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**Statement of the Council for Court Excellence
Before the Committee of the Whole
of the Council of the District of Columbia**

**Budget Oversight Hearing for the
Fiscal Year 2023 Local Budget Act of 2022,
Fiscal Year 2023 Federal Portion Budget Request Act of 2022,
Fiscal Year 2023 Budget Support Act of 2022, and the
Fiscal Year 2022 Revised Local Budget Emergency Adjustment Act of 2021**

April 8, 2022

Good afternoon, Chairman Mendelson, and members of the Committee.

My name is Emily Tatro, and I am the Deputy Director of the Council for Court Excellence (CCE). 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 want to begin by sharing a few quotes:

- The jail is “a filthy example of man's inhumanity to man.”
- There are “roaches and rodents in the food and eating utensils and throughout the facility.”
- Residents “do not receive adequate medical attention.”
- “Prisoners are often punished or thrown into solitary confinement without being informed of charges or given [a] hearing.”
- “Clearly, the first need is for a new institution, a project which has been on the drawing boards for more than five years with not the first concrete move having yet been made. Obviously, the answer is a legislative one.”

These quotes about inhumane and uninhabitable conditions are not from the Washington Lawyers' Committee's 2015 report citing mold, water penetration through the walls, leaking plumbing, and deteriorating conditions at the current D.C. Jail.¹ Nor are they from the D.C. Auditor's 2019 investigation, which found that the D.C. Department of Health had repeatedly cited the D.C. Department of Corrections (DOC) for violating industry standards related to environmental conditions.² The quotes are not from the D.C. Inspector General's July 2021 report finding that DOC did not effectively identify and address staff non-compliance with its use of force requirements.³ They are not even from the November 2021 U.S. Marshals Service (USMS) letter to DOC detailing unsanitary living conditions and the punitive denial of food and water to residents by staff.⁴

These quotes are from a 1972 ACLU of DC report on conditions at the old D.C. Jail,⁵ but they are strikingly similar to the current critiques leveled by D.C. Jail residents, DOC staff, and others advocating and litigating for improved conditions. The 50-year-old report, *Seeds of Anguish*, was published just nine months before an uprising at the old D.C. Jail in which residents took 12 hostages before reaching a peaceful resolution. Its recommendations were printed three and a half years before litigation was filed in which Judge William Bryant

¹ Washington Lawyers' Committee for Civil Rights & Urban Affairs. *D.C. Prisoners: Conditions of Confinement in the District of Columbia*. June 2015. https://www.washlaw.org/pdf/conditions_of_confinement_report.pdf

² Office of the District of Columbia Auditor. *Poor Conditions Persist at Aging D.C. Jail: New Facility Needed to Mitigate Risks*. February 2019. <https://dcauditor.org/report/poor-conditions-persist-at-aging-d-c-jail-new-facility-needed-to-mitigate-risks/>

³ D.C. Office of the Inspector General. OIG Project No. 20-1-26FL. *DOC's Current Procedures for Receiving, Investigating, and Resolving Use of Force Incidents Are Not Operating Effectively*. July 2021. <http://app.oig.dc.gov/news/PDF/release10/OIG%20Final%20Report%20No.%2020-1-26FL%20--%20Department%20of%20Corrections%20Use%20of%20Force.pdf>

⁴ Spencer S. Hsu, Emily Davies, Paul Duggan, "D.C. Jail Ordered U.S. Marshals to Leave After Surprise inspections, Judge Says", *The Washington Post*, November 3, 2021, https://www.washingtonpost.com/local/legal-issues/dc-jail-conditions-inspection/2021/11/03/c75d08ea-3e27-11ec-bfad-8283439871ec_story.html

⁵ American Civil Liberties Union of the National Capital Area. *The Seeds of Anguish An ACLU Study of the D.C. Jail*. January 1972. Retrieved from <https://courtextcellence.box.com/s/19uvotmvcvfm576h83oio4h97kufj7h>.

eventually held that the conditions at the old D.C. Jail constituted cruel and unusual punishment, in violation of the 8th Amendment. He wrote that:

These conditions simply are not to be tolerated in a civilized society, much less in our national capital. These are conditions which turn men into animals, conditions which degrade and dehumanize. . . . For imprisonment under such conditions, where a man may be stuffed into a tiny cell with another, surrounded by . . . nocturnal moans or screams . . . , plagued by rats and roaches, sweltering by summer and shivering by winter, unable to maintain significant contact with his family in the outside world, sometimes going for long periods without real exercise or recreation, can only have one message for him: society does not acknowledge your existence as a fellow human being.⁶

It is shameful that the District is still facing the same range of problems inside our correctional facilities today as we did fifty years ago. We cannot afford to wait and see whether the conditions might again spark uprisings and even more lawsuits. CCE stands ready to support the D.C. Council, Mayor Bowser, and returning DOC Director Faust in finalizing a shared vision and executing plans for change; we are depending on your swift and decisive leadership to create a wholly reimagined correctional system. The Mayor's proposed FY 2023-2028 Capital Improvements Plan adopts the [District Task Force on Jails & Justice's](#) (Task Force) Stage 1 facility recommendation to build a new facility annex to the existing Correctional Treatment Facility (CTF). This an enormous first step, but the timeline for completing the new facility is much too far away. You have the power to speed up this process by two years and bring relief to the 1,334 people suffering in DOC's current conditions of confinement.⁷ With some adjustments, it is wholly possible to get shovels in the ground by the end of next year.

⁶ *Inmates, DC Jail v. Jackson*, 416 F. Supp. 119 (D.D.C. 1976) at 123.

⁷ As of April 1, 2022. See D.C. Department of Corrections, *The Daily Population Report for March 26th through April 1st 2022*. Retrieved from <https://doc.dc.gov/sites/default/files/dc/sites/doc/publication/attachments/March%2026th%20through%20April%201st%20%202022.pdf>.

First, the D.C. Council should allocate \$125,000 in the supplemental FY 2022 budget to draft the statement of work and request for proposals for the new facility complex now. There is no need to wait until October to start this process, and if we begin now, we can reasonably expect to complete the design phase with the funding already proposed in FY 2023.

Second, while the Mayor's proposed construction start date is December 1, 2023, funding was only allocated for construction in FY 2026, 2027, and 2028. These dollars must be moved up to begin in FY 2024. This can be accomplished by using funds dedicated to other capital projects in FY 2022, 2023, and 2024. It could also be accomplished using operating budget dollars via Pay Go funds or a public-private partnership. Whichever mechanism you choose, the D.C. Council must move the \$250 million in funding for construction up to FY 2024, 2025, and 2026 so that construction can begin immediately after completion of the planning phase and, within four-and-a-half years, D.C. can move its incarcerated residents into the new facility annex.

After completion of the new facility annex, CCE recommends completing Stages 2 and 3 proposed by the Task Force to construct a main building for a new facility, demolish the Central Detention Facility (CDF or D.C. Jail), and end D.C.'s use of the 122 Federal Bureau of Prisons facilities scattered across the country. Following this plan, by FY 2030 the District will have a new and innovative facility to house every person who our justice system has determined cannot live safely in the community, even with robust supports. This reduced pre-trial and sentenced population will live in D.C., close to the support of loved ones and community-based resources, in the dignified, safe, secure, and healthy environment that so many people are demanding, one which supports personal growth through evidence-based practices. This concludes my testimony. Thank you for your time, and I look forward to answering any questions you may have.