemed serious enough to notify the U.S. Parole Commission were due to missed appointments or other technical violations.”

Parole is revoked for good reasons

Jenny Garthright 2020 (journalist for WAMU) 25November 2020 "A Look At Parole Jailings In D.C. During The Pandemic” <https://wamu.org/story/20/11/25/a-look-at-parole-jailings-in-d-c-during-the-pandemic/> Accessed November 15th 2021

“Parole can be revoked if a parolee commits a crime, or if they commit a technical violation. These include things like missing appointments with parole officers, not showing up to work or treatment programs or not submitting a drug test on time. When an officer decides that a violation warrants notifying the U.S. Parole Commission, the Commission can bring the parolee into custody while it determines whether they will be released, lose their parole or have their sentence extended.”

USPC records all hearings for transparency

Prof. Jessica K. Steinberg and Prof. Kathryn V. Ramsey 2018 (Jessica Steinberg directs the Prisoner & Reentry Clinic at George Washington Univ Law School. Kathryn Ramsey is a Friedman Fellow in the Prisoner & Reentry Clinic at George Washington Univ Law School. JD and MA in Latin American Studies at Univ of Wisconsin and LL.M. from GWU Law School.) “PAROLE PRACTICE MANUAL for the District of Columbia” <https://www.law.gwu.edu/sites/g/files/zaxdzs2351/f/downloads/Parole_Manual_Final_Print.pdf> (Accessed 15 November 2021)

“USPC records every parole hearing and retains a copy of the audio recording. 28 C.F.R. § 2.72(e) (2016). Hearing recordings can be useful in understanding how parole hearings are conducted, how a prisoner has responded to the hearing examiner’s questions, and how his case manager spoke about him during the hearing.”

USPC releases all documentation if requested

Prof. Jessica K. Steinberg and Prof. Kathryn V. Ramsey 2018 (Jessica Steinberg directs the Prisoner & Reentry Clinic at George Washington Univ Law School. Kathryn Ramsey is a Friedman Fellow in the Prisoner & Reentry Clinic at George Washington Univ Law School. JD and MA in Latin American Studies at Univ of Wisconsin and LL.M. from GWU Law School.) “PAROLE PRACTICE MANUAL for the District of Columbia” <https://www.law.gwu.edu/sites/g/files/zaxdzs2351/f/downloads/Parole_Manual_Final_Print.pdf> (Accessed 15 November 2021)

“The regulations set forth at 28 C.F.R. §§  2.55 and 2.56 (incorporated for D.C. Code offenders through 28 C.F.R. §§ 2.72(b) and 2.89, respectively) describe the nature of USPC’s disclosure obligations. In general, if specifically requested, USPC will disclose most records from prior hearings, including the audio recording, the hearing summary, and the NOA. USPC will also disclose many of the BOP records relied upon in making prior parole decisions, including the PSR, the Sentence Computation Monitoring Computation Data form, the CDR, DHO Reports, the Inmate Education Data form, and old Progress Reports. USPC typically consults with BOP on disclosure of medical records. 28 C.F.R. §§ 2.89, 2.56(b) (2016). Only a representative can obtain a PSR through a FOIA request; a prisoner may not. See infra Ch. 3 § III(B)(iv).”

USPC is Flexible with Documents

Prof. Jessica K. Steinberg and Prof. Kathryn V. Ramsey 2018 (Jessica Steinberg directs the Prisoner & Reentry Clinic at George Washington Univ Law School. Kathryn Ramsey is a Friedman Fellow in the Prisoner & Reentry Clinic at George Washington Univ Law School. JD and MA in Latin American Studies at Univ of Wisconsin and LL.M. from GWU Law School.) “PAROLE PRACTICE MANUAL for the District of Columbia” <https://www.law.gwu.edu/sites/g/files/zaxdzs2351/f/downloads/Parole_Manual_Final_Print.pdf> (Accessed 15 November 2021)

“The prisoner, his family, and his representative, have the option of submitting information relevant to the parole determination prior to the hearing. 28 C.F.R. § 2.72(d) (2016). USPC mandates that materials be submitted thirty days prior to the hearing. Id. In practice, however, USPC has rarely enforced this provision and will typically consider documents submitted much closer to the hearing date.”

USPC is addressing Covid risks

Jenny Gathright 2020 (journalist) 16 November 2020 “Public Defenders In D.C. Say The U.S. Parole Commission Is Keeping Too Many People Jailed During The Pandemic” <https://dcist.com/story/20/11/16/us-parole-commission-dc-jail-coronavirus-covid19-pandemic/> (Accessed 18 Nov 2021)

“Before the pandemic, parole violations were a significant driver of incarceration in D.C, representing more than 14% of men and 8% of women in D.C.’s jails [in April](https://doc.dc.gov/sites/default/files/dc/sites/doc/publication/attachments/DCDepartmentofCorrections_FactsandFigures_April2020_0.pdf). Since March, though, the number of people held for violations has fallen by half. The U.S. Parole Commission says this is because it has been more carefully weighing the risks associated with jail time during the pandemic.”

SOLVENCY

USPC doing the best they can with Covid (Hard to see what DC parole board could do better)

Jenny Gathright 2020 (journalist) 16 November 2020 “Public Defenders In D.C. Say The U.S. Parole Commission Is Keeping Too Many People Jailed During The Pandemic” <https://dcist.com/story/20/11/16/us-parole-commission-dc-jail-coronavirus-covid19-pandemic/> (Accessed 18 Nov 2021)

“Defense attorneys say the U.S. Parole Commission continues to detain people like Davis who no longer face charges, but who are awaiting hearings. This is partly because pandemic precautions halted these hearings, and partly because of a subsequent disagreement between the Public Defender Service and the Parole Commission over whether the hearings can be conducted over video conference. At the end of August, the Parole Commission offered to start scheduling hearings this way, but the Public Defender Service argued in a lawsuit filed in October that the video hearing format violates defendants’ constitutional rights.”

Alternatives fail. 1) DC has its own parole board – won’t solve. 2) “Second look” process by judges – too many problems. What would work is a “hybrid system” – but AFF can’t fiat that DC adopts it

The Justice Policy Institute on December 31st 2019 (JPI is a national nonprofit organization developing workable solutions to problems plaguing juvenile and criminal justice systems.) “Restoring Local Control of Parole to the District of Columbia” <https://justicepolicy.org/wp-content/uploads/2021/06/DCParoleStudy.pdf> (Accessed November 15th 2021)

Parole boards have proven to be risk-averse and amenable to political pressure, which contributes to why states with indeterminate sentencing have higher rates of incarceration. The American Law Institute also believes that parole boards have not been effective at accurately identifying risk of reoffending at release, erring by being too restrictive or too liberal. Many of the policies and practices we recommend are an acknowledgment of past weaknesses in parole practice and an effort to safeguard against those historic problems. Under the second look model, the decision-making authority—a judge or panel of judges—would conduct a hearing to consider an application for sentence modification from qualifying individuals who have served a minimum of 15 years in prison. Hearings would involve a reevaluation of the sentence applying current standards of review, and would evaluate whether the purposes of the sentence could be better met with a modification. Reconsiderations could not lead to a lengthening of sentence, but could modify it in other ways, including an order that an individual be released with time served. Decisions would be shaped by guidelines designed to ensure fairness, proportionality, consistency, and transparency in the evaluation process. Judicial sentence modification raises potential practical challenges. First, there may be problems with administrative capacity, as already over-burdened courts process sentence modification motions and hearings. Second, it is unclear that the case-by-case judicial modification mechanism will adequately address the prison cost and overcrowding concerns that partially motivate interest in early release. Additionally, it is up for debate as to whether judges are best positioned to consider motions for sentence modification. It is unlikely that the same judge who sentenced an individual will consider the motion for sentence modification. In fact, judges in the D.C Superior Court rotate through five different divisions. This will impact continuity on cases and poses an obstacle to judges obtaining the appropriate expertise in making release decisions.  
The Path Forward: A Hybrid System of Release Decision-Making and Supervision   
After extensive research and consultation with local and national experts, it is clear that simply reconstituting the Washington, D.C. Board of Parole would not fully meet the needs of the District’s correctional population.

DC isn’t ready, and federal transfer can’t happen until they get ready first

WASHINGTON POST 2021 (journalists [Michael Brice-Saddler](https://www.washingtonpost.com/people/michael-brice-saddler/)  and [Meagan Flynn](https://www.washingtonpost.com/people/meagan-flynn/) ) “D.C. wants to take back parole from the feds. But it’s taken almost no action as deadline looms.” 1 Aug 2021 <https://www.washingtonpost.com/local/dc-politics/dc-parole-budget-vote/2021/07/31/258d4a0c-f13b-11eb-81d2-ffae0f931b8f_story.html> (accessed 26 Nov 2021) (brackets added) (Eleanor H. Norton is DC’s non-voting representative in the US House of Representatives and author of the bill that would do the AFF plan)

Beverly Perry, Bowser’s senior adviser, said the District is on track to meet the deadline. But there is not yet legislation in motion nor sufficient funding included in the fiscal 2022 budget now before the D.C. Council to create a parole board, and [House of Rep. Delegate from DC Eleanor H.] Norton said she had not seen “any indication that D.C. is anxious to get this particular function back.” Her bill seeking to give D.C. local control of parole will not go anywhere in Congress, she said, unless the mayor and council act first. “Consistent with my own push for statehood, of course I was gung ho about giving this authority back to the District,” she said. “But the District has taken no action to prepare for this reversion.”

DC says they want parole reverted to it, but they’re not serious. They take no action to prepare for it

WASHINGTON POST 2021 (journalists [Michael Brice-Saddler](https://www.washingtonpost.com/people/michael-brice-saddler/)  and [Meagan Flynn](https://www.washingtonpost.com/people/meagan-flynn/) ) “D.C. wants to take back parole from the feds. But it’s taken almost no action as deadline looms.” 1 Aug 2021 <https://www.washingtonpost.com/local/dc-politics/dc-parole-budget-vote/2021/07/31/258d4a0c-f13b-11eb-81d2-ffae0f931b8f_story.html> (accessed 26 Nov 2021) (brackets in original)

Advocates who seek changes in prison policy say these glaring problems with parole require a more urgent response than D.C. has provided. In a [petition](https://morethanourcrimes.org/bring-parole-back-to-dc/) released in July, nearly 100 incarcerated D.C. residents called on Bowser to include funding in her fiscal 2022 budget to create a local parole board and for the D.C. Council to pass legislation that would spur its creation. The council is expected to take its final votes on the city’s $17.5 billion budget in the coming weeks. But Bowser proposed just $100,000 in her budget to “support operational and planning control of parole functions,” which Perry said will enable D.C. leaders to consider multiple options for eventually taking on the parole system. City officials have estimated it could cost anywhere between [$4 million](https://justicepolicy.org/wp-content/uploads/2021/06/DCParoleStudy.pdf) to [$13 million](https://www.washingtonpost.com/dc-md-va/2021/06/04/dc-statehood-cost/?itid=lk_inline_manual_44) to stand up a parole board in D.C. Charles Feinberg, executive director of Interfaith Action for Human Rights, a nonprofit regional prison reform advocacy group, said the amount budgeted is a far cry from what’s necessary to get a parole system up and running. “We just feel D.C. trumpets it wants to be a state — here’s one example of the [federal] government being willing to give us back something — we feel they’re dragging their feet about it,” Feinberg said.

Plan advocate admits: Mayor of Washington DC said they wanted parole authority, then dropped the ball and did nothing about it

Charles Feinberg 2021 (Rabbi with Interfaith Action for Human Rights – who advocate the Affirmative position) Time is Running Out for Local Control of Parole in DC 6 July 2021 https://www.interfaithactionhr.org/time\_is\_running\_out\_for\_local\_control (accessed 26 Nov 2021)

On July 5, 2020, Mayor Bowser sent a request to Congresswoman Eleanor Holmes Norton: “With forward momentum and progress on our journey to DC Statehood, I write to ask for your support for the District regaining local control of parole functions through federal legislation.” Now a full year later, neither the Mayor nor the D.C. Council have taken any significant actions toward achieving this crucial goal. As a member of the D.C. community (resident of Ward 4) who advocates for the rights of D.C. residents returning from incarceration, and as a committed supporter of DC Statehood, I am sorely disappointed by our local government’s failure of leadership and betrayal of our legitimate aspirations for social justice and for D.C. Statehood.

Already tried & Failed: Congress wanted to hand Parole authority back to DC in 2020, but DC failed to act

Charles Feinberg 2021 (Rabbi with Interfaith Action for Human Rights – who advocate the Affirmative position) Time is Running Out for Local Control of Parole in DC 6 July 2021 https://www.interfaithactionhr.org/time\_is\_running\_out\_for\_local\_control (accessed 26 Nov 2021)

In 2018, the U.S. Congress had reauthorized the U.S. Parole Commission (USPC) with a "sunset" provision to abolish this federal agency’s authority in November 2020. Throughout 2018 and 2019 a working group of advocates and various justice reform organizations urged the District government to take advantage of this opportunity to assume local control of parole functions. In October 2019, the District Task Force on Jails and Justice comprised of members of government agencies, research organizations, scholars, community representatives and members of faith-based communities recommended that the District government “plan now to localize parole and supervised release decision-making.” A District-funded study by the Justice Policy Institute recommended several programmatic options in a report concluded in September 2019. Despite these calls for action, the District took made no decisions and took no action.

Washington DC mayor and city council incompetent at handling the Parole transfer issue

Charles Feinberg 2021 (Rabbi, with Interfaith Action for Human Rights – who advocate the Affirmative position) Time is Running Out for Local Control of Parole in DC 6 July 2021 https://www.interfaithactionhr.org/time\_is\_running\_out\_for\_local\_control (accessed 26 Nov 2021)

In her July 5, 2020 letter, the Mayor requested a two-year extension of the November 2020 deadline, which she claimed “would be sufficient for us to plan, prepare and fund an orderly transition of the parole function to local control.” For the past year, experienced justice reform and community advocates undertook as volunteers the heavy burden of articulating principles to guide a new parole authority, publishing documents delineating structure, staffing and budget for a new parole authority, and crafting recommendations and legislative language to protect due process and assure the integrity of parole release and supervision revocation decisions. The documents can be found [here.](https://rethinkjusticedc.org/rethink-justice-reports-and-testimony-for-local-control-of-parole) In contrast, over the same year’s time D.C. elected officials have failed to engage in any effective planning or preparation for the transition to local control of parole. The Council has not introduced, and the Mayor’s office has not proposed, appropriate legislation. The Mayor has included a token allocation of $100,000 in her draft FY2022 budget, inadequate to create and begin operating a new paroling agency with a capacity to assume responsibilities in November 2022.

DISADVANTAGES

Big link to everything: AFF wants DC to have its own Parole Board because the federal board isn’t granting parole often enough. But that’s bad because…

1. The Rehabilitation Model

Link: Serving prison term in full guarantees all offenders are treated equally for the same crime

Dr. Steven A. Simon 2021 (J.D.; PhD; Associate Professor of Political Science, and Coordinator of the Program in Philosophy, Politics, Economics, and Law, Univ. of Richmond ) RE-IMPRISONMENT WITHOUT A JURY TRIAL: SUPERVISED RELEASE AND THE PROBLEM OF SECOND-CLASS STATUS, CLEVELAND STATE LAW REVIEW 19 Apr 2021 (accessed 29 June 2021) https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=4131&context=clevstlrev

In the period shortly after the Constitution’s ratification, the predominant view of criminal penalties was that they served a retributive purpose: to mete out the punishment that criminals deserved based on the offenses committed. This view about the aim of punishment had implications for the manner in which sentences were determined. If the penalty was intended as retribution for the offense committed, then it made sense to link the determination of the sentence tightly to the nature of the offense. The relevant variables were those differentiating one kind of crime from another. This conception of punishment’s aim, then, did not focus attention on variables differentiating one perpetrator from another. Since, unlike individual human beings, the facts of an act already committed cannot change, this view of punishment’s aim did not require an updating of the time to be served in prison based on events transpiring after the sentencing. As a result, those sentenced to prison commonly served their terms in full.

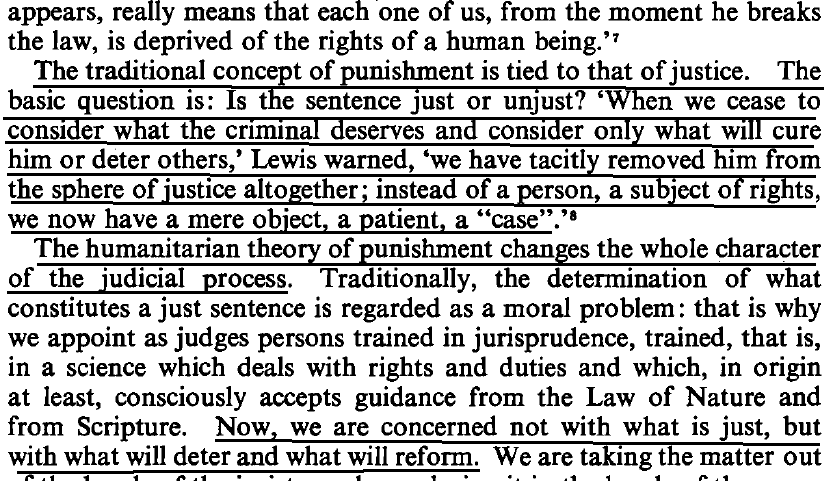
Link: Purpose of parole is to promote the Rehabilitation Model of managing offenders

Dr. Steven A. Simon 2021 (J.D.; PhD; Associate Professor of Political Science, and Coordinator of the Program in Philosophy, Politics, Economics, and Law, Univ. of Richmond ) RE-IMPRISONMENT WITHOUT A JURY TRIAL: SUPERVISED RELEASE AND THE PROBLEM OF SECOND-CLASS STATUS, CLEVELAND STATE LAW REVIEW 19 Apr 2021 (accessed 29 June 2021) https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=4131&context=clevstlrev

By the end of the nineteenth century, however, a major shift had occurred in attitudes regarding the principal aims of punishment. By this time, the prevailing view was that punishment should aim to rehabilitate criminals, reforming their character and reintegrating them into society. This shift in attitudes regarding the aim of criminal penalties played a critical role in the adoption of parole as an overarching approach to punishment. The guiding idea behind parole was that sentences should be administered in a manner tailored to the circumstances of particular individuals in an effort to reintegrate them into society as law-abiding members of society.

Impact: Justice abandoned. As soon as we talk about rehabilitation or anything other than giving the offender what he deserves, we abandon justice

Dr. Stuart B. Babbage 1973 (PhD theology) “C.S. LEWIS AND THE HUMANITARIAN THEORY OF PUNISHMENT” (Spring 1973) <https://biblicalstudies.org.uk/pdf/churchman/087-01_036.pdf> (accessed 29 June 2021)



2. More crime

Parole increases crime: 1) because longer sentences deter crime from being committed; 2) because criminals can’t commit crimes while they’re locked up

Hans Bader 2021 (attorney in Virginia) Is Abolition of Life Without Parole Next? 15 Jan 2021 (accessed 30 June 2021) https://www.baconsrebellion.com/wp/is-abolition-of-life-without-parole-next/

By reducing the amount of time inmates serve, parole could harm public safety. Studies indicate that longer periods of incarceration [deter many crimes](https://www.nber.org/papers/w6484) from being committed; they don’t merely prevent people who are already inmates from committing more crimes — although they do that, too. (See, e.g., Daniel Kessler & Steven J. Levitt, Using Sentence Enhancements to Distinguish Between Deterrence and Incapacitation, National Bureau of Economic Research Working Paper #6484 (1998)).

Shorter sentences would be bad because the “tough on crime” approach since the ‘90s has helped bring down crime rates

Prof. BARRY LATZER 2020. (emeritus professor at John Jay College of Criminal Justice, New York) 17 Feb 2020 “Democrats Prefer ‘Reforming’ the Criminal-Justice System to Punishing Criminals” (accessed 1 July 2021) https://www.nationalreview.com/2020/02/democrats-prefer-reforming-criminal-justice-system-to-punishing-criminals/

The United States is still in a crime trough, with violent crime rates [down 51 percent since 1991](https://ucrdatatool.gov/Search/Crime/Crime.cfm). When crime is low, pressures mount to reduce especially punitive measures, such as long prison sentences or the death penalty. Meanwhile, progressives are also motivated by the belief that the criminal-justice system is biased against African Americans, as a disproportionate number of them are in prisons and jails. Though blacks are roughly 13 percent of the United States population, they are [31 percent](https://www.bjs.gov/content/pub/pdf/p17.pdf) (see table 3 of the BJS report) of state prison inmates. (No one has convincingly demonstrated that this gap is the result of anything other than [a disparity in](https://ucrdatatool.gov/Search/Crime/Crime.cfm) crime rates, so the racism allegation is unsupported.) The truth is that we are already in a period of retrenchment in criminal justice, a cutting back on arrests, prosecutions and incarceration. Imprisonment rates have fallen steadily since 2007, dropping by 15 percent. For African Americans the decline was 31 percent. The Democratic candidates for president have latched on to the cutback trend, some a lot more aggressively than others, whereas President Trump, to the extent that he takes a stance at all, has chosen a more traditional road, aiming at crime control rather than system reform. The risk in the Democrats’ leniency approach is that it may fuel another crime wave, a long-term crime boom, such as the terrible ordeal the country endured from the late 1960s to the early 1990s. The weakening of the system (fewer arrests and imprisonments, shorter sentences) was a major factor in the late 60s rise in crime. On the other hand, however, past crime booms have had multiple causes in addition to a weak criminal-justice system, such as a rise in the young male population. So far at least, these other crime correlates are not currently present.