

To: Transition Team for Governor-elect Lamont and Lt. Governor-elect Bysiewicz  
From: Board of Pardons and Paroles (BOPP) Working Group, Criminal Justice Committee  
Re: Reform of Parole Release and Revocation Practices  
Date: December 31, 2018

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## I. BACKGROUND

The Board of Pardons and Paroles (BOPP) plays a critical role in the criminal justice system in ways that intersect with the Governor-elect's priorities and commitments. BOPP is an autonomous state agency that has the discretionary authority: (1) to grant pardons/expungements for criminal convictions; (2) to grant parole (early release from prison) to individuals serving prison sentences of more than two years; (3) to set the terms and conditions of release for both discretionary parole (releases by BOPP) and special parole (judge-imposed parole terms); and (4) to determine whether people have violated a condition of parole and whether they should be returned to prison for that reason, and for how long. Given the scope of these powers, engaging closely with BOPP will be essential to the Governor-elect's efforts to end mass incarceration, prepare people for life after incarceration, welcome formerly incarcerated people back into society, and provide for clean slate opportunities.

## II. SMART-ON-CRIME APPOINTMENTS TO BOPP

The Governor-elect has made clear that he intends to appoint "smart-on-crime prosecutors dedicated to ending mass incarceration." To achieve these ends, it is equally important to appoint smart-on-crime individuals to serve as members of BOPP. Indeed, in light of BOPP's wide remit, the advancement of many reform efforts will require careful attention to the Governor-elect's appointment powers over BOPP.<sup>1</sup>

## III. REFORMS TO THE PAROLE RELEASE SYSTEM

**Problem:** there are no measurable metrics to gauge the effectiveness of parole release hearings, nor any consistent measure of what constitutes a productive prison process.<sup>2</sup>

**Proposal:** To create an assessment process that operates as an agreement between the incarcerated and the state. This assessment of treatment (drug and alcohol, trauma pre-prison, mental health), education, vocation, and workforce readiness becomes the metric by which BOPP assesses release. Completion of all that is presented to the incarcerated would guarantee parole release.<sup>3</sup>

In addition, BOPP should study ways to expand the use of medical parole and compassionate parole.

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<sup>1</sup> <https://www.ct.gov/bopp/cwp/view.asp?a=4330&q=508528> (listing BOPP Members, who are appointed by the Governor).

<sup>2</sup> The prison process is the process of acquiring actual help and rehabilitation during a term of incarceration.

<sup>3</sup> See metric in our separate memorandum on "Preparing People in Prison."

## IV. REFORMS TO THE PAROLE REVOCATION SYSTEM

### A. Links between Parole Revocation and Mass Incarceration

The Governor-elect should continue and accelerate important reforms to the parole revocation system, which has been a driver of mass incarceration in Connecticut. In the midst of efforts to reduce the state's prison population, the incarceration figures resulting from parole revocation stood out as “the only up arrow in a line of favorable down arrows — the overall crime rate and the numbers of sentenced inmates, particularly younger ones, all are heading in the right direction.”<sup>4</sup> The state has had so many people revoked for parole violations that the revoked population could fill a prison by themselves, at great financial cost to the state.<sup>5</sup>

Most parole revocations have been for technical (non-criminal) violations of parole conditions. An October 2015 analysis by the Office of Policy and Management (OPM) found that nearly 50 percent of people who had been discharged to special parole status in recent years had been revoked within 12 months of their release.<sup>6</sup> Technical violations accounted for 75 percent of those returns.<sup>7</sup> The most recent monthly statistics from OPM indicate that only 16 of 68 special parole remands were for criminal violations.<sup>8</sup>

### B. Study of Parole Revocation Process

Over the last several years, there has been a push to reform the state's parole revocation system.<sup>9</sup> The Criminal Justice Clinic at Yale Law School agreed to study the system in order to analyze the reasons behind the high revocation rates and suggest possible reforms.<sup>10</sup> The clinic analyzed all parole revocation hearings in the state during the month of November 2015, and made the following findings:

- BOPP revoked parole in 100% of the observed cases and imposed a prison sanction in every case;
- Every parolee was incarcerated for at least three months before receiving a final revocation hearing;
- Almost every parolee waived a preliminary hearing (an opportunity to contest probable cause and/or the need for continued detention within 14 days of remand);
- No observed parolee appeared with appointed counsel, even though many appeared to meet the applicable standards; and

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<sup>4</sup> See, e.g., Josh Kovner, Malloy Seeks to Stem Tide of Parolees Returning to Prison on Rule Violations, Hartford Courant, Apr. 3, 2016 (quoting Michael Lawlor from OPM).

<sup>5</sup> *Id.*

<sup>6</sup> OPM, Criminal Justice Policy & Planning Division, *Special Parole Update* (October 2015), [https://www.ct.gov/opm/lib/opm/cjppd/cjcpac/20151030\\_cjpac\\_specialparole\\_presentation.pdf](https://www.ct.gov/opm/lib/opm/cjppd/cjcpac/20151030_cjpac_specialparole_presentation.pdf)

<sup>7</sup> *Id.*

<sup>8</sup> OPM, Criminal Justice Policy & Planning Division, *Monthly Indicators Report*, Chart 7 (November 2018), [https://www.ct.gov/opm/lib/opm/cjppd/cjresearch/monthlyindicators/monthlyindicatorsreport\\_nov\\_2018\\_final.pdf](https://www.ct.gov/opm/lib/opm/cjppd/cjresearch/monthlyindicators/monthlyindicatorsreport_nov_2018_final.pdf)

<sup>9</sup> Connecticut's parole system has received recent national attention. See, e.g., <https://www.pbs.org/video/life-on-parole-gvpejl/>; <https://www.nytimes.com/2017/07/16/us/life-on-parole.html>

<sup>10</sup> Chart of proposed reforms available at:

[https://law.yale.edu/system/files/area/clinic/document/ct\\_parole\\_recommendations\\_table.pdf](https://law.yale.edu/system/files/area/clinic/document/ct_parole_recommendations_table.pdf)

- Without counsel or other forms of outside assistance, incarcerated parolees had no opportunity to develop evidence to contest the allegations against them.<sup>11</sup>

In the wake of these findings, BOPP made significant policy changes. In March 2016, for example, BOPP started holding preliminary hearings in all cases involving technical violations. This new policy allowed BOPP to review the strength of the evidence within two weeks (rather than three months) of remand in order to decide if continued detention was justified.

A second stage of the parole study involved interviewing parolees about their experiences within the parole revocation system. Students and professors interviewed parolees whose hearings they had observed in November 2015. The findings included:

- 79 percent of parolees interviewed had lost jobs as a result of the revocation process;
- 47 percent of parolees interviewed had lost housing as a result of the revocation process (requiring them to find entirely new housing upon being released from prison).<sup>12</sup>

### **C. Important Reforms Implemented**

The state and BOPP have taken many important steps to reform the parole revocation system, including by:

- Passing legislation to reduce the imposition of special parole on non-violent offenders and granting BOPP the authority to discharge special parole terms;<sup>13</sup>
- Implementing policies to bring BOPP’s attorney-appointment procedures in parole revocation hearings in line with constitutional standards;<sup>14</sup>
- Improving BOPP staff training and shortening wait times for hearings; and
- Revising procedures for preliminary hearings and final revocation hearings, including by holding the first in-person parole revocation hearing at New Haven Correctional Center in December 2018.

### **D. Continuing the Reform Push**

The Governor-elect should advance and accelerate parole reforms by:

- Instilling a smart-on-crime culture within BOPP (including with employees such as Hearing Examiners) and with parole officers within DOC;
- Improving data collection and data transparency in parole revocation outcomes, including by publishing quarterly statistics on outcomes disaggregated by race/ gender and by the length of sanctions for criminal v. technical violations;
- Implementing evidence-based strategies to prevent unnecessary incarceration and avoid the criminalization of addiction and mental health conditions whenever possible;

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<sup>11</sup> *Parole Revocation in Connecticut: Opportunities to Avoid Incarceration* (September 2017), [https://law.yale.edu/system/files/area/clinic/document/cjc\\_parole\\_revocation\\_report.final.9.21.17.pdf](https://law.yale.edu/system/files/area/clinic/document/cjc_parole_revocation_report.final.9.21.17.pdf)

<sup>12</sup> *Id.*

<sup>13</sup> <https://www.cga.ct.gov/2018/act/pa/2018PA-00063-R00SB-00014-PA.htm>

<sup>14</sup> BOPP Policy No. II.09, Appt of Counsel in Revocation and Recission Proceedings, Sept. 4, 2018.

- Encouraging BOPP to exercise the full range of its regulatory release authority in preliminary hearings (including through its bail release powers);
- Tracking, analyzing, and publishing data on the costs of the parole revocation process (including lost parolee jobs and housing);
- Codifying September 2018 attorney-appointment policies and tracking/publishing statistics on the appointment of counsel;
- Creating pathways for formerly incarcerated individuals to serve as advocates and mentors for parolees;
- Advancing due process rights in the revocation process and ensuring that BOPP adheres to principles of procedural justice;
- Considering big picture reforms to reduce high remand and revocation rates (and save state resources) by studying the experiences of other states;<sup>15</sup> and
- Ensuring that the voices and perspectives of formerly incarcerated individuals are heard within BOPP, including as part of its appointed membership.

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<sup>15</sup> See, e.g., Columbia University Justice Lab, *Too Big to Succeed: The Impact of the Growth of Community Corrections and What Should Be Done About It*, Jan. 29, 2018 (discussing reform efforts).