



**To:** Vermont State Legislators

**From:** ACLU Smart Justice Vermont Campaign

**Re:** Invest in people, not prisons: Before committing millions of taxpayer dollars to building bigger prisons, Vermont should fund lower-cost alternatives and continue reducing our prison population through evidence-based reforms

**Date:** March 1, 2023

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Dear Legislators,

The people of Vermont have voiced “strong, consistent, and broad-based support”<sup>i</sup> for criminal justice reform—and four in five Vermonters support community-based alternatives to incarceration.<sup>ii</sup> In response, policymakers have worked to reduce Vermont’s prison population by **forty percent** from its peak over a decade ago—and there is still more we can do to reduce incarceration further, through data-informed policy reforms and investments in community-based programs.

And yet, at a time when our communities are calling for investments in housing, childcare, public education, and other priorities that are essential for community well-being, **the Scott administration is requesting \$15,500,000**<sup>iii</sup> over the next two years as a down payment for future prison planning and construction.

If approved, this funding would go towards prison construction to replace and expand Chittenden Regional Correctional Facility (CRCF), Vermont’s only women’s prison. The proposal would add prison bed capacity far beyond current and future needs, and displace lower cost, community-based alternatives. Though the administration’s initial cost estimate for a new women’s prison is **\$71,500,000**,<sup>iv</sup> according to the administration’s own figures, total costs could be **double that amount**.<sup>v</sup> Proposals to replace additional prison facilities could cost taxpayers well over **half a billion dollars**.<sup>vi</sup>

The plans are out of line with the priorities and values of Vermont communities and perpetuate a reliance on mass incarceration that has failed our state and our communities for far too long. For all of these reasons, the administration’s funding request should be rejected.

The conditions in Vermont's prison facilities are deplorable, but the administration's approach to the problem fails to consider **any** community-based alternatives that could serve incarcerated populations better, at lower cost, and on a shorter timeframe, or the ample opportunities Vermont still has to reduce our overreliance on incarceration through additional smart policy reforms. It also ignores the many other viable options for immediately improving the lives of people currently incarcerated by the state of Vermont.

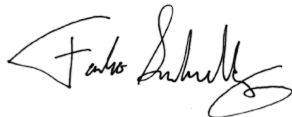
Before committing millions of taxpayer dollars to new prison construction, we urge Vermont legislators to focus on expanding alternatives to traditional prisons—including smaller regional facilities and more community-based programs and supports—and to continue reducing Vermont's prison population through evidence-based policy reforms, such as bail and sentencing reforms.

**In sum, we urge legislators to reject the administration's prison construction proposal and to answer three critically important questions before committing more taxpayer dollars to new construction:**

- 1) What alternative, lower-cost, community-based facilities and re-entry programs could serve the majority of Vermont's incarcerated population sooner and more effectively than under this proposal?
- 2) What impact could further criminal justice reforms have on reducing incarceration and recidivism rates, therefore reducing the need to add bed space in state prisons at tremendous cost to taxpayers?
- 3) What else can be done to meaningfully improve the lives of incarcerated people today?

Additional information is provided below. Thank you for considering these concerns, which we know are shared by many of your constituents who have consistently voiced their support for a smarter, fairer, and more humane criminal justice system. Please contact us if you have questions.

Sincerely,



Falko Schilling  
Advocacy Director  
ACLU Vermont



## QUESTIONS FOR VERMONT POLICYMAKERS

Despite ongoing progress to reduce Vermont’s overreliance on prisons and the possibility of utilizing lower-cost, more effective community-based programs, the Scott administration is proposing to expand Vermont’s prison system at a cost to taxpayers of tens or even hundreds of millions of dollars in the coming years.

These are some of the questions policymakers and their constituents should be asking before funding new prison construction.

### **What will prison construction cost?**

It depends on how many facilities are built and how many beds those facilities contain. The facility proposed by the Department of Buildings and General Services (BGS) to replace and expand Chittenden Regional Correctional Facility (CRCF) has been described as the new “women’s re-entry facility.” That is misleading.

In reality, the vast majority of the proposed facility would be traditional, secure prison housing (155 beds) while only a small portion of the facility would be dedicated to re-entry (30 beds, with the opportunity to increase that number in the future).<sup>vii</sup>

The proposal assumes that the current CRCF population of roughly 100 people—nearly half of whom are held pre-trial, not convicted of a crime, many of them solely because they cannot afford to pay bail—will nearly double in size.<sup>viii</sup> It does not consider the impact of smart justice reforms in reducing the population further, or the possibility that more women could be eligible for and better served by lower-cost, community-based re-entry programs.

Construction costs for this facility have been estimated at \$71,500,000, though the administration’s own estimates suggest that total costs could be double this amount,<sup>ix</sup> non-inclusive of ongoing annual operating costs, which are generally much higher than in alternative, community-based programs. For example, the continuing cost of incarcerating someone in Vermont is approximately \$95,000 per

year.<sup>x</sup> By contrast, the cost of supervising someone in the community is approximately \$9,000, a difference of more than \$85,000 per person, annually.<sup>xi</sup>

Furthermore, while recent discussions have focused on replacing CRCF, proposals advanced by the project’s consultants go far beyond that one facility; if pursued, they would represent a **significant** expansion of our state’s prison system.<sup>xii</sup> The favored plan, “Proposal C,” includes building a new correctional facility in the northwest corner of the state with 894 new beds (194 female/700 male) as well as 144 new beds at Southern State Correctional Facility. This would bring the system’s capacity to 2,067 beds, with space for approximately 700 more people than the state incarcerates today.<sup>xiii</sup> The administration has estimated that construction cost for every new secure prison bed is approximately \$800,000 to \$900,000.<sup>xiv</sup> If the state were to move forward with the proposal to replace multiple facilities with more than 800 new beds, costs could run to an additional **half a billion dollars**.<sup>xv</sup>

Every day that a person spends incarcerated—including the nearly 50 percent of people in CRCF who are detained pretrial<sup>xvi</sup>—imposes enormous costs on that individual and their family, including lost wages from current employment and potential job loss. Beyond the financial costs, there are the incalculable harms from lost connections with family and community, and the toll that prison takes on a person’s mental and physical health. These impacts reverberate throughout our communities and cannot be downplayed when we contemplate the actual costs of constructing and maintaining a system of mass incarceration.

### **Will new facilities serve the needs of people incarcerated there?**

Also missing from the conversation about prison expansion are the voices of currently and formerly incarcerated people. These are some of the questions we have heard from the people directly impacted by the criminal legal system, and people who provide services to this population:

Will it be more difficult to reintegrate into their community? By definition, a centralized facility would not be easily accessible for community members from other parts of the state. If the proposed facility is built in the northwest corner of the state, that would separate a significant portion of the people incarcerated there from opportunities to reintegrate with the communities to which they will return.<sup>xvii</sup> This proposal does not take into account other available distributed community-based options—stepdown facilities, “halfway homes”, treatment and counseling, for example—alternatives to incarceration that in many cases could be more effective and produce better outcomes for many of the women incarcerated in CRCF.

Will it negatively impact family connections? Focusing on a centralized prison facility as opposed to statewide community-based settings will keep families separated by greater distances, making it more difficult for people who are incarcerated to maintain connections with their children, family, and loved ones. Approximately 6,000 Vermont children—one in seventeen—experience parental incarceration each year.<sup>xviii</sup> Putting greater barriers between these children and their parents can do lasting damage that resonates throughout our communities.

Will people be held in prison longer if that is where programing is available?

Another concern with a prison-based re-entry facility is that people will be held in prison longer because it is where necessary programs and services will be offered. If we fail to invest in the existing community-based re-entry system, more people are likely to be forced to remain incarcerated while they access supports and services that could be offered in the community and at a lower cost.

**Can Vermont do more to reduce the need for bigger prisons?**

Yes. After Vermont’s prison population tripled in size over two decades of so-called “tough on crime” policies, we reduced that population by close to 40 percent from approximately 2,200 people in 2008 to roughly 1,300 people in 2023—and there is much more we can do. The ACLU’s Blueprint for Smart Justice Vermont<sup>xix</sup> outlines numerous policy options Vermont should pursue, including the following:

Sentencing reform: From 1980 to 2010, there was a 222 percent increase in state prison populations across the nation, and fully half of that growth was due to an increase in time served in prison for all offenses.<sup>xx</sup> A growing body of evidence indicates that more severe sentences are often unnecessarily punitive and do not effectively deter crime or decrease recidivism.<sup>xxi</sup> While discussions about sentencing reform are ongoing, Vermont has not yet implemented a number of evidence-based sentencing policies that could have positive impacts.

Bail Reform: The biggest driver of incarceration in Vermont since the beginning of the pandemic is the number of people being “detained” in prison before being convicted of a crime.<sup>xxii</sup> People are forced to wait in prison for months and years for their cases to be heard—many simply because they cannot afford to pay bail. Vermont legislators are considering the elimination of cash bail for low level offenses, which would address the economic injustices of our bail system and could significantly reduce the number of people detained pre-trial.

Increased use of diversion and uniformity in prosecution: There are still significant disparities in how crimes are charged and what sentences are imposed from county

to county. The Justice Reinvestment Initiative highlighted the need for increased use of diversion, stronger guidelines for prosecutorial decisions, and “greater consistency in the access to and quality of alternative justice programs across all Vermont counties.”<sup>xxiii</sup>

Compassionate release and second look legislation: With over 20 percent of Vermont’s prison population over the age of 50, and close to 10 percent over the age of 60, the legislature has been considering legislation to provide opportunities for people to petition for compassionate release or a reduced sentence, beyond the limited options that exist under current law.<sup>xxiv</sup>

### **How can we improve conditions today for people who are incarcerated?**

There is broad agreement that the conditions in Vermont prisons are unacceptable. In response to concerns about CRCF, the administration has focused on planning for an expanded prison system that will not open **for at least five to eight years**.<sup>xxv</sup> This ongoing delay does a tremendous disservice to the people in that facility. In addition to investing in lower cost, community-based re-entry programs that could serve most women in CRCF on a much shorter timeframe, we should put resources into solutions that could improve conditions in CRCF and other prison facilities **today**. That should include:

Creating a functioning complaint system for grievances: Three years after horrific revelations of abuse and sexual assault at CRCF, Vermont still lacks a functioning complaint system for grievances from incarcerated people. The inadequacy of this system led the State Auditor to conduct an investigation which revealed that “significant deficiencies demonstrate need for overhaul of the prisoner grievance process”.<sup>xxvi</sup> The audit found that DOC “does not have reliable, basic information to determine the number, type, status, or outcome of prisoner grievances” and their system “does not contain the dates that complaints are submitted or when staff respond to the prisoner or take action to resolve issues, so it is not possible to determine the extent that the Department is meeting its own timeframes for responding to grievances.”<sup>xxvii</sup>

Allow more people to work in the community: One of the biggest selling points for a new re-entry facility is the fact that people would have the opportunity to gain skills by working in the community. But nothing is stopping DOC from implementing policies to allow people to work in the community today.

Pay a fair wage for labor while incarcerated: People incarcerated by the state of Vermont can only earn between \$0.25 and \$1.35 an hour for their labor.<sup>xxviii</sup>

Remove barriers to communication and connection: People incarcerated in Vermont’s prisons pay exorbitant rates for the ability to communicate with loved ones and stay connected with the world outside the prison. While in prison, people receive one 25-minute video call and two 5-minute phone calls per week.<sup>xxix</sup> After that, every 10-minute video call costs \$2.50, and every email costs \$0.25.<sup>xxx</sup>

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<sup>i</sup> Lake Research Partners, Strong Support Among Vermont Voters for Reducing the State’s Incarcerated Population, Jan. 21, 2020,

[https://www.acluvt.org/sites/default/files/aclu\\_vt\\_cjr\\_poll\\_results\\_memo.pdf](https://www.acluvt.org/sites/default/files/aclu_vt_cjr_poll_results_memo.pdf).

<sup>ii</sup> UVM Center for Rural Studies, 2020 Vermonter Poll Results,

[https://www.acluvt.org/sites/default/files/2020\\_vt\\_poll\\_results\\_vt\\_aclu.pdf](https://www.acluvt.org/sites/default/files/2020_vt_poll_results_vt_aclu.pdf).

<sup>iii</sup> Governor's Recommended FY24 - FY25 Capital Budget Proposal,

<https://legislature.vermont.gov/Documents/2024/WorkGroups/House%20Corrections%20and%20Institutions/Governor's%20Recommended%20FY24%20-%20FY25%20Capital%20Budget%20Proposal/W~Sean%20Brown~Governor's%20Recommended%20FY24%20-%20FY25%20Capital%20Budget%20Proposal~1-20-2023.pdf>.

<sup>iv</sup> See iii.

<sup>v</sup> In testimony to the House Corrections and Institutions Committee on January 12, 2023, state officials testified the cost of new secure beds would be approximately \$800,000 to \$900,000 per secure bed. The proposal presented to the facility envisions 155 new secure beds. Applying estimated costs the secure beds alone could cost between \$124 million and \$140 million. Recording of testimony (timestamp: 1:12:45) to the House Corrections and Institutions Committee January 12<sup>th</sup> 2023, available at

<https://www.youtube.com/watch?v=quxDO0Dxbi4>.

<sup>vi</sup> The Feasibility Report presented by HOK recommends the state move forward with what they call option “C,” which would involve the creation of 894 new prison beds. In testimony to the House Corrections and Institutions Committee on January 12, 2023, state officials testified the cost of new secure beds would be approximately \$800,000 to \$900,000 per bed. “Option C” recommends 744 new secure beds for men, 600 in the northwest corner of the state as well as 144 new beds at Southern State Correctional Facility. At \$800,000 to \$900,000 per bed this construction would cost an estimated \$595,000,000 to \$669,000,000 and that does not take into account the 100 additional male re-entry beds proposed. When added to the proposed cost of \$71,500,000 to replace Chittenden Regional Correctional Facility total costs would be upwards of 666,500,000. See Correctional Facility Feasibility and Conceptual Design Study, Tabrina Karish BGS Project Manager, House Corrections and Institutions, Jan. 11, 2023, available at

<https://legislature.vermont.gov/Documents/2024/WorkGroups/House%20Corrections%20and%20Institutions/Women's%20Correctional%20and%20Re-Entry%20Facilities/W~Tabrena%20Karish~Correctional%20Facility%20Feasibility%20and%20Conceptual%20Design%20Study~1-12-2023.pdf>, and Recording of testimony

(timestamp: 55:11) to the House Corrections and Institutions Committee January 12<sup>th</sup> 2023, available at <https://www.youtube.com/watch?v=quxDO0Dxbi4>.

<sup>vii</sup> Women’s Correctional and Re-entry Facilities: Department of Buildings and General Services, House Committee on Corrections and Institutions, Project Manager Tabrena Karish, Feb. 1, 2023, available at

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<https://legislature.vermont.gov/Documents/2024/WorkGroups/House%20Corrections%20and%20Institutions/Women's%20Correctional%20and%20Re-Entry%20Facilities/Women's%20Re-Entry%20Facility/W~Tabrena%20Karish~Women's%20Correctional%20and%20Re-Entry%20Facilities~2-1-2023.pdf>

<sup>viii</sup> Population Characteristics Report, Department of Corrections, Jan. 31, 2023, available at [https://doc.vermont.gov/sites/correct/files/documents/PopulationReport\\_1-31-2023.pdf](https://doc.vermont.gov/sites/correct/files/documents/PopulationReport_1-31-2023.pdf).

<sup>ix</sup> See vi.

<sup>x</sup> Cost of Court Backlog: Department of Corrections, Jan. 18, 2023, available at <https://legislature.vermont.gov/Documents/2024/WorkGroups/Senate%20Judiciary/Court%20Backlog/W~Nicholas%20Deml~DOC%20Costs%20of%20Court%20Backlog~1-18-2023.pdf>

<sup>xi</sup> See x.

<sup>xii</sup> Correctional Facility Feasibility and Conceptual Design Study, Tabrina Karish BGS Project Manager, House Corrections and Institutions, Jan. 11, 2023, page available at <https://legislature.vermont.gov/Documents/2024/WorkGroups/House%20Corrections%20and%20Institutions/Women's%20Correctional%20and%20Re-Entry%20Facilities/W~Tabrena%20Karish~Correctional%20Facility%20Feasibility%20and%20Conceptual%20Design%20Study~1-12-2023.pdf>.

<sup>xiii</sup> See xii and Population Characteristics Report, Department of Corrections, Jan. 31, 2023, available at [https://doc.vermont.gov/sites/correct/files/documents/PopulationReport\\_1-31-2023.pdf](https://doc.vermont.gov/sites/correct/files/documents/PopulationReport_1-31-2023.pdf).

<sup>xiv</sup> Recording of testimony (timestamp: 1:12:45) to the House Corrections and Institutions Committee January 12<sup>th</sup> 2023, available at <https://www.youtube.com/watch?v=quxD00Dxbi4>.

<sup>xv</sup> See vi.

<sup>xvi</sup> Population Characteristics Report, Department of Corrections, Jan. 31, 2023, available at [https://doc.vermont.gov/sites/correct/files/documents/PopulationReport\\_1-31-2023.pdf](https://doc.vermont.gov/sites/correct/files/documents/PopulationReport_1-31-2023.pdf).

<sup>xvii</sup> Correctional Facility Feasibility and Conceptual Design Study, Tabrina Karish BGS Project Manager, House Corrections and Institutions, Jan. 11, 2023, available at <https://legislature.vermont.gov/Documents/2024/WorkGroups/House%20Corrections%20and%20Institutions/Department%20of%20Corrections/Women's%20Correctional%20Facility/W~Tabrena%20Karish~Correctional%20Facility%20Feasibility%20and%20Conceptual%20Design%20Study~1-12-2023.pdf>.

<sup>xviii</sup> ACES and Children of Incarcerated Parents, Tricia Long. Adverse Childhood Experiences Working Group, Oct. 20, 2017, available at <https://legislature.vermont.gov/Documents/2018/WorkGroups/Adverse%20Childhood/Act%20043%20Report/W~Tricia%20Long~ACE's%20and%20Children%20of%20Incarcerated%20Parents~10-20-2017.pdf>.

<sup>xix</sup> ACLU Blueprint for Smart Justice Vermont, <https://www.acluvt.org/en/blueprint-smart-justice>.

<sup>xx</sup> “Criminal Justice Facts,” THE SENTENCING PROJECT, <https://www.sentencingproject.org/criminal-justice-facts/>

<sup>xxi</sup> See, e.g., David Roodman, Open Philanthropy Project, The Impacts Of Incarceration On Crime 48 (Sept. 2017), available at <https://blog.givewell.org/wp-content/uploads/2017/09/The-impacts-of-incarceration-on-crime-10.pdf>; The Urban Institute, A Matter Of Time: The Causes And Consequences Of Rising Time Served (July 2017), <https://apps-staging.urban.org/features/long-prison-terms/intro.html>.



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<sup>xxii</sup> Court backlog to blame for more Vermonters held in prison pre-trial, experts say, Liam Elder Connors, Vermont Public. February 23<sup>rd</sup>, 2023, available at <https://www.vermontpublic.org/local-news/2023-02-23/court-backlog-to-blame-for-more-vermonters-held-in-prison-pre-trial-experts-say>.

<sup>xxiii</sup> Vermont Justice Reinvestment Summary. Ellen Whelan Wuest, House Corrections and Institutions, Feb. 12, 2020, available at <https://legislature.vermont.gov/Documents/2020/WorkGroups/House%20Corrections%20and%20Institutions/Justice%20Reinvestment%20II/W~Ellen%20Whelan-Wuest~Vermont%20Justice%20Reinvestment%20II%20Summary~2-12-2020.pdf>.

<sup>xxiv</sup> Population Characteristics Report, Department of Corrections, Jan. 31, 2023, available at [https://doc.vermont.gov/sites/correct/files/documents/PopulationReport\\_1-31-2023.pdf](https://doc.vermont.gov/sites/correct/files/documents/PopulationReport_1-31-2023.pdf).

<sup>xxv</sup> Testimony from Buildings and General Services to House Corrections and Institutions February 22<sup>nd</sup> 2023 available at <https://www.youtube.com/watch?v=Pn04p-igPp0>

<sup>xxvi</sup> Department of Corrections: Significant Deficiencies Demonstrate Need for Overhaul of the Prisoner Grievance Process, Dec. 16, 2022, page 1, available at <https://auditor.vermont.gov/sites/auditor/files/documents/Final%20DOC%20Grievance%20Report.pdf>

<sup>xxvii</sup> See xxvi at page 3.

<sup>xxviii</sup> The Cost of Being Incarcerated in Vermont, Part 1: Vermont's History of Exploiting Prison Labor. Emily Winkleman, Sept. 28, 2022, available at <https://www.rakevt.org/2022/09/28/the-cost-of-being-incarcerated-in-vermont-part-1-vermonts-history-of-exploiting-prison-labor/>

<sup>xxix</sup> The Cost of Being Incarcerated in Vermont, Part 3: How A Private Telecom Company Profits on Those in Vermont Prisons. Emily Winkleman, Nov. 1, 2022, available at <https://www.rakevt.org/2022/11/01/the-cost-of-being-incarcerated-in-vermont-part-3-how-a-private-telecom-company-profits-on-those-in-vermont-prisons/>.

<sup>xxx</sup> See xxix.