



CIC | DC Corrections Information Council

**COUNCIL OF THE DISTRICT OF COLUMBIA
Committee on Education – Public Roundtable
Education for Students During and After Detention, Commitment, or Incarceration
October 4, 2017**

**Testimony of Michelle Bonner
Executive Director
Corrections Information Council**

Good afternoon, Chairman Grosso and other members of the Committee on Education.

I am Michelle Bonner, the Executive Director of the DC Corrections Information Council, commonly known as the “CIC.” Board members Charles Thornton, Katharine Huffman and Phylisa Carter join me in thanking you for the opportunity to share with you the CIC’s concerns regarding the delivery of services to meet the special education needs of DC young adults pursuant to the Individuals with Disabilities Education Act, or “IDEA.”

As you know, the CIC is an independent monitoring body initially established under the 1997 Revitalization Act, with its mandate further expanded and detailed in the DC Jail Improvement Act of 2003. The CIC is mandated to inspect, monitor, and report on the conditions of confinement in the prisons, jails, and halfway houses where DC residents are incarcerated. This includes nearly 4,700 residents in 116 Federal Bureau of Prisons (BOP) facilities and contract facilities in 32 states and the District of Columbia, as well as 2,125 residents in the custody of the DC Department of Corrections (DOC).

Since before 2012, the CIC and advocates for the agency have stressed that our mandate extends beyond mere inspection of bricks and mortar, to include assessments of programs and services available to D.C. residents at over 100 facilities, as well as the policies and procedures that govern them. Soon after the 2012 CIC Board was formed, it held an education session on IDEA to learn whether the needs of incarcerated DC residents ages 18 to 22 with special education needs were being met pursuant to federal law. What we learned then – and what is still true now – is that this population is not receiving any special education services for which they are eligible under IDEA while in BOP facilities.

Under the Revitalization Act in 1997, the BOP took into its custody those convicted of felonies under the DC Criminal Code, and with that, the responsibility for their “custody, care, subsistence, education, treatment and training.” Furthermore, the Rehabilitation Act of 1973 (Section 504) and the Americans with Disabilities Act of 1990 (ADA, Title II) prohibit disability discrimination in activities conducted by corrections agencies. However, it is the position of BOP that IDEA applies to state agencies, and that BOP is not required by

law to provide special education and related services to incarcerated DC young adults in its custody. To date, a court has not disagreed.

Within the District, the DC Department of Corrections (DOC) and the DC Public Schools (DCPS) have partnered to implement the Inspiring Youth Program (IYP), which provides education services to those ages 16 to 22 in the Correctional Detention Facility (CDF, or “DC Jail”) and Correctional Treatment Facility (CTF). When it was announced that DOC would resume operation of CTF, the CIC held a “Pop-Up Think Tank” to elicit ideas as to how space among the two facilities consolidated under DOC operations could be better utilized to improve successful transition from incarceration to the community. One idea that the CIC and others have promoted has been keeping in DC those incarcerated DC residents ages 18-22 who are eligible for education and related services under IDEA. The Mayor’s Office was interested in exploring this idea as a potential pilot, and asked the CIC to look at the number of those convicted of DC Criminal Code offenses between the ages of 18 and 21. As of October 2, 2017 there are 190 DC men and women age 21 and younger, and not all are eligible for IDEA education and related services. Of these 190, sixty obtained a sentence of 2 years or less to serve in BOP custody, and 118 will be released from BOP custody by December 2019. Within these manageable numbers, we thought surely there could be identified a manageable subset with whom to pilot those staying in DOC facilities until their release or until they aged out of eligibility for IDEA-related educational services.

Alas, the BOP, then led by an acting director, did not wish to explore this pilot idea. On September 18, 2017, the permanent director was sworn in. There is the hope that he might be interested in such a pilot under the existing intergovernmental agreement (IGA) between BOP and DOC for 200 beds in DOC for those in BOP custody. (For the past couple of years at least, only about 60 of these beds have been used at a time by BOP.)

Meanwhile, options are limited for young defendants convicted of felony offenses who are eligible for IDEA-related services. Special education advocates have attempted to inform defense attorneys and judges to encourage delay in sentencing for those expecting short sentences or who are still under 22 with longer expected sentences, so that they might complete their high school education here. If they are sentenced for a felony offense in DC, regardless of the recommendations by DC Superior Court judges, they are likely to be transferred to a BOP facility that does not provide education and related services under IDEA.

For now, there are young adults age 18 to 22 who are still in DOC custody and are receiving education services from IYP. When the CIC toured the education space at the DC Jail on September 27, 2017, we were informed that there were 24 adult students enrolled in IYP, 23 of whom were special education students. We observed 20 names on an IYP roster, nine of whom signed in for class that morning. The CIC learned additional information and made other observations of the educational offerings for these young adults, such as:

- The classroom space for IYP in DC Jail consists of two small rooms interspersed with offices and desks for DOC case managers unrelated to IYP. There is also an office used for US Parole Commission hearings and another used for staff who conduct

criminal background checks. The 2 classrooms had limited seating: one had 5 chairs; the other, 7 chairs, though staff said it could fit up to 14.

- IYP consists of 22 juvenile students at CTF, in addition to 24 adult students at the DC Jail. IYP appears to focus on education services towards obtaining a high school diploma, and not on other transitional services for which special education students are eligible under IDEA.
- DCPS staff reported that there were as many as 7 of the 24 adult students in restrictive housing. In restrictive housing unit South-1, there is a classroom with only 4 seats (with floor loops to restrain their feet to the floor while leaving hands free for school work). Security staff reported that, unlike school hours in the classroom area, students in South-1 restrictive housing only receive 1.5 hours of instruction per day. If there are more than 4 students in South-1, they rotate, and, therefore, receive even less classroom instruction time.
- The students in the restrictive housing unit North-1 (less restrictive than South-1) only receive education packets, without instruction, and there is no dedicated classroom in that unit. Last week 4 of the 7 adult students in restrictive housing were housed in North-1.
- While teachers taught in classrooms on the second floor, there was 1 education aide assigned to the restrictive housing units.
- At Intake, persons who might be eligible for IDEA education and related services self-identify in response to the question whether they have had an IEP (Individual Education Plan). Adults, though eligible, can opt out of attending IYP.

While trying to find ways to allow young adults to remain in DC to receive IDEA education and related services, the District can work to improve the school it has for these young adults detained in jail. More dedicated classroom space in a dedicated school area as well as in restrictive housing, IDEA-related services beyond high school diploma services, more instruction time and attention for special education students, and improved means of identifying eligible detained young adults are some of the areas where DC partner agencies can work to improve delivery of special education services to this population. As the District plans for the future of DOC facilities, we should take into account design and space required to improve IYP. These improvements will also aid in our being better able to keep these young adults closer to home to receive IDEA-related services, thereby increasing successful reentry, reducing recidivism, and increasing public safety.

It is CIC's goal to provide information and insight that advocates, government officials, decision-makers, and corrections agencies can use to improve the conditions of confinement for incarcerated DC residents. We hope that we have been able to provide such information today with regards to this very important issue.

Thank you.