Poor Conditions Persist at Aging D.C. Jail; New Facility Needed to Mitigate Risks

February 28, 2019

A report by the Office of the District of Columbia Auditor

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Executive Summary

What ODCA Did This Audit

1. To assist DOC in conjunction with any pending construction of a new correctional facility by identifying areas for improvement in facilities, programs, and policies that can be incorporated over time: and

2. To assess the adequacy of DOC's existing policies and facilities to provide high quality mental health treatment programs consistent with best practices identified by the American Correctional Association and the National Commission on Correctional Health Care.

What ODCA Recommends

■ DOC should take all steps necessary, including requesting additional funding if necessary, to achieve and maintain full compliance with all ACA and APHA requirements.

■ The District should move forward with a new D.C. Jail.

■ DOH should continue to comply with D.C. Code 7-731(a-1)(1) and conduct three inspections per year of the D.C. Jail to help ensure that environmental conditions meet required standards.

■ DOC should conduct regular documented monitoring of Aramark’s compliance with all requirements of its contract and District food safety laws and regulations and sanction the contractor appropriately if necessary.

■ The Mayor and Council should provide a capital budget for DOC that considers the risk of failure to address health and safety hazards identified by the DOH including the risk to the safety of inmates and staff and the risk of additional litigation.

For more information: 202-727-3660.

What ODCA Found

The Department of Corrections (DOC) operates two correctional facilities in Southeast D.C. The Central Detention Facility (CDF), which opened in 1976 and is referred to as the D.C. Jail, houses male inmates. The Correctional Treatment Facility (CTF) houses female inmates and serves as the medical facility for all inmates.

ODCA conducted site observations at the D.C. Jail and CTF, examined Department of Health (DOH) inspection reports of the D.C. Jail, reviewed DOC's mental health services and reviewed budget requests and documents. Findings include the following:

■ DOC was repeatedly cited by DOH for violations of industry standards related to environmental conditions, including water penetration through the walls from a leaking roof, mold growth on walls, damaged shower stalls and temperatures outside of allowable standards.

■ Aramark, DOC’s food service provider, was cited by DOH for repeated violations of District regulations related to public health and food service such as unsanitary conditions in food preparation areas.

■ During our scope, FY 2014 through FY 2018, DOH conducted the required three inspections per year in only two years. DOH acknowledged this, noted three inspections were completed in 2017 and 2018, and stated that “The issues contributing to fewer inspections in prior years have been resolved.”

■ The Mayor and Council did not appropriate the full amounts in capital funding DOC requested to make necessary facility improvements. For example, in agency submissions for FY 2014 through FY 2018, DOC sought 1-year capital allocations totaling $62.4 million, or an average of $12.5 million each year. The Mayor and Council approved a total of $15.7 million, or an average in one-year allocations of $3.1 million.
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Background

The mission of the Department of Corrections (DOC) is to provide a safe, secure, orderly, and humane environment for the confinement of pretrial detainees and sentenced inmates, while affording those in custody meaningful rehabilitative opportunities for successful community reintegration.

DOC has five strategic objectives:

- Upgrade its workforce to better serve the District’s public safety needs.
- Foster an environment that promotes safety for inmates, staff, visitors and the community at large.
- Improve inmate education, job skill levels, and facilitate successful community reintegration.
- Maintain and improve inmate physical and mental health to support successful community re-entry.
- Create and maintain a highly efficient, transparent and responsive District government.

DOC had an approved Fiscal Year (FY) 2017 operating budget of $146,923,266 and 1,162 full-time employees. DOC operates two correctional facilities on its campus in Southeast D.C. that house inmates: The Central Detention Facility (CDF) commonly referred to as the D.C. Jail, and the Correctional Treatment Facility (CTF) which serves as the medical facility for all inmates. DOC also has had contracts with three private and independently operated halfway houses: Extended House, Fairview, and Hope Village. The U.S. District Court for the District of Columbia and the Superior Court of D.C. may place eligible pretrial offenders and sentenced misdemeanants in halfway houses as an alternative to incarceration. The scope of this report focuses primarily on the D.C. Jail and CTF operations.

The D.C. Jail and the CTF

The D.C. Jail, which opened in 1976, is in Southeast D.C., and houses only male inmates. Women are housed at the neighboring CTF. As of June 2018, the average daily population at the D.C. Jail was 1,346. Most inmates housed at the D.C. Jail are awaiting adjudication of cases or are serving a sentence for misdemeanor offenses. Some sentenced felons are housed in the D.C. Jail prior to being transferred to the Federal Bureau of Prisons.1 According to DOC, it offers many programs to inmates, including HIV/AIDS prevention; education and intervention services; individual and group counseling services, literacy education and religious services.

As of June 2018, the nearby CTF, which opened in 1992, had an average daily population of 692. In addition to female inmates, the CTF houses minimum to medium custody male inmates and inmates requiring medical accommodation in the disabled and infirmary units. Prior to October 1, 2018 and the passage of D.C. Law 21-238, the Comprehensive Youth Justice Amendment Act of 2016, the CTF housed a small number of juveniles charged as adults in a separate unit who are now housed at the Department of Youth Rehabilitation Services. Between 1997 and 2017 control of the CTF was managed by a private corrections company, Corrections Corporation of America (CCA), as part of a sale-leaseback proposed and approved when the District was in severe financial distress. The District received an infusion of cash from CCA, then paid the corporation back until February 2017 when control of the property reverted to the District. Medical services for inmates housed at both the CTF and the D.C. Jail are provided at the CTF through a contract between the DOC and Unity Health Care, Inc. According to the contract, Unity Healthcare Care, Inc. is to provide a comprehensive medical, mental health, pharmacy, and dental health services program for D.C. inmates.

1. The National Capital Revitalization and Self-Government Improvement Act of 1997, Pub.L. 105-33, enacted by Congress, paved the way for major changes to the District’s criminal justice system. One major change was the closure of Lorton Correctional Complex, which housed inmates convicted of D.C. Code felonies. These inmates were transferred to the federal Bureau of Prisons.
The figures below provide a demographic breakdown at the D.C. Jail and CTF, based upon the average daily population of 1,346 at the D.C. Jail and 692 at the CTF.²

Figure 1: Inmate Population by Gender
- Women: 6.3%
- Men: 93.7%

Figure 2: Inmate Population by Race³
- White: 3%
- African American: 87%
- Other: 5%
- Hispanic: 5%

Figure 3: Inmate Population by Religious Affiliation⁴
- Christian Faith: 36.6%
- Muslim: 25.5%
- Did Not Declare: 5.1%
- Other Major Religions: 11.4%
- Atheist/Denies: 14.1%
- Other Faiths/Beliefs: 7.4%

Figure 4: Age Distribution of Inmates

² Source: DC Department of Corrections Facts and Figures, June 2018
³ Per the DOC June 2018 report, “the category other includes Native American and those who have declared their race as Other or not declared a race. Blacks are overrepresented compared to the population which is 47.7% Black. Whites, Hispanics and Asians are under-represented compared to the DC population which is 44.6% White, 10.9% Hispanic, 4.1% Asian and 0.8% Other.”
⁴ Per the DOC June 2018 report, “all data is self-reported by inmates in DOC custody between October 1, 2016, and June 30, 2018. The category “Other Major Religions” includes other faiths such as Jewish, Buddhist, Hindu and Rastafarian which occur infrequently among inmates.”
A troubled past

For 30 years the D.C. Jail had a history of severe overcrowding, unsafe facilities, and unsanitary conditions. Two lawsuits were filed in 1971 and 1975, *Campbell v. McGruder* and *Inmates of D.C. Jail v. Jackson*, respectively, both of which alleged unconstitutional conditions at the D.C. Jail and are the oldest District prison reform cases. These cases were consolidated in a class action lawsuit and challenged the totality of the conditions at the D.C. Jail. Ultimately, the U.S. District Court found that conditions violated the Eighth Amendment prohibition against cruel and unusual punishment. After years of District noncompliance with Court orders with regard to medical and mental health care services, the Court appointed a Receiver for medical care at the D.C. Jail in 1995. This receivership was terminated on September 18, 2000.

The U.S. District Court terminated the underlying cases in March 2003, after 32 years of court oversight of the D.C. Jail. The termination came in the wake of the Prison Litigation Reform Act approved by Congress in 1996 which placed restrictions on the ability of prisoners to file lawsuits based on the conditions of confinement. The District government’s final documents filed in the cases included this paragraph from the *District of Columbia’s Reply to Plaintiffs Opposition to Defendants’ Motion to Terminate* in 2003:

> Inmates at the D.C. Jail are not systematically subjected to inhumane conditions of confinement, and defendants are not deliberately indifferent to their health and safety, both of which are required to find a constitutional violation. To the contrary, defendants have committed approximately $30 million toward a capital improvement program at the Jail, which is designed to remedy historic deficiencies and refurbish the HVAC, cold and hot water, plumbing and electrical systems. Moreover, in collaboration with plaintiffs and the Special Officer, defendants have developed and are implementing an environmental program designed to protect the health and safety of inmates and staff at the Jail, including a computerized inspection system to report, monitor, track and abate maintenance problems.

The federal law’s higher bar and the commitment by the District to spend significant capital funds to improve conditions at the D.C. Jail were likely factors in the Court’s decision to terminate the judicial oversight. According to a DOC press release at the time, “a number of significant improvements, initiated as a part of a six-year, $30 million capital improvement plan, were major contributing factors to finally ending court intervention in the daily operations of the facility.”

Nevertheless, at the same time, a continuation of overcrowding at the D.C. Jail prompted significant local legislative reforms known as the Jail Improvement Amendment Act of 2003. The Committee Report states that the Act was needed to improve “what are currently unsafe, unhealthy, overcrowded and inhumane conditions at the District of Columbia Central Detention Facility (“Jail”) through inspections, monitoring, and reporting; initiate immediate changes in operating protocols including a classification system and housing plan; institute a population ceiling at the Jail; and the requirement that the facility obtain accreditation by a national professional correctional organization. These specific improvements are designed to result in a safer institution.”

A decade later, a rash of suicides led to the formation of a suicide prevention task force within the D.C. Jail in 2013. An October 14, 2013 Suicide Prevention Task Force Report identified the following four areas for improvement with respect to suicide prevention at DOC: (1) increasing the ability to identify high-risk inmates, (2) creating more suicide-
resistant jail practices, (3) improving housing unit determination processes, and (4) strengthening DOC’s culture of suicide prevention and on Aug. 9, 2017, DOC promulgated a new Suicide Prevention and Intervention Policy.\(^9\)

In 2015 a report by the Washington Lawyers Committee for Civil Rights and Urban Affairs described conditions within the D.C. Jail and the CTF: “The D.C. Jail’s physical condition is alarming. Inspection reports by the D.C. Department of Health (DOH) have identified numerous violations of established correctional and public health standards, as well as structural and mechanical problems that are serious to extremely serious.”\(^{10}\)

### Plans for a new D.C. Jail

Planning for the construction of a new jail has been discussed by prior mayoral administrations prompting numerous media articles. In a memorandum dated December 21, 2010, DOC requested $420 million in capital funding allotments for the six-year period of 2012 through 2017 for a project entitled, “New facility- per DC General and Mass Ave Proposed Master Plan.” The project description/scope/justification stated that:

“The purpose of this project is to perform capital improvements and facility condition assessment to ensure DOC facilities remain in good condition, to support the cost-effective delivery of programs and services. Among the capital improvements required are roof replacements, window renovation/replacements, interior renovations, electrical, HVAC (heating and air-conditioning system) replacements. In addition, this project can be used for priority building improvement projects that arise that may not have been planned for as part of the condition assessment. Even with excellent planning there is often a need to address critical infrastructure needs.”

Under former Mayor Vincent Gray, the District’s Public Safety Master Plan (completed in 2015) recommended that the city build a criminal justice center at Blue Plains or Hill East.\(^{11}\) The Bowser Administration’s Office of Public-Private Partnerships’ (OP3) has had a new corrections center under consideration. According to the post on the OP3 website, last updated October 2, 2017:

“The Department of Corrections will seek the design, build, finance, and maintenance (DBFM) of a new corrections center that consolidates existing Correctional Treatment Facility (CTF) and Central Detention Facility (CDF) located at 1901 D Street, SE. The new facility must be able to accommodate the current inmate population, with the flexibility to efficiently adjust for future populations during the lifetime of the facility. This secure environment must include various support services and inmate treatment-related programs and activities (e.g., counseling, substance abuse treatment, education, job training, recreation, religion, work assignments, health and dental care, food service and laundry, among others). The new facility could be located on the existing site or another property owned by the District government or a third party, but continuous availability during the transition between facilities is critical. The DOC’s administrative offices, which are currently housed in the Reeves Center located at 2000 14th Street, NW, could also be consolidated into the new facility for more efficient operations to house approximately 80 staff in 20,000 square feet. Additionally, the District is considering the potential to house more inmates currently housed in out-of-state facilities managed by the Federal Bureau of Prisons.”\(^{12}\) The website also indicates that the DOC and the Department of General Services (DCGS) will be the agencies involved and community engagement will be conducted, and feedback will be incorporated into the project requirements before OP3 begins procurement.

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\(^9\) See District of Columbia Department of Corrections Policy and Procedure, Subject: Suicide Prevention and Intervention, Number: 6080.2G (effective date August 9, 2017). Policy Number 6080.2G which was reviewed August 9, 2018 supersedes Policy Number 6080.2F (effective date March 10, 2010).


\(^12\) Office of Public-Private Partnerships’ website https://op3.dc.gov/node/1195540
In an August 14, 2018, interview, Deputy Mayor for Public Safety and Justice Kevin Donahue said the planning for a new jail was placed on “pause,” and indicated that $100,000 has been budgeted to conduct a study within fiscal year 2019 that looks at the needs for a new facility, including how many people it will be designed to house, programming space, and so on. He acknowledged the earliest that construction could start would be 2025, and it could take four to five years to finish. In October 2018 the Office of Victim Services and Justice Grants issued a Request for Applications, for a grant award of up to $150,000 to engage an organization to build stakeholder engagement and solicit feedback related to the design and construction of a new correctional facility in the District of Columbia.
Objectives, Scope, and Methodology

Objectives
Because of the ongoing challenges at DOC facilities and consistent with its mission to improve the effectiveness, efficiency, and accountability of the District government, the Office of the D.C. Auditor (ODCA) initiated this discretionary audit of conditions of confinement at the D.C. Jail. The audit focused on environmental conditions, incident reporting and tracking, and compliance with American Correctional Association, American Public Health Association, and National Commission on Correctional Health Care standards. The audit also reviewed the adequacy of jail inspections conducted by the Department of Health, and issues relating to planning for a new jail.

Specifically, the objectives of the audit were to:

■ Assist DOC in conjunction with any pending construction of a new correctional facility by identifying areas for improvement in facilities, programs, and policies that can be incorporated over time.

■ Assess the adequacy of DOC’s existing policies and facilities to provide high quality mental health treatment programs consistent with best practices identified by the American Correctional Association and the National Commission on Correctional Health Care.

Scope
The scope of this report focused on Fiscal Years 2014 through 2018, but we also reviewed data as far back as Fiscal Year 2007 for historical purposes and context.

Methodology
To complete this review, we conducted site observations at the D.C. Jail and CTF and interviewed relevant employees. We reviewed D.C. Code provisions as well as standards established by the American Correctional Association, American Public Health Association, and National Commission on Correctional Health Care. We examined Department of Health (DOH) inspection reports of the D.C. Jail for calendar years 2007 through the present, as well as related documentation, including DOC’s official responses to these inspections. Regarding incidents at the D.C. Jail, we reviewed DOC’s incident tracking system and related incidents within the scope of our review. Lastly, ODCA reviewed DOC’s mental health services, provided by Unity Health Care Corrections, for compliance with requirements issued by the American Correctional Association and the National Commission on Correctional Health Care (NCCHC).

This report was drafted, reviewed, and approved in accordance with the standards outlined in ODCA’s Policy and Procedure Manual.
Audit Results

DOH has cited DOC for repeated and uncorrected violations of industry standards related to environmental conditions, including room temperatures, sanitary conditions, pests, broken fixtures, and inadequate lighting, among other issues. DOH also has cited both DOC and the food service provider Aramark for repeated violations of District regulations related to public health and food service.

As the federal court terminated its oversight of the D.C. Jail, which had included regular inspections, The Council of the District of Columbia (The Council) enacted the District of Columbia Jail Improvement Amendment Act of 2003 and required DOH to conduct inspections three times per year. For its inspections, the department’s Health Regulation and Licensing Administration Health Care Facilities Division uses a standardized form at the D.C. Jail to document compliance with environmental standards as defined by the American Public Health Association (APHA) and the American Correctional Association (ACA). In each inspection, DOH examined 39 APHA standards and 24 ACA standards.

In March 2018, DOH found that DOC was out of compliance with 7 of 24 ACA standards (29%) and 6 of 39 APHA standards (15%). The DOH inspections found that DOC was not in compliance with standards designed to ensure that:

- Indoor heating, ventilation and air conditioning control systems were maintained within acceptable ranges.
- Cellblocks and common areas were maintained in a clean and sanitary manner and in good repair.
- Clothing or bedding in disrepair is replaced or repaired, and that clothing bedding, mattresses, and pillows must be cleaned and sanitized before being reissued to a new user.
- Light levels in inmate cells/rooms were adequate in personal grooming areas and writing surfaces and that lighting throughout the facility was sufficient for the tasks performed.
- Inmates had access to operable showers with temperature controlled hot and cold running water.

Unfortunately, these issues are not new. In the health inspections between 2014 and March of 2018, DOH repeatedly cited DOC for the same or very similar issues of noncompliance in the reports. Some examples of repeated deficiencies cited include a leaking roof and subsequent water penetration through walls; unhealthy levels of dust; unsanitary conditions in food preparation areas; broken plumbing fixtures, especially inmate showers; large numbers of broken fluorescent lights in cells; and temperatures outside of allowable standard of at least 68 degrees Fahrenheit during the coldest months. Evidence suggests an increase in citations as the facility ages. For example, DOH cited DOC for 222 blown fluorescent tubes in inmate cells in March of 2018, an increase from just 28 cited in May of 2016.

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13. DOC contracts with Aramark Correctional Services LLC to provide to operate and manage DOC’s inmate food service programs at the Jail and CTF. Aramark is also to provide meals for purchase by staff in the Officer’s Dining Room (ODR) at the Jail.


15. ACA standards require that: (1) the ventilation system supplies at least 15 cubic feet per minute of circulated air per occupant with a minimum of five cubic feet per minute of outside air. Toilet rooms and cells with toilets have no less than four air changes per hour unless state or local codes require a qualified independent source and are checked less than once per accreditation cycle. (2) Temperature and humidity are mechanically raised or lowered to acceptable comfort levels. (3) In hot and dry climates, exterior window shields, shutters, or awnings must be provided to exclude solar radiation. (4) In hot humid climates when the facility does not have mechanical chilled-air systems, adequate windows and wall openings should be provided and the location must provide cross-ventilation. Gyms and swimming pools require special temperature, humidity, and ventilation control. (5) The building design, insulation, and exterior surface and color minimize heat absorption. (6) Clothes, towels, sheets, draperies, posters, and other objects should not interfere with airflow in or out of living areas. (7) The control system should maintain an indoor air temperature of at least 68 degrees Fahrenheit during the coldest months.
ODCA accompanied a DOH health inspector during the September 2017 inspection of the D.C. Jail which encompassed five days. That on-site inspection revealed several significant deficiencies, including food preparation and handling issues, cleanliness issues in the cell blocks, including the shower areas, and safety issues. At an elevator bank, the inspector pointed out that wires and conduits that penetrated through the walls and ceilings had not been properly sealed with caulk. According to the inspector, if there was a fire, smoke could move through the walls and affect other areas of the building.

In addition to the review of ACA and APHA standards, ODCA also examined DOH’s inspections of DOC’s culinary operations. DOC contracts with Aramark Correctional Services LLC to operate and manage DOC’s inmate food service programs at the D.C. Jail and the CTF. Aramark is also the vendor selected to provide meals for purchase by staff in the Officer’s Dining Room at the D.C. Jail.

ODCA found that DOH has cited both DOC and Aramark, for violations of Title 25-A of the District of Columbia Municipal Regulations (DCMR), which governs food operations. Specifically, DOC and Aramark have, according to several reports:

- Failed to keep food and non-food contact surfaces clean and sanitized.
- Received, stored, held, and/or served food at improper temperatures.
- Failed to keep kitchen equipment in good repair.
- Failed to control pests in the culinary area.

Notwithstanding these citations by DOH, the D.C. Jail has been accredited by the ACA since 2009\(^\text{16}\). To maintain its accreditation, DOC adheres to the ACA’s “Expected Practices.” For specific standards, DOC must meet 100% compliance and for other standards, DOC must meet 90% compliance to maintain accreditation. Reaccreditation occurs every three years with the D.C. Jail’s last accreditation in 2015 and paperwork filed for accreditation in 2018.\(^\text{17}\)

As part of its 2015 accreditation, ACA told DOC that it had found the condition of the D.C. Jail to be in notably good repair for its age (emphasis added.)

Although DOC has received ACA accreditation for the jail, some issues raised by DOH continue to reoccur without being successfully addressed. DOC has not consistently taken the steps necessary to correct the all of the issues identified by DOH’s health inspectors.

In some cases, DOC does not respond to citations as needing corrective action. In some cases, DOC states that for ACA accreditation purposes, compliance is not possible due to the age of the structure and the limited resources DOC has on hand. In those instances when DOC agrees there is a problem, but the agency cannot correct the citation and

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\( \text{DOH citations that have reoccurred:} \)

- Leaking damage or inoperative plumbing fixtures from 2014 through 2018
- Leaking roof from 2014 through 2018
- Peeling paint on metal desks, door frames, tables and bed frames from 2014 through 2018
- Water penetration through walls from 2014 through 2018
- Damaged janitor’s closets from 2014 through 2016
- Damaged Formica tables from 2014 through 2018
- Damaged showers stalls from 2014 through 2018
- Bent seats/no seats from 2014 through 2018

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\( \text{17. According to the 2015 ACA Accreditation report, dated January 25, 2016 the CTF has not yet been accredited since the facility has been under the management of DOC. The report indicates that the CTF initial accreditation will occur in 2018.} \)
Poor Conditions Persist at Aging D.C. Jail; New Facility Needed to Mitigate Risks
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Ensuring that DOC substantially complies with standards and regulations is necessary for the health of inmates and correctional officers. While there has been talk of a new jail, no real planning is in evidence and it is likely that a new facility will not be built for many years. It seems likely that the jail will serve as the principal incarceration facility in the District for years to come. The record of DOH’s repeated findings over the last 11 years presents a liability risk to DOC and the District by presenting an opportunity for further lawsuits alleging a violation of inmate constitutional rights.

Recommendations:

1. DOC should take all steps necessary, including requesting additional funding if necessary, to achieve and maintain full compliance with all ACA and APHA requirements.

2. DOC should conduct regular documented monitoring of Aramark’s compliance with all requirements of its contract and District food safety laws and regulations and sanction the contractor appropriately if necessary.

3. The District should move forward with a new D.C. Jail.

4. When considering a new correctional facility, DOC should analyze DOH violations to ensure that the design of the new facility minimizes the challenges of complying with standards and regulations that DOH frequently cited as having been violated.

In the 2003 District of Columbia Reply to Plaintiffs’ Opposition to Defendants’ Motion to Terminate in the pending cases, the District government stated its commitment to approximately $30 million toward capital improvements “designed to remedy historic deficiencies and refurbish the HVAC, cold and hot water, plumbing and electrical systems.” In the intervening years the department has expended a total of $74.5 million in capital improvements (FY2004 through FY2018) of which $10.3 million has been spent on AMO-CR104C-HVAC. The description of the “AMO-CR104-HVAC Replacement for CDF” project, in DOC capital budget request documents is as follows.

“The heating, ventilation and air-conditioning system at the Central Detention Facility has been in disrepair for years. Additionally, the water supply to the facility has been extremely problematic. The main booster pumps are at the end of their useful life and no filters, softeners or strainers are installed on the system. All work that was part of the original contract has been completed. However, for the system to perform in accordance with the design parameters and deliver the requisite amount of air in the cellblocks, additional fine tuning is necessary; four large rooftop duct fittings need to be replaced, transitions from the large rooftop units need to be modified and final air and water balancing needs to be done for the system to work properly. Chiller, steam station and associated piping overhaul is also included.”

DOC has submitted capital budget requests that reflect the need to fund critical capital projects. It is clear from DOC budget requests over the last five completed budget cycles that the agency has sought significant capital funding

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that is has not received in the annual budget process. In agency submissions for FY2014 through FY2018, DOC sought 1-year capital allocations totaling $62.4 million, or an average of $12.5 million each year. The Mayor and Council approved a total of $15.7 million, or an average in one-year allocations of $3.1 million. In the CIP six-year funding requests for those five budget cycles, DOC sought a total of $329.4 million or an average of $65.9 million over the six-year cycle, but the CIP as proposed only allocated $31.3 million, or an average for the six-year cycle of just $6.3 million.

To be sure, in the District of Columbia the CIP budget is an imprecise spending plan at best. The ODCA audit reports on school modernization have made clear that simply being included in a capital budget plan does not indicate accuracy in the amount that will eventually be spent. But it is also the case in all the school spending audits to date, the capital expenditures have consistently gone over the original budget and not under. In allocating well under what was requested in order to maintain DOC facilities, the executive and legislative branches of the District government have risked a failure to meet real needs as reflected in the DOH inspection reports.

The DOH inspection reports have repeatedly found deficiencies within several areas of the D.C. Jail’s infrastructure, including leaks in the roof and water penetration throughout the walls, HVAC issues (temperatures too hot or too cold), and nonfunctioning equipment, including showers, toilets, lights, etc.

DOC has recognized these issues and submitted capital budget requests since 2010 that include projects that would specifically address some of DOH’s concerns. For instance, DOC identified the need for general renovations to the D.C. Jail, justifying the project by saying “the CDF is almost a 40 years (sic) old structure continuously used 24/7, 365 days a year that faces extreme wear and tear. Upkeep and maintenance of the CDF is critical to the mission of the agency because it is required to safely house over 2,000 inmates and provide operational support, while complying with applicable standards and regulations.” DOC has similarly stated the need for significant projects related to HVAC replacement and roof refurbishment.

In an interview in August 2018 Deputy Mayor for Public Safety and Justice Kevin Donahue sought to minimize the obvious discrepancies between what DOC requested and what the Mayor and Council approved in DOC’s capital budget. He explained that agency leaders are encouraged to “blue sky” their requests as if funding were no object, and that capital allocations are then pared down in an interactive process. He said that the yearly allocations are more serious endeavors than the 6-year requests and reflect more closely what an agency actually needs.

Figure 5 below presents the capital budget request (in millions) since 2014 and the approved budgets.

**Figure 5: DOC Capital Budget Requests (In Millions)**

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Years Covered</th>
<th>DOC Year 1 Request</th>
<th>Year 1 Approved Per Budget Book</th>
<th>DOC 6-Year Total Request</th>
<th>6-Year Approved Per Budget Book</th>
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<td><strong>Totals</strong></td>
<td></td>
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<td><strong>$15.7</strong></td>
<td><strong>$329.4</strong></td>
<td><strong>$31.3</strong></td>
</tr>
</tbody>
</table>
In DOC’s FY 2018 capital budget request, the agency sought $21,974,188 for general renovations to the D.C. Jail, $12,000,000 for HVAC replacement, and $1,000,000 for roof refurbishment over the six-year period from FY 2018 through FY 2023. A significant portion of DOC’s requested capital funding that year came in the final three years of the capital plan (FY 2021-2023), in which DOC requested a total of $70,574,188 across all projects (including those above). In the final year (FY 2023) alone, DOC requested $44,750,000 in capital funds, anticipating a need to replace boiler units at the CTF and the D.C. Jail.

The FY 2018 and FY 2019 CIPs proposed by the Mayor did not include any capital funding for DOC beyond fiscal year 2020. The FY 2018 capital plan provided DOC with $2 million in FY 2018, $2 million in FY 2019, and $1 million in FY 2020, but nothing in FYs 2021 through FY 2023.

In addition to the risk of harm and legal liability, the lack of support for recognized maintenance and repair needs expressed by the agency may be failing to meet CIP regulations. The purposes of the District’s CIP are as follows (emphasis added):

“The CIP is used as the basis for formulating the District’s annual capital budget. The Council and Congress adopt the budget as part of the District’s overall six-year CIP. Inclusion of a project in a congressionally adopted capital budget and the approval of requisite financing gives the District the authority to spend funds for each project. The remaining five years of the program show the official plan for making improvements to District-owned facilities in future years.”

“The text of the CIP is an important planning and management resource...The CIP is flexible, allowing project expenditure plans to be amended from one year to the next in order to reflect actual expenditures and revised expenditure plans. However, consistent with rigorous strategic planning, substantial changes in the program are discouraged.” The CIP is updated each year by adding a planning year and reflecting any necessary changes in projected expenditure schedules, proposed projects and District priorities.

“Under the program, projects should complement the planning of other District agencies and must constitute a coordinated, long-term program to improve and effectively use the capital facilities and agency infrastructure.”

There are several effects that result from not accurately portraying DOC’s capital needs in the six-year CIP:

- The plan distorts the true capital needs of the District, and other projects may need to be cut down the line to make room for emergency capital needs. Using DOC as an example, in this case, the agency will need some level of capital funding in FY 2021 through FY 2024.

- The public is not informed regarding the true level of capital investment needed at DOC to correct the deficiencies found by DOH and to adequately maintain the existing equipment and facilities at a suitable level.

While officials within the Executive Office of the Mayor (EOM) are aware of DOC’s capital needs, the administration, like its immediate predecessors, has not made accurate projections for the agency’s expected need for continued capital funding in future years in the CIP. EOM officials acknowledged that they expect the D.C. Jail will need significant capital investments in future years and that there is a need for better long-term planning. EOM officials further explained that the CIP is supposed to be a six-year plan, but in reality, is being used—as evidenced by DOC in this case—to make short term decisions about where money needs to be spent. EOM officials expressed concern that if DOC does have additional immediate needs in the near future capital funding will have to be pulled from other sources to address the need because EOM already allocated capital funding for the next six years.

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Recommendations:
5. The Mayor and Council should provide a capital budget for DOC that considers the risk of failure to address health and safety hazards identified by the DOH including the risk to the safety of inmates and staff and the risk of additional litigation.

6. EOM should, working with the other members of the District’s Capital Budget Team, develop policies and procedures for the capital budgeting process that ensure the plan accurately reflects the known capital needs of agencies, including DOC, over the entire six-year capital budgeting period.

The Department of Health did not regularly conduct three inspections of the D.C. Jail each year as required by the D.C. Code.

D.C. Code states that, “[t]he Department of Health shall conduct a minimum of 3 inspections per year of the environmental conditions at the Central Detention Facility. For the purposes of this subsection, the term “environmental conditions” shall include temperature control, ventilation, and sanitation.” The Code requires that the Department of Health submit the report of each inspection to the Council and the Mayor within 30 days of the inspection.23

In a review of health inspections of the D.C. Jail between 2014 and 2018 we found that DOH conducted the required three inspections in only two of the five years. DOH acknowledges that it had not conducted the required inspections in prior years and by email July 12, 2018, indicated that the three inspections were conducted in 2017, and would be in 2018. “The issues contributing to fewer inspections in prior years have been resolved,” DOH said. The agency recounted the email text in responding to our draft report and stated that the requirement was met in 2017 and 2018. Figure 6 on the following page presents an analysis of the number of inspections conducted per year. Health inspections conducted by DOH between 2007 and 2013 are included for historical purposes.

**Figure 6: DOH Inspections of the D.C. Jail**

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Number of DOH Inspections</th>
<th>Compliancy with Required # of Inspections</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>3</td>
<td>Yes</td>
</tr>
<tr>
<td>2008</td>
<td>2</td>
<td>No</td>
</tr>
<tr>
<td>2009</td>
<td>2</td>
<td>No</td>
</tr>
<tr>
<td>2010</td>
<td>3</td>
<td>Yes</td>
</tr>
<tr>
<td>2011</td>
<td>1</td>
<td>No</td>
</tr>
<tr>
<td>2012</td>
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<tr>
<td>2013</td>
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<td>2016</td>
<td>2</td>
<td>No</td>
</tr>
<tr>
<td>2017</td>
<td>3</td>
<td>Yes</td>
</tr>
<tr>
<td>2018</td>
<td>3</td>
<td>Yes</td>
</tr>
</tbody>
</table>

*Source: Department of Health Inspection Reports*

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23. See § 7-731 (a-1).
DOH officials cited several reasons why the agency did not conduct the correct number of inspections required under D.C. Code in previous years:

- DOH was tasked with conducting the inspections but was not provided adequate funding to cover the costs of the inspections.
- During some years, a contractor was conducting inspections and there were contracting delays.
- DOH waited for the Department of Corrections to respond to the prior inspection before scheduling the next inspection.
- DOH must coordinate the inspections with the Department of Corrections as the surveyor must be accompanied on the inspections of the correctional facility.

The inspections are designed to ensure the health and well-being of correctional officers and inmates. If the inspections are not occurring as regularly scheduled, there is a potential risk to the health and safety of officers and inmates.

**Recommendation:**

7. DOH should continue to comply with D.C. Code 7-731(a-1)(1) and conduct three inspections per year of the D.C. Jail to help ensure that environmental conditions meet required standards.

**DOC’s health services contractor, Unity Health Care Corrections, complies with basic industry accreditation requirements for mental health screenings and suicide prevention, but DOC and Unity should update and clarify some internal written policies and procedures to ensure screenings remain consistent with accreditation requirements.**

In reviewing Unity and DOC health care policies, ODCA examined accreditation requirements of the American Correctional Association (ACA) and the National Commission on Correctional Health Care (NCCHC).

Both ACA and NCCHC require that the **mental health** intake screenings contain certain components, including information on whether an inmate has ever had a history of seizures or head trauma, as well as information on an inmate’s orientation to time and space and overall appearance.

ODCA’s review of DOC’s Office of Health Administration (OHSA) shows that DOC is capturing all medical information required by ACA and NCCHC. However, OHSA is relying on requirements and information contained within its initial medical assessment to fulfill ACA and NCCHC requirements that are supposed to be part of the initial mental health assessment.

ODCA reviewed three policies and practices, specifically:

- Intake mental health screening
- Comprehensive mental health screening
- Suicide prevention

While ODCA observed that the procedures followed by DOC and Unity covered all the elements required by ACA and NCCHC, both DOC and Unity’s mental health policies do not explicitly contain some of the ACA and NCCHC requirements with respect to intake mental health screenings of inmates. For instance, both ACA and NCCHC require that the **mental health** intake screenings contain components, including information on whether an inmate has ever had a history of seizures or head trauma, as well as information on an inmate’s orientation to time and space. These
Items are not contained within DOC’s mental health screening requirements because they are practiced as part of DOC’s intake medical screenings, conducted and recorded at intake immediately before the mental health screening and thus not repeated.

ODCA also reviewed accreditation documents provided by DOC demonstrating that NCCHC considered the components of the intake medical screenings to fulfill some of the mental health screening components during the most recent accreditation process. This demonstrates that DOC is not at risk of losing its accreditation simply because its mental health exam policies do not repeat those items.

DOC and Unity have not specifically written their policies and procedures to match them against ACA and NCCHC requirements. Unity’s contract requires that Unity comply with ACA and NCCHC requirements but does not state how the contractor should do so (for instance, by maintaining policies and procedures that are consistent with those requirements).

Because DOC and Unity’s policies for intake mental health examinations do not explicitly address all aspects of the ACA and NCCHC requirements, there is a risk that if the current intake medical exam process changes, DOC may no longer be in compliance with these ACA and NCCHC requirements in performing its intake mental health screenings.

Recommendation:

8. DOC should update their mental health intake screening policies and procedures to ensure they fully meet ACA and NCCHC accreditation requirements without having to rely on questions and procedures administered as part of the intake medical exam, ensure that the agency’s health services contractor’s (currently Unity) policies and procedures mirror those of DOC and are in full compliance with ACA and NCCHC accreditation requirements and see that OHSA’s and contractors written policies remain consistent with the standards.

DOC’s Office of Health Administration regular audits of Unity represent good internal control and monitoring practices that reduce the likelihood of noncompliance and the risk of negative outcomes.

OHSA is a division within the DOC and is overseen by DOC’s Deputy Director of Administration. Its primary responsibility is to oversee the effective implementation of the Agency’s medical service contract with its current vendor, Unity Health Care, Incorporated (Unity). Since 2006, Unity has provided medical, dental, and mental health services to DOC’s male, female, and juvenile population. In addition to assuring compliance with the contract, OHSA oversees the vendor’s compliance with NCCHC and ACA standards to help assure re-accreditation every three years.

As previously stated, the CTF was not inspected as part of the 2015 ACA accreditation. We understand from DOC’s comments on our draft report that the ACA accreditation received in January 2019 included the CTF. We found, that OHSA had in place a system of audits to monitor Unity’s performance in quality measures established by NCCHC, the ACA, Unity’s contract, and District and federal laws and regulations. OHSA is scheduled to conduct 162 audits annually across 64 performance measures. Most of these audits are conducted two to three times per year, and DOC has developed a risk assessment process to determine how frequently audits should occur.

The audits themselves typically consist of reviewing a sample of electronic medical records of patients who have used specific programs and determining whether the records contain the required information or whether the patient has received the service indicated. DOC’s OHSA compares the performance on these audits with the established performance benchmarks and issues corrective action plans if compliance is not met. OHSA then conducts a re-audit 60 days later to determine whether the Corrective Action Plan has been met.

24. According to the 2015 ACA Accreditation report, dated January 25, 2016 the CTF has not yet been accredited since the facility has been under the management of DOC. The report indicates that the CTF initial accreditation will occur in 2018.
OHSA’s performance was measured against the United States Government Accountability Office (GAO) Standards for Internal Control in the Federal Government which state: “Management establishes activities to monitor performance measures and indicators. These may include comparisons and assessments relating to different sets of data to one another so that analyses of the relationships can be made, and appropriate actions taken. Management designs controls aimed at validating the propriety and integrity of both entity and individual performance measures and indicators.”

Additionally, GAO’s principles for monitoring state, in part: “Corrective actions are a necessary complement to control activities to achieve objectives. Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results. Management should remediate identified internal control deficiencies on a timely basis.”

Moreover, ODCA reviewed DOC’s auditing practices in the context of DOC’s policies, which state: “DOC will audit Contractors [sic] provision of quality health care consistent with ACA, NCCHC, Federal and District regulatory standards, as noted in the ‘DOC Performance Improvement Tool. DOC may utilize this tool to conduct independent and/or joint audits with Contractor.”

In summary, the practices employed by OHSA provide reasonable assurance that Unity is complying with established performance benchmarks and that OHSA is taking appropriate steps to address issues requiring corrective action. It is important to note that the scope of ODCA’s assessment was narrow. ODCA did not assess whether mental health services provided to inmates are adequate. ODCA assessed DOC’s compliance with the ACA and NCCHC requirements related to three items—the intake mental health assessment, the comprehensive mental health assessment, and suicide prevention policies. ODCA concluded that DOC’s audits of Unity reduce the risk that the contractor will not comply with contractual or accreditation requirements. OHSA should continue its monitoring of Unity’s service performance, including annual evaluations of risk to determine audit frequency as well as issuing and following up on corrective action plans when necessary to ensure services provided to inmates meet all established benchmarks.

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27. See Contract CW37196, dated October 1, 2015, section C.5.30.10
Auditor’s Concerns

D.C. Code does not require the agency to inspect the Correctional Treatment Facility.

Currently the Department of Health does not conduct inspections at the Correctional Treatment Facility because the D.C. Code does not require such inspections. Regular inspections should be conducted to ensure the health and well-being of correctional officers and inmates. If inspections are not occurring there is a potential risk to the health and safety of officers and inmates.

Although ODCA could not conclusively determine why the law does not require CTF inspections by DOH, one potential reason is that prior to January 30, 2017, the treatment facility was managed by a private, for profit company—the Corrections Corporation of America and the CTF was not a part of the federal court oversight. During receivership, the U.S. District Court required inspections and the provision in the Jail Improvement Amendment Act of 2003 may have been written to to ensure the monitoring requirements during court oversight were maintained.

Recommendation:

9. DOC and the Council should review this inspection requirement and make necessary adjustments to the Code in the best interest of inmates housed at the CTF.

Video Visitation Policy

In 2012, DOC began video visitation at the D.C. Jail after in-person visitation was terminated. Currently, this is the primary way inmates communicate with their visitors. In-person visitations for inmates, however, were reinstated in 2015 at the CTF and the D.C. Jail for those with good behavior. DOC officials stated that video visitation has resulted in more communication between inmates and their families and fewer cancellations of visits.

However, as a new technology, the long-term effects of video visitation are not well understood. There is some research that suggests it may lead to a breakdown in an inmate’s communication with family and a higher likelihood of recidivism down the line. Other research suggests this is not the case.

Recommendation:

10. DOC should closely study the effects of its video visitation systems and consider including sufficient space in the plans for the new jail for both in-person and video visitations for

Conclusion

The D.C. Jail is an aging and deteriorating 40-year-old facility that must be operational 24 hours per day, 7 days per week. While age is a contributing factor, the conditions within the D.C. Jail could worsen if DOC is not able to address health and environmental citations issued by DOH. We found that DOC made requests for capital funds over and above what was provided by the Mayor and Council to address facility improvements. The Mayor and the DC Council must work in concert to appropriate sufficient capital for DOC to make necessary repairs to the facility. Not doing so would put the health and safety of inmates and DOC staff at risk and increase the risk of lawsuits against the District.

One of the goals of this audit was to identify areas for improvement in facilities and policies that could assist with planning for the construction of a new jail. By reviewing DOH’s inspection reports, ODCA found that DOC was repeatedly cited by DOH for violations of industry standards related to environmental conditions. Some of the citations that were repeated throughout the scope of this audit included water penetration through the walls due to a leaking roof, mold growth on walls, damaged shower stalls, temperatures outside of allowable standards and other issues clearly associated with an aging facility. Aramark, DOC’s food service provider, was cited by DOH for repeated violations of District regulations related to public health and food service such as unsanitary conditions in food preparation areas.

The persistence and seriousness of facility citations clearly point to the need for a new jail. According to Kevin Donahue, the Deputy Mayor for Public Safety and Justice, the earliest construction of a new facility could begin is 2025 and would likely take four to five years to complete the project. Further delay heightens the risks associated with the age and deterioration of the facility.

We are pleased to note that DOC accepted four of the six recommendations directed to them in our report.
Agency Comments

On December 21, 2018, we sent a draft copy of this report to the Department of Corrections (DOC) and the Department of Health (DOH) for review and written comment. DOC responded with comments on January 30, 2019, and DOH responded with comments on January 18, 2019. The comments are appended in full to this report.
GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CORRECTIONS

Office of the Director

D.C. DEPARTMENT OF CORRECTIONS’ RESPONSE TO THE AUDIT OF
D.C. JAIL CONDITIONS BY THE OFFICE OF THE D.C. AUDITOR

I. The District’s Demonstrated Performance in Achieving Established Standards Regarding
Conditions of Confinement at the D.C. Jail

The Office of the D.C. Auditor (ODCA) goes back decades to set the stage of the Audit of the D.C. Jail, but
does not acknowledge or recognize that a long look-back in fact demonstrates the progress the D.C.
government has made and the full and repeated recognition it has received as being compliant with
national correctional standards. While the District of Columbia Jail was under Court supervision and
receivership in the distant past, after years of demonstrated dedication to systemic reform by District
officials, that court oversight was terminated 16 years ago in 2003. The United States District Court
determined that the conditions of confinement met constitutional standards and no longer required
judicial intervention and oversight, a status that continues to date.

In 2003, the D.C. Council passed the Jail Improvement Amendment Act of 2003 (Law 15-62), which
required inspections, monitoring, and reporting. It further required that the Department of Corrections
(DOC) initiate immediate changes in operating protocols including a classification system and housing
plan; institute a population ceiling at the Jail; and required that the facility obtain accreditation by a
national professional correctional organization in order to provide a safer institution. DOC complied with
the requirements with changes in classification and housing protocols. It implemented and has adhered
to population levels below the cap of 2,164 promulgated by DOC in DCMR 28-532. This cap was based
on the rated capacity of the facility as determined by independent expert consultants Pulitzer/Bogard
Associates. Consistent with D.C. Code § 24-211.02(b)(2), DOC submits Quarterly Jail Improvement Act
reports to the D.C. Council, as required by the Act, relating to living conditions in the Central Detention
Facility (CDF), including inmate grievances, in a Crystal report (a Windows-based tool that allows
aggregate reporting of data from diverse sources). In addition, DOC produces and submits to the D.C.
Council a monthly report on the Priority One environmental problems and the time to repair, a monthly
report of the Environmental Safety Office, a monthly report on temperature control and ventilation, and
a monthly report on the jail population that includes the number of people waiting for transfer to the
Federal Bureau of Prisons and the average number of days that inmates waited for transfer.

The Act also required DOC to achieve American Correctional Association (ACA) accreditation, which,
through hard work, commitment, and the dedication of staff and resources, we did. In addition, DOC
also achieved National Conference on Correctional Health Care (NCCHC) accreditation. ACA and NCCHC accreditations are considered the gold standards in correctional operational and medical/mental health care respectively. In order to be accredited by ACA, the D.C. Jail has to be one hundred percent compliant with all “mandatory standards,” and ninety percent compliant with all “non-mandatory standards.” In order to achieve and maintain NCCHC accreditation, the D.C. Jail has to be one hundred percent compliant with all “essential” NCCHC standards and eighty-five percent compliant with all “important” NCCHC standards. The D.C. Jail achieved initial ACA accreditation in August 2009, reaccreditation in January 2015 and was reaccredited again on January 12, 2019. D.C. Jail Medical and Mental Health Services were initially accredited by NCCHC in October 2001, and most recently in April 2018. Moreover, the D.C. Jail was originally certified as in compliance with the Prison Rape Elimination Act (PREA) on December 9, 2014, and most recently on November 24, 2017. The Correctional Treatment Facility (CTF) was accredited by ACA while under the management operation of Corrections Corporation of America (CCA) from 1997 until 2016 and reaccredited under DOC management on January 12, 2019. CTF Medical and Mental Health Services were accredited by the National Commission on Correctional Health Care (NCCHC), the initial accreditation in October 2004, and most recently in April 2018. The CTF is certified as compliant with the Prison Rape Elimination Act as of July 29, 2016.

The Department of Health (DC Health) conducts inspections of the D.C. Jail, as referenced throughout the Auditor’s report, using the Department’s Health Regulation and Licensing Administration Health Care Facilities Division (HCFD) standardized form to document compliance with environmental standards as defined by the American Public Health Association (APHA) and the American Correctional Association (ACA). In conducting this inspection, DC Health applies the APHA standards for correctional facilities, although D.C. Official Code § 7-731 (a-1) does not set out what standard(s) should be applied when conducting the inspections. Because the APHA is not an accrediting agency, it is APHA’s policy that correctional facilities should achieve accreditation with NCCHC as it is the gold standard in correctional health. According to the APHA, the NCCHC has established standards that align with APHA recommendations; therefore, achieving NCCHC accreditation is achieving substantial compliance with APHA standards. As mentioned above, the D.C. Jail was accredited by NCCHC in October 2001 and reaccredited in April 2018. Therefore, the Jail is in compliance with APHA Standards per the APHA.

For more than a decade, the DOC was well below the national average for suicides in correctional facilities. However, there was a sudden occurrence of a cluster of suicides in 2013, prompting the District to immediately bring in expert consultant Lindsay M. Hayes and establish a Suicide Prevention Task Force resulting in: (1) increasing the ability to identify high-risk inmates, (2) creating more suicide-resistant jail practices, (3) improving housing unit determination processes, and (4) strengthening DOC’s culture of suicide prevention as reflected in the agency’s implemented DOC Policy 6080.2G, Suicide Prevention and Intervention. In addition to the Task Force, the DOC regularly trains our staff in the identification of behaviors that may indicate a risk of suicide, and the appropriate protocols for suicide prevention and intervention. This response to a cluster of suicides further demonstrates the agency’s commitment and ability to identify and improve protections, services, and supports for inmate safety and well-being.

II. Official Action to Ensure that the Maintenance and Repair of the D.C. Jail Meet Industry and Constitutional Standards for Conditions of Confinement

The mission of the D.C. Department of Corrections (DOC) is to provide a safe, secure, orderly, and humane environment for the confinement of pretrial detainees and sentenced inmates, while affording

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those in custody meaningful rehabilitative opportunities for successful community reintegration. This mission is articulated repeatedly to staff, and is carried out through the implementation of numerous programs. In addition to providing an environment that promotes safety for inmates, staff, visitors and the community at large, the DOC facilities are a place where we provide programs and services to improve inmate education and job skill levels, and facilitate successful community reintegration. DOC also provides inmate physical and mental health treatment through Unity Healthcare, a premiere and respected community healthcare provider, that includes daily access to sick call, 24/7 urgent care, in-house and outside specialty care, full pharmaceutical services and hospital services, dental care, and HIV/AIDS prevention education. Mental health care includes psychiatric and psychological care, clinical social workers, group therapy and individual counseling, substance abuse programs, an Intensive Mental Health Unit, and a Step Down Mental Health Unit. DOC provides education programs which include adult basic education, GED, college courses, and vocational programs, as well as job readiness services. The Department also provides religious programs and accommodations for inmate religious beliefs including services, religious diets, clothing and other items for the practice of faith consistent with the safety and security of the facility. Inmates have recreation, out of cell activity, television, library cart reading materials, commissary, social visitation, 24/7 legal visitation, telephone services (social and legal calls), mail services (regular and legal), case management services, law library services, grooming services, and inmates may grieve any concerns or complaints through the Inmate Grievance Procedures (medical and regular). Demonstrating our commitment to reintegrating the Jail’s population with the larger community, the DOC’s investment in college programming and facilitation of voting by inmates are recognized nationally as path-breaking and progressive.

All of these services are provided in facilities where there was an average daily population of 1173 to 1373 from 2015 to 2018. An average of twelve thousand (12,000) inmates come through the D.C Jail annually, resulting in the need for a robust preventative maintenance plan for the physical plant and a priority triaging system for maintenance repairs. The population activity volume, high turnover, and 24/7 occupation of the D.C. Jail translates to a facility whose physical plant is under constant usage and strain as reflected in the reoccurrence of faulty plumbing fixtures and other maintenance and repairs which, once fixed, reoccur elsewhere in the facility. The D.C. Jail has a large and complex plumbing system that supports all aspects of the building, including the common areas of the housing units, such as showers, as well as individually supporting 1380 cells, each with its own sink and toilet. This extensive footage of plumbing and large number of fixtures is reflected in the proportionate ratio of plumbing repairs cited in DC Health inspections and the fact that similar problems reoccur in different cells after repair. As such, the number of plumbing fixtures needing repair does not reflect a failure to repair them in a timely manner, but rather that another need occurred in another cell in the facility, requiring constant maintenance and upkeep and reoccurring maintenance citations.

Notably, if the plumbing in a cell is not operable, or if the roof leaks into a cell, the cell is not occupied by an inmate until fixed; therefore, inmates are not subjected to any deprivations or harm while fixtures are inoperable or there is a leak.

At the D.C. Jail, most of the 18 housing units have 8 showers, totaling 132 showers, similarly reflecting a proportional number of needed shower repairs at any given time. Therefore, on each unit, if a shower fixture requires repair, inmates have up to 7 other showers to use, thus meeting their needs. Shower repairs are immediately prioritized by maintenance staff and repairs are targeted for completion within 24-hours (actual completion time of course depends upon the complexity of the repair). There are some

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2 https://doc.dc.gov/page/doc-program-statements
shower areas that suffer from a number of structural and mechanical deficiencies, such as original plumbing systems that are experiencing end-of-life failures.

The current HVAC system has significant design problems that inhibit proper airflow and temperature controls. In light of the HVAC issues experienced in the summer of 2016, DOC, in conjunction with the D.C. Department of General Services (DGS), completed a needs assessment and feasibility study to replace and/or upgrade the existing HVAC equipment and associated mechanical systems. As a result, prior to the summer of 2017, the DOC installed two new water chillers and replaced the rooftop large air supply ducts. DOC was able to begin the process of moving the system from a manual control to real-time digitized control. DOC, in conjunction with DGS, continues to work towards HVAC improvements to increase the flow of air throughout the facility. Moreover, DOC monitors indoor temperatures daily, and when temperatures are approaching an unacceptable range, DOC maintenance staff adjusts the temperature. Per the ACA Expected Practice ALDF-1A-20, the temperature at DOC facilities is raised or lowered to acceptable comfort levels, thus the average daily temperature in the Jail is within normal ranges.

Per ACA Expected Practice 4-ALDF-4A-02, the food preparation area includes space and equipment for food preparation based on population size, type of food preparation, and methods of meal service. There are sanitary, temperature-controlled areas for food storage. Weekly meetings and daily inspections are conducted to ensure that cleanliness and sanitation are maintained in the kitchen. Culinary staff has an assigned environmental officer and environmental details on each shift. Some inmates even participate in culinary training leading to nationally-recognized certification and job-readiness upon their release.

Consistent with ACA Mandatory Expected Practice 4-ALDF-4A-11, there is documentation by an independent source, D.C. Health, that food service facilities and equipment meet established governmental health and safety codes. When there are any deficiencies, corrective action is taken immediately. DC Health utilizes the food section of the HCFD inspection report to inspect the culinary area and officers’ dining room. All broken equipment is repaired within 48 hours. The only exception is when equipment parts are unavailable and the maintenance vendor must rely on the manufacturer to supply new parts.

DOC has a vermin and pest control plan that includes monthly inspections by a qualified person and utilizes the food section of the HCFD inspection report as a measure to inspect the culinary area and officers’ dining room. DOC has an environmental detail dedicated exclusively to the culinary team on each shift, daily. This team maintains cleanliness and sanitation. As an added level of protection, DOC has had a contract with a pest control company for several years. In the past, when a pest control company has been unable to obtain satisfactory results, the agency has terminated that contract and instituted a new one with a different company with favorable results.

In 2017, in response to issues cited in the DC Health report related to food service, the DOC undertook a several weeks’ long renovation of the food service area that included the replacement of major equipment and the implementation of a new pest control vendor, which has yielded positive results.

In 2018, the DOC completed installation of new roofing. Even with a new roof, however, leaks can and do occur, including those from sources other than the roof. In 2019, the DOC is working with DGS to continue structural repairs to address water penetration into the facility by way of the façade and windows. Interior roof leaks are repaired in a timely manner, but have reoccurred in different areas of the facility due to the age of the building, despite ongoing diligent maintenance. In general,
superannuated buildings spring more roof leaks than new buildings; however, repairs are made quickly, and any effects of water on the building structure and the environment, such as the infrequent occurrence of mold, are identified and abated immediately.

III. Certified Accredited Medical and Mental Health Care Meet Correctional Standards of Excellence

DOC Medical and Mental Health Services are both ACA and NCCHC accredited. Both accrediting agencies require that the mental health intake screenings contain certain components, including information on whether an inmate has ever had a history of seizures or head trauma, as well as information on an inmate’s orientation to time and space and overall appearance. The information is collected by the medical intake process immediately prior to the mental health intake process and is recorded in the patient chart for medical and mental health’s reference and use. Because of this, the same information is not solicited in the mental health intake questions that immediately follow medical intake’s requests and documentation. While the Audit speculates that problems could arise in the hypothetical situation wherein the medical intake screening changes, such a scenario is purely speculative and unlikely to occur given DOC’s close oversight of healthcare services, as noted by the Auditor, and due to the fact that the practice has been reviewed and meets NCCHC and ACA standards. Noteworthy is that DOC automatically screens all inmates at intake for voluntary HIV testing, serving as one of the largest screeners in the District, and provides HIV/AIDS medical treatment as well as HIV/AIDS counseling and education.

IV. Budgeting for a New Jail

The Mayor, Deputy Mayor for Public Safety and Justice, Director of DOC and the D.C. Council all have acknowledged that a new correctional facility is desirable. As the DC Auditor’s report noted, the District is looking at all options of how to fund a new DC Jail, including the possibility of a Public Private Partnership (P3). As part of the FY 2019 budget development process, it was determined that a P3 project was not the most prudent course of action. The Administration instead chose to fund a study that will document the needs for a new facility, including: how many people it will be designed to house, programming space, and other building and capacity considerations. In addition, in October 2018, the Office of Victim Services and Justice Grants (OVSJG) issued a Request for Applications, for a grant award of up to $150,000 to engage an organization to build stakeholder engagement and solicit feedback related to the design and construction of a new correctional facility in the District of Columbia.

At the same time, the Mayor made it a funding priority to invest in improving and upgrading current systems at the DC Jail - both as part of regular maintenance and in response to more acute facility needs - while the administration waits for the results of the study in order to develop a proper budget estimate for the Capital Improvement Plan (CIP). In the CIP submitted in FY 2019, the Mayor’s budget included $13.5 million for improvements in the current fiscal year and $6 million for additional improvements in FY 2020. The FY 2019 – FY 2020 funds are for general renovations, power system upgrades, exterior structural finishing, and HVAC replacement work at the CDF.

The administration is committed to funding maintenance needs at the DC Jail while the study is occuring and the requirements for a new correctional facility are developed with community, returning citizens and criminal justice reform experts’ input. As a result, the maintenance needs for DOC will be discussed and considered for additional funds in FY 2020 and beyond, as is done for all municipal facilities as part of the annual budget process. From 2000 – 2020, DOC has been awarded a total of $127.3 million for facility improvements in both the DOC and DGS budgets.
The desire to build a new jail has been reflected by DOC in their initial budget submission. Agencies are encouraged to submit any and all ideas, regardless of fiscal constraints, so the administration has a full view of all ideas to improve programs and services. Agencies are given preliminary numbers, and then they make clear what is absolutely necessary to fulfill their statutory duties and meet priority goals. They then engage in further rounds of discussion with the Office of Budget and Performance Management and other senior officials who must balance the needs and new requests across government against available resources. As the Deputy Mayor explained in his interview with the Auditor, requests from agencies can sometimes be two to three times the amounts that they would ultimately receive. If all of these requests were fulfilled, the District would not be able to submit a balanced budget and financial plan, as required by law.

The Mayor transmits her budget to the D.C. Council, which in turn decides which programs and projects to fund, having the benefit of oversight hearings, budget hearings with Directors, Deputy Mayors, and the City Administrator, numerous reports, as well as all the community input they receive as candidates and legislators. Together, the Council and Mayor determined that funding for maintenance, rather than a new facility, was preferable at this time and legally sound. In no respect should an initial, internal, “blue sky” request for deliberative consideration be equated with a final determination that a new facility is immediately necessary to protect the health of inmates or respect their legal rights.

V. District Responses to ODCA Recommendations

Recommendations:

1. DOC should take all steps necessary, including requesting additional funding if necessary, to achieve and maintain full compliance with all ACA and APHA requirements.
   Response: DOC accepts this recommendation and will continue to take the steps necessary to remain in compliance with ACA and NCCHC accreditation requirements.

2. DOC should conduct regular documented monitoring of Aramark’s compliance with all requirements of its contract and District food safety laws and regulations and sanction the contractor appropriately if necessary.
   Response: DOC accepts this recommendation and will continue to ensure the food vendor’s daily compliance with the contract and District food safety laws and regulations.

3. When considering a new correctional facility, DOC should analyze DOH violations to ensure that the design of the new facility minimizes the challenges of complying with standards and regulations that DOH frequently cites as having been violated.
   Response: DOC accepts this recommendation and will analyze past DC Health citations for consideration in the design of a new facility.

4. The Mayor and Council should provide a capital budget for DOC that considers the risk of failure to address health and safety hazards identified by the DOH including the risk to the safety of inmates and staff and the risk of additional litigation.
   Response: The Mayor and Council always consider risks when building both capital and operating budgets, and will continue to do so.
5. EOM should, working with other members of the District’s Capital Budget Team, develop policies and procedures for the capital budgeting process that ensure the plan accurately reflects the known capital needs of agencies, including DOC, over the entire six-year capital budgeting period.
   
   **Response:** The capital budget is projected as accurately as possible over the six-year capital budget period, based on available information and against available resources. Each year, the capital budget is revisited to ensure that new information about the condition of our assets can be assessed and considered. Funding is then allocated based on available resources, existing commitments and the time it takes to repair and/or construct new assets.

6. DOH should comply with D.C. Code §7-731(a-1)(1) and conduct three inspections per year of the D.C. Jail to help ensure that environmental conditions meet required standards.
   
   **Response:** DOC accepts this recommendation and will continue to comply with DC Health inspections as requested and scheduled by the agency.

7. DOC should update their mental health intake screening policies and procedures to ensure they fully meet ACA and NCCHC accreditation requirements without having to rely on questions and procedures administered as part of the intake medical exam, ensure that the agency’s health services contractor’s (currently Unity) policies and procedures mirror those of DOC and are in full compliance with ACA and NCCHC accreditation requirements and see that OHSA’s and contractors’ written policies remain consistent with the standards.
   
   **Response:** DOC accepts this recommendation, and we have conferred with Unity Healthcare regarding it. We are currently in the process of updating those respective policies and procedures to reflect the noted revisions. DOC expects to have these updates formally completed by April 1, 2019.

8. DOC and the Council should review this inspection requirement and make necessary adjustments to the Code in the best interest of inmates housed at the CTF.
   
   **Response:** DOC recognizes this recommendation and defers this to the Council’s legislative powers.

9. DOC should closely study the effects of its video visitation systems and consider including sufficient space in the plans for the new jail for both in-person and video visitations for all inmates, depending on which form of visitation families prefer.
   
   **Response:** DOC has taken this recommendation under advisement.

January 30, 2019
January 18, 2019

Via email: Kathy.Patterson@dc.gov

Kathy Patterson
District of Columbia Auditor
Office of the District of Columbia Auditor
717 14th Street, NW, Suite 900
Washington, DC 20005

Re: Department of Health’s Comments on Draft Report entitled “District Fails to Address Poor Conditions at the D.C. Jail”

Dear Ms. Patterson:

Thank you for providing the opportunity to the District of Columbia Department of Health (DC Health) to comment on the draft report prepared by the Office of the District of Columbia Auditor (ODCA) concerning the D.C. Jail.

On behalf of DC Health and Director Nesbitt, I respectfully request that the draft report be modified at pages 18-19 to fairly and accurately report the DC Health’s current compliance with its obligations pursuant to D.C. Code § 7-731(a-1)(1).

Missing Paragraphs from DC Health’s Response

Two paragraphs of text from my July 12, 2018 email to Matthew Separa (ODCA’s Program Analyst) should be reflected in your final report.¹

In the middle of page 19 of the draft report, ODCA included one paragraph of text from my email but did not include the paragraph immediately above the included paragraph or the paragraph immediately below the included paragraph. The absence of the two paragraphs materially misrepresents the current facts. In the first missing paragraph, I stated:

I start by noting that DC Health is currently in compliance. DC Health did inspect three times in calendar year 2017. This indicates that the issues contributing to fewer inspections in prior years have been resolved. For calendar year 2018, one inspection has been completed, another inspection

¹ For your convenience, I have included a copy of the DC Health email to Mr. Separa dated July 12, 2018 as an attachment to this letter.
is in progress now, and a third inspection will soon be scheduled. This further indicates the issues have been resolved. Working collaboratively with the Department of Corrections, DC Health is committed to making sure the inspections for environmental conditions occurs three times a year.

The second missing paragraph stated:

To comply with the statutory mandate, DC Health made a number of changes including:

1. DC Health absorbed the costs of the inspections into its operating budget.
2. DC Health hired the person conducting the inspections as a while actually employed (WAE) employee so that contracting delays are avoided and the person can start the inspections on time.
3. DC Health no longer waits for the Department of Corrections to respond to the prior inspection before scheduling the next inspection.
4. DC Health actively coordinates with the Department of Corrections to assure inspections occur three times per year.

Without the missing paragraphs, the draft report reports misrepresents that DC Health is continuing to violate the statutory mandate. However, DC Health did take action in calendar year 2017 to comply with the statutory mandate. Because of that action, DC Health is now compliant with the statutory mandate as evidenced by:

1. DC Health completed three inspections in calendar year 2017 as indicated in Figure 6 on page 19 in the draft report.

2. DC Health also completed three inspections in calendar year 2018 on March 19, 2018 to April 2, 2018, July 2, 2018 to July 17, 2018, and October 22, 2018 to November 2, 2018.

Recommendation 6

ODCA’s Recommendation No. 6 on page 19 of the draft report implies that DC Health still needs to take action in calendar year 2019 to start its compliance. However, as explained above, DC Health already took action in calendar year 2017; moreover, DC Health demonstrated compliance in calendar years 2017 and 2018.

As such, Recommendation 6 should be amended to reflect that DC Health is currently in compliance and is expected to stay in compliance.
I am available to discuss. Please contact me at Phillip.Husband@dc.gov or (202) 442-5970 for any follow-up on these comments.

Sincerely,

Phillip L. Husband
General Counsel

Attachment

cc: Lawrence Perry
    Betsy Cavendish
    LaQuandra S. Nesbitt
    Sharon Lewis
Mr. Separa,

You asked that the Department of Health (DC Health) provide information on why it did not conduct the required number of inspections each year in seven of the ten years between 2007 and 2016.

I start by noting that DC Health is currently in compliance. DC Health did inspect three times in calendar year 2017. This indicates that the issues contributing to fewer inspections in prior years have been resolved. For calendar year 2018, one inspection has been completed, another inspection is in progress now, and a third inspection will soon be scheduled. This further indicates the issues have been resolved. Working collaboratively with the Department of Corrections, DC Health is committed to making sure the inspections for environmental conditions occurs three times a year.

DC Health recognizes that it was not fully complying with section 2 of the District of Columbia Jail Improvement Amendment Act of 2003, effective January 30, 2004 (D.C. Law 15-62, D.C. Official Code § 7-731(a-1)) for several reasons:

1. DC Health was tasked with conducting the inspections but was not provided additional funding to cover the costs of the inspections.
2. The person who conducted the inspections was previously engaged as a contractor where contracting delays occurred.
3. DC Health waited for the Department of Corrections to respond to the prior inspection before scheduling the next inspection.
4. DC Health must coordinate the inspections with the Department of Corrections as the surveyor must be accompanied on the inspections of the correctional facility.

To comply with the statutory mandate, DC Health made a number of changes including:

1. DC Health absorbed the costs of the inspections into its operating budget.
2. DC Health hired the person conducting the inspections as a while actually employed (WAE) employee so that contracting delays are avoided and the person can start the inspections on time.
3. DC Health no longer waits for the Department of Corrections to respond to the prior inspection before scheduling the next inspection.
4. DC Health actively coordinates with the Department of Corrections to assure inspections occur three times per year.

I remain available to discuss.

**Phillip L. Husband**  
General Counsel  
Office of the General Counsel (OGC)  
O: 202-442-5970  
M: 202-997-4843  
899 North Capitol Street NE, 6th Fl, Washington, DC 20002  
dchealth.dc.gov

**DC HEALTH**

**MURIEL BOWSER, MAYOR**
ODCA’s Response to Agency Comments

We thank the Department of Corrections, the Department of Health, the Executive Office of the Mayor and the Office of the Chief Financial Officer for their cooperation and assistance during our audit. We are pleased that DOC and DOH concurred with most of our recommendations. We will follow-up with the agencies on the implementation status of these recommendations as part of our annual recommendation compliance monitoring process.

Based on the items discussed during the exit conference and comments received from the agencies, we made changes to the report where applicable. Most important, we made explicit our recommendation that the District should move forward with building a new jail to address the risks identified in the audit. With regard to the Department of Health, we revised our description of the inspection reports completed during the scope of the audit to acknowledge the completion of the three required inspections in 2018.

At the request of the Department of Corrections we added information from an interview with Deputy Mayor Kevin Donahue pertaining to the initial capital funding requests made as a part of annual budget deliberations.

We also note the extensive description provided in the DOC comments on the improvements made in the operations of the D.C. Jail in the years following the enactment of the Jail Improvement Act of 2003. Although the government’s compliance with the terms of the legislation are in many respects outside the scope of this audit, we acknowledge that there have been improvements in the conditions of confinement from the severe overcrowding of the facility that occurred prior to the enactment of the law.
Summary of Report Recommendations

Most of the recommendations in this report can be implemented without any additional costs to the agencies, have the potential to generate revenue and/or cost savings to the District, and/or help to advance or support the mission and/or the strategic objectives of the Department of Corrections (DOC), the Department of Health (DOH), as well as the Mayor and the Council.

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Is There a Cost to the Agency to Implement?</th>
<th>Potential to Generate Revenue or Savings for the District?</th>
<th>Specific Agency or District-Wide Goal Advanced by Recommendation</th>
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| 1. DOC should take all steps necessary, including requesting additional funding if necessary, to achieve and maintain full compliance with all ACA and APHA requirements. | Yes                                         | No                                                       | DOC’s Mission Statement: The mission of the Department of Corrections (DOC) is to provide a safe, secure, orderly, and humane environment for the confinement of pretrial detainees and sentenced inmates, while affording those in custody meaningful rehabilitative opportunities for successful community re-integration.  
DOC’s Strategic Objective #2: Foster Environment That Promotes Safety for Inmates, Staff, Visitors and the Community at Large. |
| 2. DOC should conduct regular documented monitoring of Aramark’s compliance with all requirements of its contract and District food safety laws and regulations and sanction the contractor appropriately if necessary. | Yes, if this requires an additional FTE.   | No                                                       | DOC’s Mission Statement: The mission of the Department of Corrections (DOC) is to provide a safe, secure, orderly, and humane environment for the confinement of pretrial detainees and sentenced inmates, while affording those in custody meaningful rehabilitative opportunities for successful community re-integration.  
DOC’s Strategic Objective #2: Foster Environment That Promotes Safety for Inmates, Staff, Visitors and the Community at Large. |
| 3. The District should move forward with a new D.C. Jail.                        | Yes                                         | Yes                                                      | DOC’s Mission Statement: The mission of the Department of Corrections (DOC) is to provide a safe, secure, orderly, and humane environment for the confinement of pretrial detainees and sentenced inmates, while affording those in custody meaningful rehabilitative opportunities for successful community re-integration.  
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### Recommendation

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<td>4. When considering a new correctional facility, DOC should analyze DOH violations to ensure that the design of the new facility minimizes the challenges of complying with standards and regulations that DOH frequently cites as having been violated.</td>
<td>Yes</td>
<td>Yes – reducing health violations reduces the chance of a lawsuit and a potential settlement.</td>
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<td>Yes – reducing risks reduces the chances of a lawsuit and a potential settlement.</td>
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<td>6. EOM should, working with the other members of the District’s Capital Budget Team, develop policies and procedures for the capital budgeting process that ensure the plan accurately reflects the known capital needs of agencies, including DOC, over the entire six-year capital budgeting period.</td>
<td>No</td>
<td>No</td>
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<td>7. DOH should continue to comply with D.C. Code 7-731(a-1)(1) and conduct three inspections per year of the D.C. Jail to help ensure that environmental conditions meet required standards.</td>
<td>No</td>
<td>No</td>
<td>DOH’s mission to promote health, wellness and equity, across the District, and protect the safety of residents, visitors and those doing business in our nation’s Capital. DOH’s responsibilities include identifying health risks; educating the public; preventing and controlling diseases, injuries and exposure to environmental hazards; promoting effective community collaborations; and optimizing equitable access to community resources.</td>
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29. Information about the Department of Health and a list of their responsibilities can be found here: [https://dchealth.dc.gov/page/about-dc-health](https://dchealth.dc.gov/page/about-dc-health)
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About ODCA

The mission of the Office of the District of Columbia Auditor (ODCA) is to support the Council of the District of Columbia by making sound recommendations that improve the effectiveness, efficiency, and accountability of the District government.

To fulfill our mission, we conduct performance audits, non-audit reviews, and revenue certifications. The residents of the District of Columbia are one of our primary customers and we strive to keep the residents of the District of Columbia informed on how their government is operating and how their tax money is being spent.

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