

2023-2024

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## Statement of the Council for Court Excellence Before the Committee on the Judiciary & Public Safety Council of the District of Columbia

### Performance Oversight Hearing for the Department of Corrections

February 7, 2024

Good afternoon, Councilmember Pinto and members of the Committee.

My name is Tracy Velázquez, and I am the Policy Director at the Council for Court Excellence. CCE is a nonpartisan, nonprofit organization with the mission to enhance justice in the District of Columbia. For nearly 40 years, CCE has worked to improve the administration of justice in the courts and related agencies in D.C. through research and policy analysis, convening diverse stakeholders, and creating educational resources for the public. Please note that in accordance with our policy, no judicial member of CCE participated in the formulation or approval of this testimony. This testimony does not reflect the specific views of, or endorsement by, any judicial member of CCE.

I wanted to begin by recognizing that CCE is grateful for our ongoing and largely collaborative relationship with the Department of Corrections (DOC). Director Faust and his leadership team make clear efforts to be accessible to and communicative with community partners like us. As a key example, we appreciate his sustained participation in the District Task Force on Jails & Justice, which CCE facilitates. We are here today to express our gratitude for

those open lines of communication, to compliment DOC on progress in several areas, and to offer constructive feedback that is relevant to Council oversight.

Specifically, I want to discuss three important topics: 1) innovations in programming and behavioral health care at the jail, 2) the need for more transparency regarding the pre-design process underway for a new annex facility to replace the aging D.C. Jail, and 3) our inability to get comprehensive information about DOC's use of restrictive housing, commonly known as solitary confinement.

### **1) Innovations in Programming and Care Provision**

First, CCE worked with the D.C. Auditor to research and publish, *Everything is Scattered: The Intersection of Substance Use Disorders and Justice-Involvement in the District*, a report that made recommendations to DOC and the Department of Behavioral Health related to the provision of substance use services and connections to care.<sup>1</sup> CCE recently finished an evaluation of progress made on those recommendations and we were pleased to learn that DOC is planning to make formal updates to Program Statement 6001.H this quarter to memorialize its improved intake protocol, where individuals may complete a release of information so DOC may communicate with outside providers about medications and other behavioral health issues.

DOC also reported that all people were screened for opioid use at intake in 2023 and they continued to use a best-practice quick screening tool. We are proud that DOC is a national leader in the provision of medication assisted treatment – which is a relevant type of care for people with opioid use disorders – and that they are actively revising a range of related policies. There are currently women's and men's specialized behavioral health units, which is another major step forward.<sup>2</sup> However it is not one without challenges, and we understand ongoing adaptations are

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<sup>1</sup> *Everything is Scattered: The Intersection of Substance Use Disorders and Justice-Involvement in the District*, <https://dcauditor.org/report/everything-is-scattered-the-intersection-of-substance-use-disorders-and-incarcerations-in-the-district/>

<sup>2</sup> DOC reported to CCE that 921 individuals (approximately 1 in 5 intakes) were diagnosed with an opioid-related condition in FY2023 and noted that this is still likely an undercount.

being made to serve women with different types of behavioral health needs in units tailored for their needs. We also learned, as will be reported in the report to the Auditor, that there is a serious shortage of treatment beds for those with While there is clearly progress being made by DOC, we know that more can be done to ensure continuity of substance use care for people coming into, living at, and leaving the jail, especially for those who have non-opioid disorders.

We also are aware that DOC is doing more workforce development and reentry work in FY24, including new programming and rolling out a stronger READY Center. Specifically, we look forward to hearing about the plan for the Lead Out program's relaunch this month. It would be great to have that program collaborate with us at CCE as part of our Second Chance Hiring Alliance.<sup>3</sup> We also hope those aspects of DOC's work get the investments necessary to make them a success and get adequate oversight and evaluation to ensure they are making real impacts.

## **2) Planning Underway for a Transformative New Correctional Facility**

As every member of this Committee knows, the current D.C. Jail is dangerous, unhealthy, and expensive to maintain.<sup>4</sup> We therefore have been happy to see the District dedicate capital funding for a new annex facility on the current jail complex in FY 2023. We were also grateful that DOC and the Department of General Services (DGS) hired a contractor – CGL Companies – that is highly-qualified and committed to community feedback and engagement.

CGL met with the District Task Force on Jails & Justice in May 2023, describing their expertise and sharing some of the progress made so far, including plans to survey the people most impacted by a facility's design: its residents and its staff. At that time CGL reported that this pre-design phase would be complete in April 2024, and the architectural design phase would soon follow. We note that in the agency's oversight responses to this Committee, DOC states that CGL "is finalizing the programming document" and is on track to complete its work this

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<sup>3</sup> See, [www.scha-dc.org](http://www.scha-dc.org).

<sup>4</sup> Note that the DOC's 2024 budget for facilities maintenance was \$10.8 million.

spring, but that “the design, programs, and services that will be available at the new CTF Annex have not yet been finalized.”

Although there are many complex aspects of CGL’s required work under this contract, the most important recommendations are the design specifications and features of the new annex. Therefore, understanding what process DOC and DGS will use to ultimately decide the design specifications, program and service availability, is of upmost concern to CCE and the Task Force. We hope that there will be not just sunlight, but robust opportunities for community input, on the design recommendations being considered. We also would like there to be transparency around the factors that DOC and DGS are weighing in making decisions (e.g. population size, population needs, cost, site limitations), *before* the District proceeds directly to an architectural RFP. CCE would be happy to work with DOC and the Council to develop and facilitate a charette or other vehicle for additional community input, as well as collect and share best practices and innovations in correctional facility design from around the U.S. and the world both for general and for special populations, such as people with behavioral health needs.

Considering the importance of this investment – both in terms of amount and impact on the lives of residents in the District – it is vitally important that the Administration, through DOC and DGS, share more information about the details of the facility being planned, the budget they will need to build the very best facility possible, and the timeline for construction. It would also be valuable, especially to community stakeholders like us and the Council, to learn about the findings from their staff, resident, and advocacy group surveys or the community feedback sessions that are required.

Because, to be clear, simply building any new facility – or one that is basically just a repeat of a traditional jail or secure mental health facility – is not what the residents of the District are demanding, nor does it reflect the vision of the Task Force, of which you are a

member, Chairwoman.<sup>5</sup> Rather, the Task Force proposed a new facility that would house people in an environment that is essentially unrecognizable to the current one at the D.C. Jail, utilizing innovative, restorative, and evidence-based practices to create a safer, healthier place that is not only secure, but also supports personal growth.<sup>6</sup>

At CCE, we believe that DOC cares deeply about the success of this project and about creating a new facility that better serves its staff and, most importantly, the people who are housed there. We hope, therefore, that they will provide detailed updates about the project, and any anticipated changes to budget or scope, during this oversight hearing, and at regular intervals going forward.

We also look forward to DOC's continued engagement with the Task Force in the coming months. Finally, we also hope this Committee is prepared to work with the Administration to keep this project on target and sufficiently funded to create the new secure facility the District needs and our residents deserve, not just something that replicates the carceral facilities of yesterday. There must be a coordinated District-wide effort to build a new annex facility that actually meets our shared goals. Without sustained and open communication, the risks of the new facility slipping behind schedule or over budget, not having the unique traits that will make it transformative, or not happening at all, will increase.

### **3) Transparency Around DOC's Use of Restrictive Housing**

Finally, we want to share with this Committee our concerns regarding accessible data and information collection at DOC, especially related to its use of restrictive housing, often called solitary confinement. As you know, there is currently legislation pending before this Committee to end or significantly curtail most types of restrictive housing in DOC facilities.<sup>7</sup> Additionally,

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<sup>5</sup> See, Council for Court Excellence, [Synthesis and Analysis of Community Feedback on a New Correctional Annex in D.C.](#) (2022).

<sup>6</sup> District Taskforce on Jails and Justice, [Jails & Justice: Our Transformation Starts Today. February 2021 Phase II Findings and Implementation Plan](#) (2021).

<sup>7</sup> D.C. Council, B25-0543 – [Eliminating Restricted and Segregated Enclosures \(“ERASE”\) Solitary Confinement Act of 2023](#), Introduced by Councilmember Nadeau (October 18, 2023).

the fact that DOC and DGS are currently designing a new correctional annex means District leaders must decide whether it should include units designed for restrictive or solitary confinement sooner rather than later.

To inform these ongoing conversations in D.C., CCE sought information on the use of the various forms of solitary confinement by DOC through Freedom of Information Act (“DC-FOIA”) requests.<sup>8</sup> Unfortunately, after more than two years of negotiation related to the DC-FOIA requests, DOC ultimately provided quite limited information regarding its use of disciplinary or administrative segregation of people in the D.C. Jail. The data that was provided was not only incomplete, but it raised a number of concerns.

For example, per DOC responses to our FOIA requests, we learned that the average length of stay in segregated housing in Fiscal Year 2021 was 49 days – over three times longer than the United Nations considers the maximum time a person should be held in solitary confinement.<sup>9</sup> And 29 people that year were released directly to the community from segregation; this has been shown to have detrimental impacts, such as homelessness, joblessness, and a greater likelihood of recidivism, as those released may not have had access to programming to help them get the housing, treatment and other services they need.<sup>10</sup>

Additionally, many of our requests remained unanswered, leaving much still unknown. For example, we were not provided any responses related to:

- *rates of restrictive housing use, lengths of stay, or demographics of residents held in restrictive housing in 2019 or 2020;*
- *the use of physical restraints on people in the jail; the races and ages of people in restrictive housing for any year requested;*

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<sup>8</sup> D.C. Code § 2-531 *et seq.*

<sup>9</sup> The United Nations Office of the High Commissioner for Human Rights, [United States: Prolonged solitary confinement amounts to psychological torture, says UN expert](#), 2020.

<sup>10</sup>Christie Thompson, [From Solitary to the Street: What happens when prisoners go from complete isolation to complete freedom in a day?](#), The Marshall Project, June 11, 2015.

- *the number of pregnant people in segregation for any year requested;*
- *or the number of people in segregation who tried to or succeeded in hurting themselves or completing suicide, among many other specific data points.*

During negotiations related to these DC-FOIA requests, DOC asserted that it did not have or collect certain information at all; that certain information it had was not in electronic format or reliable; or that it destroyed responsive information after receiving the requests per a standard document destruction policy. Additionally, DOC argued that CCE made requests that were confusing, or were seeking statistical information that was not maintained in pre-existing documents, and therefore need not be created for or provided in a DC-FOIA response. While we recognize that we requested a range of information and it does take work for an agency to respond to FOIA requests, CCE disagrees that the requests were confusing, especially since many of the requests were modeled after prior requests by other organizations to which DOC was able to provide responses in years past.

We hope DOC will reevaluate the information it is or is not collecting related to restrictive housing and will share more information on this topic with this Committee and community partners. Anecdotally we have heard that DOC may be using restrictive housing less frequently in the last couple of years, but the only way we can know that with confidence is through clear and comprehensive data and policy and practice transparency. We expect to have a more detailed summary of our FOIA request and DOC responses available in the coming weeks, but we do believe this is an important issue for the Committee to be aware of during oversight.

This concludes my testimony. Thank you for your time, and I look forward to answering any questions you may have.