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**Statement of the Council for Court Excellence
Before the Committee on Recreation, Libraries and Youth Affairs'
of the Council of the District of Columbia**

**Hearing on B24-0946, the Eliminating Restrictive and Segregated Enclosures
("ERASE") Solitary Confinement Act of 2022**

Please accept the following as the Council for Court Excellence's (CCE) testimony regarding the Eliminating Restrictive and Segregated Enclosures ("ERASE") Solitary Confinement Act of 2022. 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.

Judge Bryant of the United States District Court of District of Columbia said in the 1976 case *Inmates, D.C. Jail v. Jackson*,

"Imprisonment in [undignified] conditions... can only have one message...: society does not acknowledge your existence as a fellow human being. And when that message is delivered in the D.C. Jail, whatever small chance may

have existed that a person might act as though [they] were a member of a civilized society is obliterated, along with his decency and humanity.”¹

As members of the Council are well aware, D.C.’s correctional facilities are still – more than 35 years later – regularly criticized for their conditions of confinement. But in addition to the physical conditions of the buildings, food, and other elements recently receiving attention, it is critical that District leaders and residents consider the message being sent by the continued and significant use of segregation and isolation, commonly called solitary confinement, in our local jail facilities. CCE is pleased that the ERASE Bill is sparking a renewed dialogue on the disproportionate use of isolation in D.C. and a closer examination and reconsideration of the District’s use of “segregated confinement.”²

In this testimony, we will outline what we know about D.C.’s current use of solitary confinement in its various forms, what research has told us about the impacts of isolation as a correctional strategy, and the importance of clear data about D.C.’s policies and practices so that the D.C. Council and others can tailor future reform accordingly.

First, it is clear that the undignified conditions of confinement inherent in sustained isolation sacrifice precisely such decency and humanity as Judge Bryant wrote about. For example, it has been consistently reported that D.C.’s safe cells lack consistent access to water, appropriate temperature control, and mattresses. There are often delays in medication distribution and little to no out-of-cell time. Lights are kept on for 24 hours a day and some cells are marked with a sign instructing no one to speak with the resident.³

¹ *Inmates, D.C. Jail v. Jackson*, 416 F. Supp. 119 (D.D.C. 1976).

² This term includes "any form of prolonged confinement or prolonged isolation, including disciplinary restrictive housing, all forms of administrative restrictive housing, room confinement, room restriction, administrative hold, protective custody, confinement to a safe cell, and any other practice or policy by the Department of Corrections and the Department of Youth Rehabilitation Services that results in an incarcerated person being separated from general population of the penal institution."

³ Mitch Ryals, *Attorneys Continue to Hear Reports of the Horrific Conditions in DC Jail’s ‘Safe Cells,’* WASH. CITY PAPER (May 13, 2021), <https://washingtoncitypaper.com/article/516737/attorneys-continue-to-hear-reports-of-the-horrific-conditions-in-dc-jails-safe-cells/>.

While 2022 rates of utilization is unknown, data from DOC and the federal government suggests that D.C. has proportionally restricted more people in segregated confinement than national averages in recent (pre-pandemic) years.⁴ Additionally, segregated confinement increased at the D.C. Jail during the pandemic.⁵ Understandably, the challenges of addressing and containing a pandemic within a locked facility are unique. However, mass lockdown measures that were used as short-term responses in other facilities in our region were maintained at the D.C. Jail for almost 400 consecutive days.⁶ Experts called the situation “a form of mass solitary confinement.”⁷ DOC faced a class action lawsuit over their lackluster COVID response in 2020, resulting in a preliminary injunction, as well as a settlement, that included provisions to improve conditions of isolation.⁸

Second, there has been ample research – both from the U.S. and around the world – that analyzes the correctional rationales and goals of segregated confinement, and its consequences on the human mind and body. Segregated confinement is not just undignified; it is frequently destabilizing and damaging.⁹ The effects of segregated confinement are marked by

⁴ See Valerie Kiebal, James Ridgeway & Lawrence Ukenye, *From Hellhole to Hotspot: Accounts Inside the D.C. Jail During COVID-19 Reveal a Perfect Storm of Squalor and Neglect*, ROOT (Dec. 17, 2020), <https://www.theroot.com/from-hellhole-to-hotspot-accounts-inside-the-d-c-jail-1845896192>; Bureau of Justice Statistics, <https://bjs.ojp.gov/library/publications/use-restrictive-housing-us-prisons-and-jails-2011-12> and <https://solitarywatch.org/wp-content/uploads/2020/11/Restrictive-Housing-DC-Jail.-Fy-2017-2018.pdf>.

⁵ Peter Jamison, *An ‘Insane’ Coronavirus Lockdown Two Miles from the Capitol, with no end in sight*, WASH. POST (Apr. 19, 2021), <https://www.washingtonpost.com/dc-md-va/2021/04/19/dc-jail-lockdown-covid/>.

⁶ *Id.*

⁷ *Id.*

⁸ ACLU D.C., *Banks v. Booth - Challenging Life-Threatening Lack Of Covid-19 Precautions at the D.C. Jail*, <https://www.acludc.org/en/cases/banks-v-booth-challenging-life-threatening-lack-covid-19-precautions-dc-jail>.

⁹ Tiana Herring, *The Research is Clear: Solitary confinement causes long-lasting harm*, PRISON POL’Y INITIATIVE (Dec. 8, 2020), https://www.prisonpolicy.org/blog/2020/12/08/solitary_symposium; see also Alison Shames, Jessa Wilcox & Ram Subramanian, SOLITARY CONFINEMENT: COMMON MISCONCEPTIONS AND EMERGING SAFE ALTERNATIVES, FN 54 (Vera Inst. Just. 2015), https://www.vera.org/downloads/publications/solitary-confinement-misconceptions-safe-alternatives-report_1.pdf; Kirsten Weir, *Alone, in ‘the hole’: Psychologists probe the mental health effects of solitary confinement*, 43 APA MONITOR ON PSYCH. 54 (2012); Shira E. Gordon, *Solitary Confinement, Public Safety, and Recidivism*, 47 U. MICH. J. L. REFORM 495 (2014), <https://repository.law.umich.edu/mjlr/vol47/iss2/6>.

hallucinations; panic attacks; difficulties with thinking, concentrating, and remembering; paranoia, obsessive, sometimes harmful, thoughts; and difficulties with impulse control.¹⁰

These effects are particularly troubling when we consider the national data that suggests that individuals in segregated confinement are up to twice as likely to already be dealing with a mental illness than their counterparts in a facility's general population.¹¹ Even if an individual did not enter segregation with a mental illness, the *American Journal of Public Health* reported that “[n]early every scientific inquiry into the effects of solitary confinement over the past 150 years has concluded that subjecting an individual to more than 10 days of involuntary segregation results in a distinct set of emotional, cognitive, social, and physical pathologies.”¹² Placing people in an environment in which they will likely psychologically destabilize with the goal of ultimately reintegrating them into the general population is at least counterintuitive, if not clearly ineffective.¹³

Pandemic considerations aside, there is little evidence to support the notion that segregated confinement increases compliant behavior, facility safety, or that violence would increase without the option for such housing.¹⁴ Research supports the effectiveness of responsibility-oriented facilities, which use self-governing opportunities to incentivize positive behavior. These facilities experience lower levels of minor and serious disorder than prisons that

¹⁰ Tiana Herring, *The Research is Clear: Solitary confinement causes long-lasting harm*, PRISON POL'Y INITIATIVE (Dec. 8, 2020), https://www.prisonpolicy.org/blog/2020/12/08/solitary_symposium/.

¹¹ Alison Shames, Jessa Wilcox & Ram Subramanian, SOLITARY CONFINEMENT: COMMON MISCONCEPTIONS AND EMERGING SAFE ALTERNATIVES, FN 54 (Vera Inst. Just. 2015), https://www.vera.org/downloads/publications/solitary-confinement-misconceptions-safe-alternatives-report_1.pdf.

¹² David H. Cloud, Ernest Drucker, Angela Browne, & Jim Parsons, *Public Health and Solitary Confinement in the United States* 105 AM. J. PUB. HEALTH 18 (2015).

¹³ Mimosa Luigi, Laura Dellazizzo, Charles-Édouard Giguère, Marie-Hélène Goulet & Alexandre Dumais, *Shedding Light on “the Hole”: A Systematic Review and Meta-Analysis on Adverse Psychological Effects and Mortality Following Solitary Confinement in Correctional Settings*, FRONTIERS PSYCH. (Aug. 19, 2020), <https://www.frontiersin.org/articles/10.3389/fpsy.2020.00840/full>.

¹⁴ Alison Shames, Jessa Wilcox & Ram Subramanian, SOLITARY CONFINEMENT: COMMON MISCONCEPTIONS AND EMERGING SAFE ALTERNATIVES, 20 (Vera Inst. Just. 2015), https://www.vera.org/downloads/publications/solitary-confinement-misconceptions-safe-alternatives-report_1.pdf.

utilize more traditional methods of control, like solitary confinement.¹⁵ In Maine, Oregon, and Colorado, facilities with reduced use of solitary confinement have seen less violence among residents and between corrections officers and residents.¹⁶ Washington and Pennsylvania are among the states that have addressed chronic misbehavior through special programming instead of isolation.¹⁷ Washington has reported that the change in structure has increased safety for residents and employees.¹⁸ Similarly, Pennsylvania and New York, have designed specialized units for individuals at increased risk of victimization instead of isolating these individuals.¹⁹

Finally, it is concerning that the public or D.C.'s policymakers know very little of how the practice is currently being used in the District, in part because there are no mandatory reporting requirements surrounding solitary confinement. One of the most promising features of the ERASE bill is the requirement for monthly reporting from each institution on their confinement practices. As part of the public education and research prongs of our mission, CCE has made a request to DOC for information regarding solitary confinement policies, practices, and data in the District. CCE first requested this information over a year ago, but unfortunately, we are not able to report on this data as of today, as we're still in negotiation with DOC to receive information that would paint a much clearer picture of how safe cells, administrative segregation, and other forms of isolation are being used in D.C.

Many of the specific data points we asked for in our 2021 FOIA were things that DOC had reported on in prior years so we believe it is reasonable to request updated numbers. Accurate and transparent data on isolation of incarcerated people is especially important considering how serious, and potentially harmful the decision to isolate a human being is; CCE

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 22.

¹⁹ *Id.*

believes it is incumbent upon both DOC and the federal Bureau of Prisons to track the details of who, why, how long, and the outcomes of isolation, at the bare minimum.

While we applaud the DOC confinement policy updates made in 2017, those changes have not gone far enough.²⁰ As we optimistically emerge from the acuteness of the pandemic and rapid transmission, we hope that the District has learned how harmful isolation can be and is embracing alternative and humane approaches to resident and staff safety. Our community deserves a detention facility that operates with innovation and imagination, not one based on unchallenged traditions. Thank you for your consideration, and please do not hesitate to reach out should you have any questions.

²⁰ Mitch Ryals, *Attorneys Continue to Hear Reports of the Horrific Conditions in DC Jail's 'Safe Cells,'* WASH. CITY PAPER (May 13, 2021), <https://washingtoncitypaper.com/article/516737/attorneys-continue-to-hear-reports-of-the-horrific-conditions-in-dc-jails-safe-cells/>.