



**ACLU Testimony on H. 543
Senate Committee on Institutions
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Thank you for the opportunity to testify on House Bill 543. Specifically, I am here to speak about Section 3(e)(1) of H. 543, which appropriates \$250,000 to the Department of Buildings and General Services to “evaluate options for the site location of a new correctional facility to replace the Chittenden Regional Correctional Facility” (CRCF).

H. 543 provides that evaluation shall be conducted in coordination with the Department of Corrections and “within the context of developing an overall strategic plan for statewide correctional facilities.” The evaluation includes “conducting feasibility studies and program analysis, site selection, purchase opportunities, and whether the new correctional facility should be a separate facility or part of a campus.”

The ACLU, our supporters, and allies are deeply concerned that this legislation would commit a quarter million dollars towards evaluating new prison construction before first evaluating the other available options—alternatives to incarceration that would be more effective and produce better outcomes for the women incarcerated in CRCF, their families, and their communities, at lower cost to Vermont taxpayers.

One of the things that makes Vermont so special is its compassion and humanity. This is a state that cares about and invests in people, including people who are struggling and people who make mistakes, as well as the children and families who rely on them. By prioritizing new prison construction over more humane alternatives, H. 543 sends the message that Vermont is not fully committed to those values, or to following through on the criminal justice reforms that legislative leaders have championed in recent years and that [Vermonters support overwhelmingly](#).

For these reasons, we urge this committee to reject the course of action outlined in the House bill unless and until the legislature has properly considered the available alternatives to incarceration, and furthered the policy reforms still needed to reduce Vermont’s over-reliance on prisons.

Background

H. 543 could be read as an acknowledgment, likely shared by most people familiar with CRCF, that Vermont’s only women’s prison is severely inadequate to meet the

needs of the women incarcerated there. That is a population that has tripled in size over the past two decades as the opioid epidemic has devastated families and communities across the state. A new prison will do little to address those needs any better than CRCF currently does.

As the Vermonters who have worked in CRCF and women currently and formerly incarcerated there would tell you, a majority of women arrive to prison with and because of extensive histories of complex trauma. Nationally, approximately 75% of incarcerated women are survivors of domestic violence with histories of severe abuse by intimate partners. Approximately 82% suffered serious physical or sexual abuse during childhood. In Vermont, a higher percentage—90% of justice-involved women—have experienced physical and/or sexual abuse. Among incarcerated women, these traumas and co-occurring mental health disorders are often intertwined with substance abuse disorder—all of which remain largely or entirely untreated in prison.

And just as the vast majority of women incarcerated in Vermont live with these untreated conditions, a similar number are parents of dependent children—some of the 6,000 Vermont children with an incarcerated parent. The complex needs of those children cannot be met by Vermont’s prisons either—to the contrary, as the experts at Lamoille Restorative Center will tell you, the experience of having an incarcerated mother inflicts profound trauma on thousands of Vermont children and increases their own likelihood of future contacts with the criminal justice system.

Women prisoners—including women who have committed serious offenses— need treatment, counseling, training, support, and community, all things that Vermont prides itself on providing to its residents. Instead, their experiences in prison compound their traumas. Family visitation is limited, as are job training and skill-building opportunities. Counseling is minimal and health care requests can go unmet for weeks. Staff receives little to no training on trauma-sensitive techniques. None of those problems will be addressed by a new prison—they are endemic to prisons.

Alternatives to Incarceration

While there is broad agreement among stakeholders that CRCF is inadequate to meet the needs of incarcerated women, H. 543 offers only one solution—a new prison—while omitting any alternatives to prisons that could actually address the problems just described. To be clear, there are infrastructure problems that are specific to CRCF, like clogged plumbing and lack of recreational opportunities—but the failure to provide treatment, counseling, training, regular family contact, or other support ahead of or on re-entry are the inevitable result of incarceration itself and will not be alleviated or addressed by a new prison.

And yet that is all that is proposed in the House bill—which takes “the new correctional facility” as a given, the only question being whether it is “separate” or part of a “campus.”

That is a strikingly limited and inadequate response to these complex issues, and out of character for a state that believes in the power of forgiveness and restorative practices in supporting communities and families. Instead of spending hundreds of millions of dollars on new prisons, Vermont can increase investments in prevention and treatment programs, transitional housing, job training, and expanding our restorative justice system—all of which support better outcomes for victims of crime, as well as those who cause harm and the children and families that depend on them.

All of those strategies merit further research and deliberation, and we already have strong examples from which to draw insights. Vermont has a variety of programs for supporting incarcerated women and their families, with proven records of success, though they are currently far more under-resourced and under-utilized than our prison system. For example:

-[Dismas House](#) remains the most affordable and community integrated transitional housing options. As of this year, Dismas House will reportedly no longer be accepting women.

-[Lund Family Center](#) provides residential placements for women to receive treatment and other services while their children live with them.

-[Lamoille Restorative Justice](#) supports Vermonters who are re-entering their communities and their families. A newly released documentary, [Downstream](#), documents their work and the effects of parental incarceration on Vermont children.

-[Northern Lights](#) is a collaboration between DOC, BHA, and the Howard Center, is a transitional housing program for women who upon completion of the program can receive a housing voucher from BHA.

-[Tapestry/Phoenix House](#) is a small, residential, women-only facility in Brattleboro.

If the legislature is going to evaluate the options for replacing CRCF, it should first study the feasibility of expanding these kinds of programs – the site locations, the cost comparisons, the likely impact on recidivism rates, and so on – rather than evaluating options for costly new prison construction.

The Department of Corrections would likely tell you—we have heard them say repeatedly—that most of the people in its custody have committed serious crimes, implying that the only possible response is incarceration. DOC recently presented partial data indicating that 98 out of 141 women in DOC custody have committed the “three most serious crime types.” Putting aside the fact that those are not broken down in detail and that more than a third are property crimes, it does not answer the question: regardless of offense, how many of these women really need to be there, and how many women—from the standpoint of public safety, recidivism, recovery, and rehabilitation—should be in more effective, lower cost alternatives to prison? To our knowledge, no one has yet done the analysis required to answer that question.

Nonetheless, it is clear that investments in existing programs like these could have a far greater impact in addressing trauma and recovery, reducing recidivism, and supporting families and communities, at lower cost to taxpayers than new prisons. The ACLU and our supporters urge this legislature to prioritize these investments in people over prisons.

Policy Reforms

Lastly, in addition to carefully considering the range alternative programs that would improve outcomes, Vermont must continue to evaluate and reform its criminal justice policies before it can determine how many Vermonters are likely to be incarcerated in future years. Section 26 of H. 543 includes “a review of programming and population trends in Vermont’s correctional facilities.” That is a start, but it does not address the policies that create and form those trends.

Due to strong legislative leadership, including the Senate and House Judiciary committees, Vermont has succeeded in reducing its prison population significantly over the past decade, by scaling back the so-called “tough on crime” policies of decades past that Vermonters now reject by wide margins. Vermonters are proud to be part of the national, bipartisan effort to create a smarter, fairer criminal justice system.

That said, Vermont’s overall prison population is still double what it was thirty years ago, and in the case of women is triple what it was twenty years ago. We still have yet to implement the changes to our criminal laws that [two in three Vermonters](#) say they want to see.

Senator Ashe has challenged the legislature to reduce Vermont’s current prison population further, by at least 250 beds. He has acknowledged this will take time and careful examination, which is exactly the point: before committing a quarter million dollars of taxpayers’ money to new prisons, the legislature should determine how many prison beds are actually needed. H.543 puts the cart before the horse in a way that undermines recent efforts towards criminal justice reform and misallocates public dollars that should be spent on improving outcomes.

For example, Vermont’s Sentencing Commission is now working on recommendations for changes to Vermont’s sentencing laws, due to the legislature next fall. The ACLU has urged the commission to recommend significant reductions in extreme, overlong sentences, which prosecutors regularly leverage in one-side plea agreements, leading to higher rates of incarceration.

Vermont can make further progress by improving DOC data reporting and increasing prosecutorial oversight; reforming our furlough and parole systems; expanding uses of diversion; and ensuring low-income Vermonters aren’t detained pre-trial simply because they can’t afford to post bail. And Vermont still needs to reframe our responses to addiction, to get people the help they need, rather than relying on punishment to resolve our opioid crisis.

Conclusion

Like the [vast majority](#) of Americans, Vermonters strongly favor more humane, more effective, and lower-cost alternatives to incarceration. In recent years, as this state has reduced its reliance on prisons, Vermont has remained the statistically safest state in the nation—showing that a more people-centered, less punitive model of criminal justice has positive impacts on public safety and community well-being.

Advocates and individuals associated with CRCF—including criminal justice, women’s rights, and victims’ rights stakeholders, who were not consulted on H. 543— have been saying for years that most of the women in CRCF should be in halfway homes or step-down facilities that could better address their needs rather than compounding their trauma.

These people know firsthand that prisons are uniquely harmful to women and their children. They know their needs are better met by community-based programs and services. They know that women in prison often have a history of abuse or other trauma, and consequently have higher rates of mental health conditions and substance use disorders. And they know that incarceration more often makes these problems worse, rather than addressing their root causes.

Finally, we all know that the majority of inmates will eventually be rejoining their communities. Whether they are better off than when they first entered prison is to a great degree within this legislature’s control.

For all of these reasons, the ACLU urges this committee to reject the language and appropriation in House bill H. 543 concerning new prison construction, unless and until better alternatives have been evaluated.