



**Statement of the District Task Force on Jails & Justice
Before the Committee on the Judiciary & Public Safety
of the Council of the District of Columbia**

Public Oversight Roundtable on Conditions of Confinement at the D.C. Jail

November 11, 2021

Good afternoon, Chairman Allen, and other members of the Committee. My name is Jonathan Smith I am the Executive Director of the Washington Lawyers' Committee for Civil Rights and Urban Affairs, though I am here today testifying in my capacity as Co-Chair of the Committee on Decarceration of the District Task Force on Jails & Justice (Task Force). The Task Force is an independent advisory body dedicated to redefining the District's approach to incarceration by building city-wide engagement, centering the voices of those with lived experiences, understanding community priorities, and exploring the use and design of secure detention and community-based solutions. Since 2019, the Task Force has worked to build a humane, equitable approach to criminal justice in Washington, D.C. that prioritizes prevention and care, and reimagines accountability through a rehabilitative lens, to create safe and thriving communities.

The District of Columbia Jail has been a troubled institution since its inception. The Jail was built in 1976 to replace the "Old Jail" that dated back more than 100 years. From the moment

that the Jail was opened until 2000 it was under federal court supervision pursuant to a consent decree in the cases of Campbell v. McGruder and Inmates of DC Jail v. Jackson. From 1991 to 1999, I was counsel for the plaintiffs in the Inmate of DC Jail v. Jackson case. These cases ended, not because the conditions had improved to the extent to which the Jail met the minimal requirements of the Constitution, but because Congress enacted the Prison Litigation Reform Act that created procedural barriers to the enforcement of longstanding consent decrees. During this same time period women prisoner and women staff separately successfully sued the Jail for wide-spread patterns of sexual assault and harassment. Since the conclusion of these cases, other cases have been brought to address conditions at the Jail, including the pending litigation focused on the failure of the Department of Corrections to take basic measures to protect prisoners from COVID-19 transmission.

The reports of the United States Marshall's Service inspection described conditions that have persisted at the Jail for decades. The reports of inadequate medical and mental health care, water cut offs and plumbing back-ups, vermin, and unhealthy and unsanitary food could all of come from monitor reports and contempt proceedings in the 1990's. The health care conditions were so bad that, at one point, the Court appointed a receiver to operate the health care system. It was only the third time in US history that a receiver had been appointed in a prison case.

In addition to the failures of the District in the operation of the Jail, the building is designed to be dehumanizing and cruel. Pods of barred cells and steel doors, limited opportunity for fresh air or natural light, too little decency and too much noise and pain. Everything about the building has been crafted to deny the dignity of the men and women confined there.

Now is the time to take immediate and urgent action to cease the harm to people confined to the Jail and to expedite the plan to close the Jail and to build a different kind of facility that promotes, rather than harms public safety.

The conditions at the Jail mandate:

1. The expedited implementation of Task Force recommendations to dramatically reduce the population at the Jail, including the release to the community of all persons being confined solely for technical violations of parole or conditions of release, significant limitations on the use of three and five day holds, enhancement of community supervision resources and a review of every person confined to the jail to determine whether there are community supervision options that exist, or that can be created, to allow them to be safely returned home.
2. Institute immediate independent oversight of the Jail.¹ Prison and jail walls work not only to keep people in, but to obscure the public's view of the horrors inside. One of the advantages of litigation is that it punches a window through the jail wall for people in the free world to see in. We have recognized, as Justice Brandeis wrote that "sunshine is the best of disinfectants and electric light the best of policeman", in implementing transparency and oversight mechanisms in other institutions. We have put into place external oversight through civilian complaint review boards, inspectors general, school boards, etc. Prisons and jails remain uniquely free from scrutiny. The need for external review is exacerbated by the limitation created on civil rights

¹See, eg, [Independent Oversight Is Essential for a Safe and Healthy Prison System | Brennan Center for Justice](#)

litigation by the Prison Litigation Reform Act and the ability of Courts to vindicate the rights of people in custody.

3. Finally, the Council should expedite the process of closing the Jail and creating a very different kind of facility in the District. The report of the Jails and Justice Task Force creates a roadmap that can be followed. The Task Force time line of 10 years can be compressed and the Jail reduced to a rubble of bricks. This is in the urgent interest of both public safety and common decency. Further detail on how this can be done is included in my written testimony.

After the Task Force's founding in April of 2019, the Task Force assembled a wide range of stakeholders from the District, including local and federal government agencies, elected officials, research and policy organizations, scholars, community-based organizations, the faith-based community, as well as people who have been directly impacted by incarceration. Throughout the Task Force's work, we committed to being antiracist in our work and centering community member feedback about how the District's criminal legal system can best serve D.C. residents.² Together, we concluded in our Phase I report that the D.C. Jail needed to be reexamined and redesigned if it were to ever serve the community in a productive way.

In Phase II of the Task Force's work, we began crafting specific recommendations on how – and when – the D.C. Jail needed to be reimagined and redesigned. While this report did not offer specific recommendations for how this should be accomplished, we thought deeply about what the function of a jail should be for its community, and what approach to crime best fits the values of the people of D.C. It became clear that the District should invest in a facility

² District Task Force on Jails and Justice, *Jails & Justice: Our Transformation Starts Today, Phase II Findings and Implementation Plan*, February, 2021, <http://www.courtexcellence.org/uploads/publications/TransformationStartsToday.pdf>

that is safe, secure, and prioritizes the rehabilitation and reentry of individuals who are incarcerated in order to dismantle the inherently racist structure of D.C.'s criminal legal system.

Once the Task Force received feedback on the recommendations in our Phase I report, we began work on Phase II, which entailed coordinating analysis from each of our four committees to identify developing themes from residents and other stakeholders. In February, 2021, the Task Force published its Phase II report, containing 80 recommendations that constitute a detailed ten-year Implementation Plan for overhauling the District's jails and justice system in three stages, including many changes that can and should be made immediately. Today, I'm going to speak specifically to the steps that must occur in order for the District to create a new non-traditional facility that would house all people still detained pre-trial or sentenced to incarceration, among other reforms because we cannot reimagine the District's criminal legal system without building a new non-traditional facility.³ The current facility does little to ensure dignity and humanity for the individuals it houses⁴ with recent U.S. Marshals investigation finding both "civil rights and probably criminal violations", including the shutdown of running water and untreated injuries.⁵ Black people comprise 90% of the people we incarcerated at the Department of Corrections (DOC), making the conditions at the facility a racial justice issue as well as a human rights issue. They are our fellow D.C. residents, and they deserve more from the District.

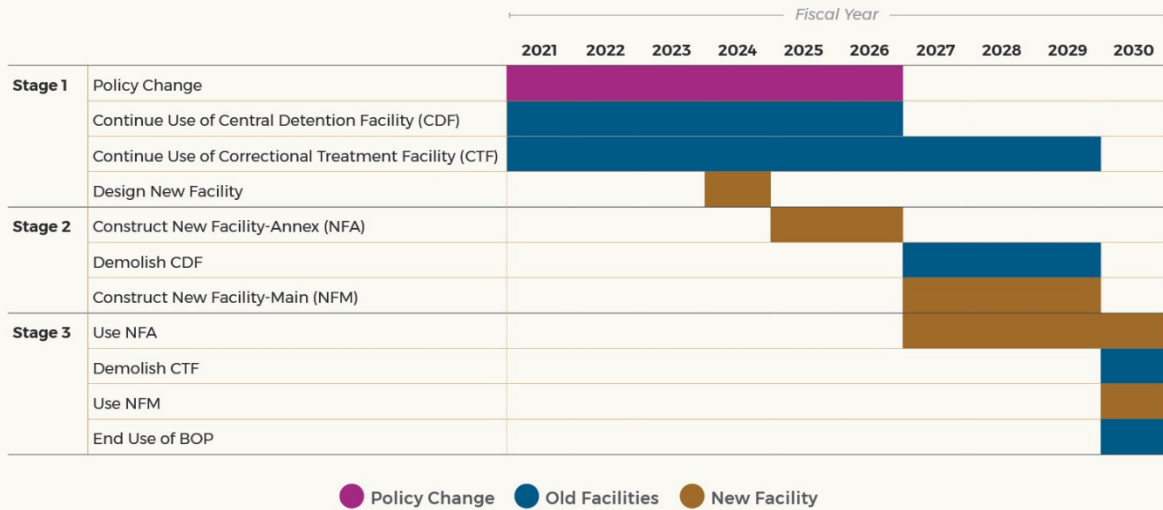
³ District Task Force on Jails and Justice, *Phase II Report of the Committee on Facilities & Services to the District Task Force on Jails & Justice*, October 20, 2020, http://www.courtexcellence.org/uploads/publications/Facilities_and_Services_Committee_Report_to_the_Task_Force.pdf

⁴ Ibid.

⁵ 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-3c27-11ec-bfad-8283439871ec_story.html

Last week, as the community – in horror – read about the conditions at the D.C. Jail, many lauded that the District did not have a plan to repair the facility or build a new one. The Task Force has a plan and, in its work, identified both short-term and long-term steps that the District should follow in order to close both the Central Detention Facility (CDF) and Central Treatment Facility (CTF) and build one new non-traditional facility. First, in order to build a new non-traditional facility as specified by the Task Force, the District must shrink its incarcerated population. The Task Force makes several recommendations on how to do this, all of which are detailed in the Task Force’s Phase II report. Both federal and local legislative changes will need to occur in order to enact these reforms, as well as local agency and community buy-in. Now, I would like to speak in a bit more detail about how the District will construct a new non-traditional facility. The demolition of the CTF and CDF, as well as the construction of the new non-traditional facility, will occur in three stages. The subsequent image provides an overview of the three stages.

District Task Force on Jails & Justice's 10-Year Plan



District Task Force on Jails and Justice, *Phase II Report of the Committee on Facilities & Services to the District Task Force on Jails & Justice*, October 20, 2020, http://www.courtexcellence.org/uploads/publications/Facilities_and_Services_Committee_Report_to_the_Task_Force.pdf

During Stage 1, between 2021 and 2026, and while the new non-traditional facility is being constructed, the District should continue to house individuals within the old CDF and CTF facilities. During this time, correctional officers in CDF will be retrained to operate under a direct supervision model used in CTF. The direct supervision model trades the traditional cell block construction of most jails for a more livable, communal space where corrections officers are a less oppressive presence, which will help to humanize our DOC facilities. This model will carry over to the new facility, the New Facility- Annex (NFA), which will be designed with

capacity for 768 residents. As an annex to the CTF, this building will begin accepting transfer residents from CTF and CDF.⁶

In Stage 2, which should take place from the 2027 to 2029 the CTF and NFA will house all residents, and all corrections officers will be fully retrained under a direct supervision model. Once all residents have been moved from the CTF and the NFA, the CDF should be demolished or repurposed. The CTF's maximum capacity will be lowered to 700 so that each resident can have their own individual room. At this time, the incarcerated population should have been significantly decreased by the measures the Task Force recommended in Stage 1. Any rooms that are empty in the DOC as a result should be used to begin bringing D.C. residents back from federal Bureau of Prisons facilities. Individuals listed as "special population", including those with mental health conditions or substance use disorders should be prioritized in this process. Finally, the main facility, the New Facility- Main (NFM) will be constructed in Stage 2. This building will incorporate all of the services that the Task Force has envisioned, which will help foster personal growth through evidence-based practices, and together with the NFA, will be the model of a non-traditional, rehabilitation-centered facility.⁷

Stage 3 will involve transferring the remaining individuals from CTF to either the NFA or NFM from 2030 onwards. Again, at this point the CTF can be demolished or repurposed. By the end of this process, nothing of the old jail facilities will remain in use, and all people convicted of a D.C. Code offense from the BOP will be brought back the District, where they can better connect with reentry services, their families, and the community.

⁶ District Task Force on Jails and Justice, *Phase II Report of the Committee on Facilities & Services to the District Task Force on Jails & Justice*, October 20, 2020, http://www.courtexcellence.org/uploads/publications/Facilities_and_Services_Committee_Report_to_the_Task_Force.pdf

⁷ Ibid.

Planning for the entire new facility should be completed by FY23 in order to meet the allotted FY25 design deadline set by the District's FY21-26 Capital Budget. The construction of the NFA would likely amount to \$170-225 million for bed space and space for programming and support services. If all additional options are added during the construction of the NFA, which could include an administrative headquarters for DOC, a diversion center, a permanent home for the READY Center, and a day reporting center, this total increases to \$192-252 million. However, these additional options can be added during the construction of the NFM. The NFM itself is likely to cost between \$248-300 million, with an estimated total project cost of around \$500 million.⁸

This expense is worth every penny for the change it will bring to the District and dignity that it will finally give to incarcerated people. Incarceration, as it exists in the District today, is a traumatizing and dehumanizing process that serves only to remove individuals from their community. Maintaining and improving public safety while also shrinking the size and impact of the justice system is a daunting task that the entire nation faces, but the construction of a new DOC facility is one of the most important steps the District can take in order to address these systemic issues. The District Task Force on Jails & Justice presents a reasonable, feasible plan for a new facility, and we believe that our local government must approve this plan if they care to address our broken criminal legal system.

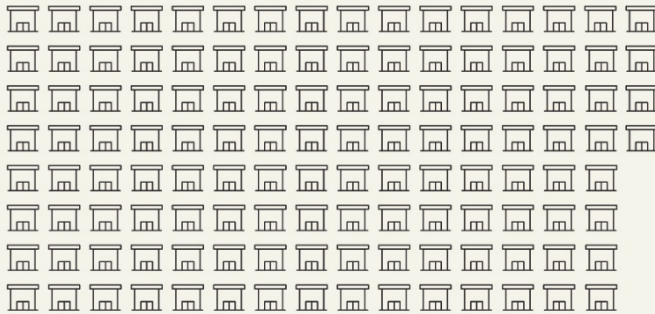
⁸ Ibid.

A New Non-Traditional Facility in D.C.



2020

People who are incarcerated held in 124 institutions



2030

One non-traditional facility providing a safe, secure, and healthy environment



- ✓ Houses people who are pre-trial and sentenced
- ✓ A markedly different justice system

District Task Force on Jails and Justice, *Phase II Report of the Committee on Facilities & Services to the District Task Force on Jails & Justice*, October 20, 2020, http://www.courtexcellence.org/uploads/publications/Facilities_and_Services_Committee_Report_to_the_Task_Force.pdf

That concludes my testimony. Thank you for this opportunity and I welcome any questions.