

**Statement on behalf of the
American Civil Liberties Union of the District of Columbia
before the D.C. Council Committee on the Judiciary and Public Safety
Budget Oversight Hearing on the Department of Corrections
and Corrections Information Council**

**by
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Good afternoon, Chair Pinto and members of the Committee. My name is Melissa Wasser, and I am the Policy Counsel at the American Civil Liberties Union of the District of Columbia (ACLU-D.C.). I present the following testimony on behalf of our more than 15,000 members and supporters across the District.

The ACLU-D.C. is committed to working to dismantle systemic racism, safeguard fundamental liberties, and advocate for sensible, evidence-based criminal justice policies. Our testimony today addresses our key recommendations regarding the District's Fiscal Year 2025 (FY25) budget for the D.C. Department of Corrections (DOC) and the Corrections Information Council (CIC).

As we testified in early February during these agencies' performance oversight hearings, improving oversight of DOC and CIC will help strengthen the agencies, especially given the corroborated and glaring evidence that the agencies are in serious need of overhaul and external accountability mechanisms.¹ We believe that improving oversight starts with fully funding the Corrections Oversight Improvement Omnibus Amendment Act of 2022, passing and funding legislation that would end solitary confinement and provide unannounced inspections of food at the D.C. Jail, and prioritizing improved oversight due to the current state of the D.C. Jail. We also urge this Committee to fully fund the pretrial detention efficacy study as mandated by Bill 25-0345, the Secure DC Omnibus Amendment Act of 2024 (Secure DC). The Criminal Justice Coordinating Council should receive the full funding necessary to complete the research, analysis, and evaluation.

¹ ACLU of the District of Columbia, "ACLU-DC Testifies at Performance Oversight Hearing on the Department of Corrections and Corrections Information Council," February 7, 2024, <https://www.acludc.org/en/legislation/performance-oversight-hearing-department-corrections-and-corrections-information-0>.

I. The Council should fully fund the Corrections Oversight Improvement Omnibus Amendment Act of 2022 to improve oversight at both DOC and CIC.

While we are deeply disappointed that the legislation was not funded in the Mayor's proposed budget, we strongly urge the Committee to fund B24-0076, the Corrections Oversight Improvement Omnibus Amendment Act of 2022, so that agencies can begin implementation in FY25. The Fiscal Impact Statement issued in November 2022 identified costs of between \$575,000 and \$597,000 each fiscal year, for a total of \$2.3 million over the four-year financial window.²

To ensure full implementation of the Corrections Oversight Improvement Omnibus Act at DOC, we request an additional \$225,000 in FY25. This would cover the creation of two positions: (1) a DOC Program Analyst position, who will prepare records for the CIC; and (2) an Auditor position, which is required in order to expand the hours when personnel from CIC or the Council can inspect DOC facilities and will be accompanied by an Auditor during their inspections. This funding must be recurring, with additional budgetary investments to sustain the position, adjusted for cost-of-living increases and inflation. Additional funds to fully implement the requirements of the bill should go directly to CIC.

To ensure full implementation of the Corrections Oversight Improvement Omnibus Act at CIC, we request an additional \$361,000 in FY25. This would cover salaries and benefits for two CIC Program Specialists (\$252,000), non-personnel spending (\$5,000), and a contract for national policy experts to monitor national policy developments affecting correctional facilities and provide associated training to its staff (\$104,000). As with the DOC, this funding must be recurring, with additional budgetary investments to sustain these positions and contractors, adjusted for cost-of-living increases and inflation.

Without this critical funding to implement these oversight functions, CIC will fail to carry out its mandate to "inspect, monitor, and report on the conditions of confinement at facilities where DC residents are incarcerated."³ The Council should fund DOC with an additional \$225,000 and CIC with an additional \$361,000, respectively, during this upcoming budget season to ensure these agencies can carry out their mandates effectively and share time-sensitive information about the conditions of confinement at DOC facilities so that necessary corrective action can be taken in a timely way.

² Office of the Chief Financial Officer Glen Lee, Fiscal Impact Statement – Corrections Oversight Improvement Omnibus Amendment Act of 2022, https://lims.dccouncil.gov/downloads/LIMS/46551/Other/B24-0076-FIS_Corrections_Oversight_Improvement_Omnibus.pdf?Id=151720.

³ DC Corrections Information Council, About the DC Corrections Information Council, <https://cic.dc.gov/page/about-cic>.

II. The Council should pass and fund legislation banning the use of solitary confinement at the Jail.

ACLU-D.C. is a proud member of the D.C. Unlock the Box coalition. Unlock the Box is a national advocacy campaign aimed at “ending solitary confinement in all U.S. prisons, jails, detention facilities, and juvenile facilities, and bringing the United States into full compliance with the UN’s Mandela Rules for the Treatment of Prisoners within 10 years.”⁴ The Council has an opportunity to become a national leader in ending solitary confinement by holding a hearing, passing, and funding Bill 25-0543, the Eliminating Restrictive and Segregated Enclosures (“ERASE”) Solitary Confinement Act of 2023 [ERASE Solitary].

Solitary confinement is a reality for many people incarcerated in our nation’s capital. The United Nations has said that solitary confinement amounts to “psychological torture,”⁵ and even professional associations that represent corrections administrators have said that “prolonged isolation of individuals in jails and prisons is a grave problem in the United States.”⁶

Introduced by Councilmember Nadeau and seven Council colleagues, ERASE Solitary would prohibit nearly all forms of segregated confinement for individuals incarcerated at penal institutions owned, operated, and controlled by DOC; limit the use of safe cells; mandate that all residents in a DOC facility receive at least eight hours of out-of-cell time per day; and require DOC to collect and publish data on the ongoing use of solitary confinement.⁷ The bill includes narrow and time-limited exceptions for medical isolation and for people at risk of self-harm. We urge this Committee to hold a public hearing on ERASE Solitary and pass this legislation before the end of this Council period. Once passed, this bill should be fully funded.

There is widespread support for ending solitary confinement in the D.C. Jail. ACLU-D.C. recently conducted a survey of 500 likely 2024 general election voters in Washington, D.C. that revealed deep and widespread support for ending solitary confinement.⁸ The survey found that “more than half of D.C. voters support ending

⁴ ACLU-D.C., “Unlock the Box: End Solitary Confinement,” <https://www.acludc.org/en/campaigns/unlock-box-end-solitary-confinement>.

⁵ United Nations, “United States: Prolonged solitary confinement amounts to psychological torture,” Feb. 28, 2020, <https://www.ohchr.org/en/press-releases/2020/02/united-states-prolonged-solitary-confinement-amounts-psychological-torture>.

⁶ Timothy Williams, “Prison Officials Join Movement to Curb Solitary Confinement,” *The New York Times* (Sept. 2, 2015), <https://www.nytimes.com/2015/09/03/us/prison-directors-group-calls-for-limiting-solitary-confinement.html>.

⁷ Bill 25-043 – Eliminating Restrictive and Segregated Enclosures (“ERASE”) Solitary Confinement Act of 2023, <https://lims.dccouncil.gov/Legislation/B25-0543>.

⁸ ACLU of the District of Columbia, DC Justice Lab, and Unlock the Box DC, *Breaking Through Isolation: The Urgent Case for the ERASE Solitary Confinement Act in D.C. Jails* (Nov. 16, 2023), <https://www.acludc.org/en/publications/breaking-through-isolation-urgent-case-erase-solitary-confinement-act-dc-jails>.

solitary confinement. A solid 55 percent majority of D.C. voters oppose the use of solitary confinement at the D.C. jail, including 33 percent who oppose it more strongly⁹ and “the more D.C. voters learn about solitary confinement, the more they want to end it.”¹⁰ Support to end solitary confinement increases to 62% when voters learn more about the experience of solitary confinement and increases to 70% when voters learn it “does nothing to rehabilitate people and exacerbates or creates mental illness.”¹¹

As we testified to in October 2022, the practice of solitary confinement jeopardizes public safety, wastes taxpayer dollars, and is inhumane and traumatic to the individuals who endure it.¹² Ending solitary confinement demands confronting inequities in the criminal justice system and the racial bias driving them. ERASE Solitary is not just a legislative change; it is a moral imperative to address systemic injustices and create a more equitable and effective justice system in D.C.

III. The Council should fully pass and fund FRESH STARTS to ensure there are unannounced inspections and additional reporting requirements on nutrition at the D.C. jail.

Access to healthy and edible food plays a key role in ensuring safety within DOC. Edible food is a fundamental basic need that DOC has a constitutional duty to provide to people in its facilities. The lack of access to healthy and edible food at the D.C. jail is not only a food safety issue, but an issue impacting District costs, the health of residents, and racial justice. Introduced by Chair Pinto and seven Council colleagues, Bill 25-0112, the Food Regulation Ensures Safety and Hospitality Specialty Training Aids Re-entry Transition and Success (FRESH STARTS) Act of 2023, would set requirements for nutrient-dense food served in correctional facilities, require DOC to adopt the Good Food Purchasing Program, strengthen oversight of food and nutrition in correctional facilities, and establish a task force to explore and propose additional long-term improvements.

While some elements of FRESH STARTS have been included in Secure DC, the bill does not go far enough to make meaningful improvements to how residents at the D.C. jail are fed and treated, as it did not include (1) unannounced inspections of the food service and (2) reporting on nutrition and specialty meals being provided at the Jail. We urge the Council to fully pass and fund the FRESH STARTS legislation and ensure there are unannounced inspections of the food service and a requirement of additional reporting on nutrition and specialty meals (religious and otherwise) being provided at the jail, which are not currently included within

⁹ *Id.* at 3.

¹⁰ *Id.*

¹¹ *Id.*

¹² ACLU-D.C. Testifies on the Eliminating Restrictive and Segregated Enclosures (“ERASE”) Solitary Confinement Act, October 20, 2022, <https://www.acludc.org/en/legislation/aclu-dc-testifies-eliminating-restrictive-and-segregated-enclosures-erase-solitary>.

Secure DC. Passing and funding the full legislation would help address a longstanding problem that DOC has yet to satisfactorily address on its own and is also critical to moving the District away from a carceral approach to one that focuses on prevention, intervention, and rehabilitation.

To strengthen the FRESH STARTS legislation, we again urge this Committee to fully fund the Corrections Oversight Improvement Omnibus Amendment Act of 2022 to ensure that proper data is collected on the contracting and provisions of food services. The Committee should also ensure that DOC provides timely, unrestricted access to locations where food is prepared, consumed, or disposed of for oversight purposes.

IV. The Council should prioritize improving oversight due to the current state of the D.C. Jail and the lack of CIC’s consistent oversight of DOC.

As we mentioned to this committee in February, some of the same issues that the ACLU-D.C. has highlighted in previous oversight hearings¹³ or lawsuits¹⁴ remain: residents inside the D.C. jail facilities are still being subjected to inhumane living conditions, even after the U.S. Marshals found “systemic failures” at the Jail back in 2021, including unsanitary living conditions and punitive denial of food and water.¹⁵ Residents lack running water, are being served inedible food in unsanitary conditions, and are experiencing flooding and mold in their showers.¹⁶ These conditions will continue to exist until there is concrete oversight by the Council or the court system that improves these heinous conditions.

ACLU-D.C. also emphasized that residents at the D.C. jail should not be given a potential death sentence due to a lack of medical care from DOC staff. Either

¹³ ACLU of the District of Columbia, “ACLU-DC Testifies at Performance Oversight Hearing on the Department of Corrections and Corrections Information Council,” February 7, 2024, <https://www.acludc.org/en/legislation/performance-oversight-hearing-department-corrections-and-corrections-information-0>. See also ACLU of the District of Columbia, “ACLU-DC Testifies at Performance Oversight Hearing on the Department of Corrections and Corrections Information Council,” March 1, 2023, <https://www.acludc.org/en/legislation/aclu-dc-testifies-performance-oversight-hearing-department-corrections-and-corrections>.

¹⁴ 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>.

¹⁵ U.S. Marshals Service, Statement by the U.S. Marshals Service Re: Recent Inspection of DC Jail Facilities, Nov. 2, 2021, <https://www.usmarshals.gov/news/press-release/statement-us-marshals-service>.

¹⁶ District of Columbia Corrections Information Council, FY23 Annual Report on the District of Columbia Department of Corrections, p. 14, Oct. 20, 2023, https://cic.dc.gov/sites/default/files/dc/sites/cic/page_content/attachments/DOC%20Annual%20Report%202023%20.pdf. See also District of Columbia Corrections Information Council, FY22 Annual Report on the District of Columbia Department of Corrections, Dec. 2, 2022, https://cic.dc.gov/sites/default/files/dc/sites/cic/page_content/attachments/DOC%20Annual%20Report%202022%20.pdf.

directly or through partner organizations who regularly visit the Jail, ACLU-D.C. has also learned of numerous residents at the Jail who have serious medical needs that are not being met because of months-long delays in providing necessary medications, necessary equipment, or in taking individuals to doctors' appointments after medical staff have identified the need for these measures. As we have learned firsthand through our own litigation against the D.C. jail, the jail did not and will not make improvements unless there are court-appointed monitors and inspectors making changes on the ground.¹⁷

ACLU-D.C. also urges this Committee to have DOC answer why they are still housing transgender female residents in the men's unit, especially after formally changing its policy to settle our lawsuit. As we mentioned during performance oversight, ACLU-D.C. has learned that DOC is still housing transgender women in the men's unit, despite our previous lawsuit in 2021¹⁸ and settlement in 2022. While DOC removed a policy with an unlawful presumption for housing based on gender assigned at birth and replaced it with a policy that would house people according to their gender identity, CIC reported in an April 2023 inspection of Central Cell Block (CCB) that "men are housed on the first floor, women are housed on the second floor, and transgender residents are housed on the first floor in a cell by themselves."¹⁹ It is past time for the Council to act and force DOC to fix these well documented failures and make changes to these unconscionable conditions.

V. The Council should ensure that D.C. residents in DOC custody can watch and testify virtually at D.C. Council hearings.

As we testify here today, we must acknowledge that individuals held in a DOC facility are currently unable to watch or testify virtually at D.C. Council hearings. Directly impacted residents should be able to participate in these important Council hearings year-round, similar to how D.C. residents in DOC custody have the right and the ability to vote after D.C. passed the Restore the Vote Amendment Act of 2020. In 2023, the ACLU-D.C. and more than 60 organizations and District residents signed on to a letter by the Washington Lawyers' Committee for Civil Rights and Urban Affairs asking DOC Director Thomas Faust and the D.C. Council

¹⁷ Katie Mettler and Emily Davies, "People in jail sued over covid safety. The oversight didn't last.," The Washington Post (Aug. 29, 2022, 2:25 PM), <https://www.washingtonpost.com/dc-md-va/2022/08/29/coronavirus-jail-conditions-lawsuits/>.

¹⁸ ACLU of the District of Columbia, *Hinton v. District of Columbia – Challenging Department of Corrections' Policy of Discriminatorily Housing Transgender Individuals Based on "Anatomy" Rather Than Gender Identity*, <https://www.acludc.org/en/cases/hinton-v-district-columbia-challenging-department-corrections-policy-discriminatorily-housing>.

¹⁹ District of Columbia Corrections Information Council, FY23 Annual Report on the District of Columbia Department of Corrections, p. 10, Oct. 20, 2023, https://cic.dc.gov/sites/default/files/dc/sites/cic/page_content/attachments/DOC%20Annual%20Report%202023%20.pdf.

to create a process for direct access and participation in D.C. Council hearings.²⁰ While several Councilmembers expressed support, no process has yet been created. Consistent with local and federal law, we expect this process to be available and accessible to people with disabilities. We urge the Council and DOC to work together and create this process by the end of this Council period.

VI. Conclusion

In its oversight and legislative role, the Council has the power and the responsibility to fully fund these pieces of legislation to improve oversight at both DOC and CIC. We urge the Council to fully fund the Corrections Oversight Improvement Omnibus Amendment Act of 2022; hold a hearing on, pass, and fund the ERASE Solitary bill; pass and fund the remaining portions of the FRESH STARTS bill; and create a process to allow residents in DOC custody to watch and testify virtually at D.C. Council hearings. The ACLU-D.C. is ready to work with you and alongside community partners to address this emergency and fight for the right of everyone held at the jail to be treated humanely.

²⁰ Washington Lawyers' Committee for Civil Rights and Urban Affairs, Supporting Access to DC Council Hearings While Incarcerated, (May 1, 2023), <https://www.washlaw.org/supporting-access-to-dc-council-hearings-while-incarcerated/>.