

April 22, 2024

***SUBMITTED VIA EMAIL***

Governor's Environmental Justice Advisory Council

Jeff Hart  
Governor's Office  
Jeff.Hart@NC.Gov

Todd Ishee  
Secretary, Department of Adult Correction  
todd.ishee@dac.nc.gov

**Re: Comments in Response to the Department of Adult Correction's Draft Environmental Justice Goals and Measurable Outcomes**

Dear Environmental Justice Advisory Council Members and Secretary Ishee:

On behalf of North Carolina NAACP, Emancipate NC, West End Revitalization Association, 7 Directions of Service, NC FIELD, Inc., Down East Coal Ash Environmental and Social Justice Coalition, Neighbors for Better Neighborhoods, Environmental Justice Community Action Network, Duplin County Branch of the NAACP, Winyah Rivers Alliance, McDowell Local Food Advisory Council, Danielle Koonce, Toxic Free NC, CleanAIRE NC, The Lilies Project, North Carolina Sustainable Business Council, NC Sierra Club, Center for Biological Diversity, Dogwood Alliance, UNC Environmental Justice Action Research Clinic, North Carolina Conservation Network, and Wake Forest Environmental Law and Policy Clinic, the Southern Environmental Law Center and Southern Coalition for Social Justice submit the following comments on the draft Environmental Justice Goals and Measurable Outcomes of the North Carolina Department of Adult Corrections. On October 24, 2023, Governor Roy Cooper signed Executive Order 292: Advancing Environmental Justice for North Carolina ("EO 292").<sup>1</sup> Section 7 of the order directed each cabinet agency to develop and submit to the Governor's Environmental Justice Advisory Council ("EJAC") for public comment, at least three draft environmental justice goals and measurable outcomes.<sup>2</sup>

---

<sup>1</sup> See Office of Governor Roy Cooper, Exec. Order No. 292, Advancing Environmental Justice for North Carolina (Oct. 24, 2023), <https://governor.nc.gov/executive-order-no-292/open>.

<sup>2</sup> *Id.* § 7.

Below, we address the strengths of the proposed goals<sup>3</sup> and some ways that we believe they could be improved to better serve environmental justice communities (“EJ communities”) in North Carolina, which we hope you will take into consideration. As a threshold matter, certain goals or outcomes within the draft goals are already obligatory pursuant to other Executive Orders, as the Department of Adult Corrections (“DAC” or “Department”) notes in its introduction. EO 292 requires that each goal be a new, environmental justice-focused process. Accordingly, we have also provided alternate goals and measured outcomes that we believe will better serve EJ communities based on the existing statutory authority of the Department. We hope that you will consider those alternate goals as potential additions for refining the Department’s environmental justice goals.

**I. The Department’s draft goals identify meaningful ways in which the Department plans to combat environmental injustice, but the Department should go beyond committing to projects that are already in progress.**

**A. *The Department’s first goal to create an Environmental Justice and Equity Plan should be implemented in 2024, and this plan should include a draft phase that solicits community feedback before being shared through publication.***

The Department’s first goal is to create an Environmental Justice and Equity Plan by January 2025 to address disparities and promote resilience. We appreciate DAC’s circumspect consideration of the outcomes it seeks and problems this plan hopes to redress. We believe it has great potential to highlight and, to some extent, mitigate racial and socioeconomic disparities and cumulative burdens that impacted communities live under, provided that it uplifts the voices of those impacted and thoughtfully addresses their needs.

Some improvements could be made, however, in improving the measurability of achieving DAC’s first goal, including setting target dates for achieving concrete and defined outputs, in better alignment with the requirements of EO 292. Given the mercuriality of politics and its potential whiplash effect on policy, we strongly urge DAC to complete its plan and set targets for implementation in 2024 to the greatest extent possible.

It is also not clear the degree to which the collected data will be disaggregated and shared publicly, but we recommend sharing of non-identifying information in a public format for use by academic institutions and civil rights advocates.

---

<sup>3</sup> See N.C. Dep’t of Adult Corrections, Draft Environmental Justice Goals (Feb. 23, 2024), <https://governor.nc.gov/adult-corrections-environmental-justice-goals-2-28-24/download?attachment>.

Similarly, DAC makes no mention of any intent to publish its comprehensive Environmental Justice and Equity Plan outlining its identified strategies to “address environmental disparities, promote resilience, and enhance the well-being of incarcerated individuals, staff, and surrounding communities” and the “priority areas for intervention based on mapping and data analysis, considering factors such as vulnerability, historical inequities, and potential for positive impact.”<sup>4</sup> This plan should not only be published but, as time allows, DAC should engage in targeted community outreach and solicit public feedback on a draft version of its plan prior to finalizing it. DAC’s final goals should specify that the Department will publish its plan by a date certain.

Finally, it is worth underscoring that although climate justice is one element of environmental justice, mitigating environmental injustice necessarily goes well beyond efforts to reduce an agency’s carbon footprint. Accordingly, DAC’s third outcome, the implementation of “targeted mitigation and adaptation measures,” should identify funding sources and prioritize environmental justice efforts over general climate adaptation and mitigation strategies. For example, while we support efforts to augment DAC’s green infrastructure and promote renewable energy, improvements to clean drinking water and indoor air quality for incarcerated people and DPS staff should take precedence.

***B. The Department’s second goal should include load calculations, assessments of air quality, and testing for moisture and fungal spores, and the vulnerability assessments and decision-making metrics should be made public.***

The Department’s second goal is to improve existing prison facilities through the Air Conditioning statewide project. While we believe this is a worthy initiative, we want to encourage the Department to use this opportunity to identify *new* potential areas for environmental justice initiatives, as opposed to relying on existing projects previously funded by the General Assembly.<sup>5</sup> At a minimum, a better measurable outcome would be to modify this goal to ensure all prison beds have air conditioning by the end of 2024.

We also take this opportunity to stress the importance of conducting load calculation assessments to ensure proper sizing and installation of air conditioning equipment, as well as periodic assessments of indoor air quality, including testing for

---

<sup>4</sup> *Id.*

<sup>5</sup> See *Prison System Air Conditioning Upgrades*, DEP’T OF ADULT CORRECTIONS, <https://www.dac.nc.gov/divisions-and-sections/support-services/prison-system-air-conditioning-upgrades> (last visited Apr. 22, 2024) (“The NC General Assembly appropriated \$30M to begin design and installation of air conditioning at 40 state prisons that lack cooling systems, either partially or entirely.”).

moisture and fungal spores in the Department's air conditioning systems and ductwork to prevent the accumulation of mold and other indoor air hazards.

The results of the vulnerability assessments described in the second measurable outcome for this goal should be made publicly available and regularly updated on DAC's website. There should also be listed metrics for determining how many prisons can be assessed in Phase I of the total work. Similarly, in stating that "[t]he vulnerability assessments will be coupled with operational data to determine the most efficient use of resources for the custody management of offenders," DAC should outline the decision-making rubric or at least commit to public disclosure of how such final determinations are evaluated and decided.

The Department's third measurable outcome contains essential determinations within the myriad factors affecting site capacity to adapt to climate change. In addition to awareness and mitigating the effects of extreme heat, we are pleased to see the Department taking active steps to assess and reduce impacts from extreme weather events, including but not limited to hurricanes, excessive heat, flooding, including stormwater and sewer flooding, as well as threats to the safety of incarcerated individuals and employees from catastrophic flooding. Similarly, hurricane evacuation plans for the safety of incarcerated individuals and employees remain of paramount and increasing importance.<sup>6</sup> Finally, we commend the Department for its recognition of the mental health toll that climate change may take on inmates and employees, as family health, homesteads, and livelihood are threatened by severe weather, increased flooding, and survivor trauma.<sup>7</sup>

We additionally recommend DAC assess which facilities that contain youth and other particularly vulnerable inmates are located in areas at elevated risk of extreme weather and flood risk by the end of 2024 and create a plan for relocating such facilities to areas less vulnerable to climate change by 2030, with an interim goal of identifying areas for facility relocation by the end of 2025.

---

<sup>6</sup> See, e.g., Ira P. Robbins, *Lessons from Hurricane Katrina: Prison Emergency Preparedness as a Constitutional Imperative*, 42 U. MICH. J. L. REFORM 1 (2008), [https://digitalcommons.wcl.american.edu/facsch\\_lawrev/1026/](https://digitalcommons.wcl.american.edu/facsch_lawrev/1026/); Rachel Shaw, *Up the Creek Without a Paddle: Consequences for Failing to Protect Prisoners During a Natural Disaster*, 9 ENV'T EARTH L. J. 55 (2019), <https://lawpublications.barry.edu/cgi/viewcontent.cgi?article=1077&context=ejej>.

<sup>7</sup> For more information on the mental health effects of climate change, see Susanta Kumar Padhy et al., *Mental health effects of climate change*, 19 INDIAN J. OCCUPATIONAL ENV'T MEDICINE 3 (2015), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4446935/>; Press Release, Jim Sliwa, *Climate Change's Toll on Mental Health*, AM. PSYCH. ASS'N (2017), <https://www.apa.org/news/press/releases/2017/03/climate-mental-health> (last visited Apr. 22, 2024).

***C. The Department's third goal should include deadlines and more detailed measurable outcomes, including a comprehensive plan to improve the water management system.***

The third draft goal is for the Department to reduce greenhouse gas emissions and other air pollutants. Again, while we applaud the Department's commitment to these ongoing initiatives, including the directive for North Carolina agencies to reduce emissions through Governor Cooper's Executive Order 80, we want to encourage the Department to take this opportunity to draft new environmental justice initiatives. While the effects of climate change disproportionately impact EJ communities, the Department should avoid conflating efforts to reduce greenhouse gas emissions with environmental justice efforts. Moreover, deadlines for implementation of this goal must be established if this goal is to be included, in accordance with EO 292.

Regarding Measurable Outcome 1, we support the incorporation of green spaces and community gardens as beneficial for incarcerated individuals, not only for the outdoor air quality benefits but additionally for the mental health benefits that spending time in nature provides<sup>8</sup> and the exposure to healthy microbes from gardening.<sup>9</sup> The Department could additionally track any potential correlation between access to nature and the proportion of greenery at a particular prison with patient mental and physical health and anticipated decreases in recidivism.<sup>10</sup>

Measurable Outcome 2 seems like an ideal opportunity to partner with other agencies to develop vocation matches with a sustainability focus. One key aspect of this program and an example of the collaboration necessary to achieve it is that such occupational opportunities must be available in incarcerated individuals' home communities that they will return to upon release.

Outcomes 3, 4, 5, and 7, while commendable, are focused primarily on climate mitigation rather than environmental justice broadly. Outcome 3, to "*consider* [a] greenhouse gas emissions evaluation," is notably toothless even for an unenforceable goal planning exercise (emphasis added). Outcomes 8 and 9 are similarly focused on carbon reduction but have added pollution reduction benefits. Measurable deadlines and metrics would greatly improve these outcomes and bring them into conformance

---

<sup>8</sup> See Caoimhe Twohig-Bennett and Andy Jones, *The health benefits of the great outdoors: A systematic review and meta-analysis of greenspace exposure and health outcomes*, 166 ENVTL. RESEARCH 628 (2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6562165/pdf/main.pdf>.

<sup>9</sup> Richard Thompson, *Gardening for health: a regular dose of gardening*, 18(3) CLINICAL MEDICINE 201 (2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6334070/pdf/clinmed-18-3-201.pdf>.

<sup>10</sup> See Jenkins, *Landscaping in Lockup: The Effects of Gardening Programs on Prison Inmates*, ARCADIA UNIVERSITY, at 26 (2016), [https://scholarworks.arcadia.edu/cgi/viewcontent.cgi?article=1005&context=grad\\_etd](https://scholarworks.arcadia.edu/cgi/viewcontent.cgi?article=1005&context=grad_etd) (showing a trend of decreased recidivism for inmates who participated in gardening programs while incarcerated).

with the requirements of EO 292. For example, Outcome 7 could require solar power at half of North Carolina prisons by 2025, as opposed to its current iteration, which merely calls for increased solar power at “select facilities.” Additional outcomes could be added as well—replacing gas stoves with electric ones in existing DAC facilities would improve prison air quality and reduce GHGs. While the DAC should strive for goals that connect more strongly with EJ communities, these goals could nevertheless be improved to align with EO 292 more closely.

Outcome 6, to upgrade water management systems at select facilities, is badly needed, and should be discussed in greater detail. The Department should first and immediately conduct water quality assessments of all of its facilities to ensure that all drinking water meets regulatory standards and guidelines and is free from both established and emerging contaminants, such as lead, trichloroethylene (“TCEs”), volatile organic compounds (“VOCs”), and per- and polyfluoroalkyl substances (“PFAS”).<sup>11</sup> Safe potable water is a basic human right and should be among the Department’s highest priorities. The Department should add funding for water quality testing or a toxicologist to its budget requests, similar to its proposal for a Talent Acquisition outcome in Goal 4, to improve facility water quality and infrastructure upgrades rapidly and effectively.

***D. The Department’s fourth goal must be preceded by a preliminary review of all DAC land, and the forthcoming process should be open to community involvement.***

We are encouraged to see the DAC draft a fourth environmental justice goal. Generally, we support the Department’s assessing existing DAC land for tribal and nature preserve dedication. However, an evaluation of these lands through the State Property Office’s Property Search Tool<sup>12</sup> reveals a limited landscape of viable areas for these designations. The DAC should conduct a preliminary review of DAC land before these goals are published to ensure and list at least a few viable areas for designation and open the process to community involvement.

Tribal land dedications should involve agency consultation with tribal governmental entities and local tribes whose heritage lands are implicated. The Commission of Indian Affairs, housed in Department of Administration, and the American Indian Heritage Commission, housed in Department of Natural & Cultural Resources, should both be involved in this process. Of principal importance, however, is

---

<sup>11</sup> Sheena Scruggs, *PFAS—a problem in North Carolina drinking water*, ENV’T FACTOR (2019), <https://factor.niehs.nih.gov/2019/3/feature/2-feature-pfas#:~:text=EPA%20detected%20PFAS%20in%20the,in%20the%20environment%20over%20time>.

<sup>12</sup> See *Property Search Tool*, STATE PROPERTY OFFICE, <https://ncdoa.maps.arcgis.com/apps/webappviewer/index.html?id=5afeb54abd2248058100d17c863e01f3> (last visited Apr. 1, 2024).

ensuring consultation with local tribes whose ancestral lands are the focus of the potential dedication. We appreciate that DAC will carefully consider the input of tribes through these processes if this goal remains.

Given the potentially limited scope of this goal and the inclusion of goals above that are previously mandated by other directives, we urge DAC to supplement these goals as described below.

**II. The Department has broad authority to study the effects of its existing operations to prevent further mass incarceration in North Carolina.**

As noted above, we have identified additional areas where we believe the Department has the authority and ability to provide meaningful change in EJ communities. As ever, these goals must center the voices of EJ community members for genuine consideration of how to address their needs with new, measured goals. We hope you will take these supplemental goals into consideration.

**A. *The Department should study ways in which existing prisons affect their surroundings.***

The Department of Adult Corrections' existing North Carolina prisons are sited disproportionately in EJ communities,<sup>13</sup> the siting of which falls under the scope of DAC authority. Specifically, the Department "shall manage and have charge of all the property and effects of the State prison system, and conduct all its affairs subject to the provisions of this Chapter and the rules and regulations legally adopted for the government thereof."<sup>14</sup>

DAC should develop an environmental impact statement process to evaluate acute and long-term impacts on soil, water, air, and plant and animal species of the existing North Carolina prisons, as well as impacts on the built environment and physical and mental health in communities where its facilities are located. As part of this process, these impact assessments should invite and deliberately seek community feedback, with interim deadlines for public comment and publication, to ensure an expansive assessment and thorough understanding of the full scope of impacts. Meaningful consultation with tribes about DAC's impact on tribal communities is critical for DAC to genuinely understand the impacts of its siting, operations, culture, and policies. Additionally, DAC should require these scoping and assessment processes for any new DAC-related construction prior to site selection. Setting deadlines and accountability

---

<sup>13</sup> See Michele Hoyman, *Prisons in North Carolina: Are they Viable Strategy for Rural Communities?*, 4 INTL. J. OF ECON. DEV. 1 (2002), <https://spaef.org/file.php?id=657>.

<sup>14</sup> N.C. GEN. STAT. § 148-5 (2021).

metrics for this goal will ensure it is a measured outcome in line with the requirements of EO 292.

***B. The Department should expand its intake process to collect, publish, and regularly update anonymized data on common trends amongst incarcerated individuals in North Carolina.***

When incarcerated individuals are admitted, the DAC could begin a new process of collecting and publishing anonymized health and background data for the identification of common trends in the aggregate of the extent to which DAC's inhabitants come from EJ communities. In this process, DAC can both utilize and contribute to the North Carolina Environmental Justice Mapping Tool and Environmental Justice Hub currently under development pursuant to Section 8 of EO 292.

We know that incarcerated individuals are more likely to have mental health problems, substance abuse issues, and chronic diseases than the general population.<sup>15</sup> They are also more likely to be exposed from childhood through adulthood to air, water, and noise pollution, lack of access to green space, and societal inequities like educational, employment and financial disenfranchisement and greater incidences of excessive use of force by law enforcement. The cumulative burden of these impacts feeds back directly into trends in incarceration. Collecting and anonymizing this data for comparison with demographic data and environmental information on the communities incarcerated individuals come from may reveal patterns and latent disparate impacts that DPS and DAC can use to start addressing the disproportionate health burdens faced by the incarcerated populations. This data would, therefore, be invaluable in understanding a currently underserved population that is disproportionately comprised of EJ community members.

DAC should share and regularly update this anonymized data on its website on a quarterly basis.

***C. The Department should track and share information relating to the effects of health hazards and health care on inmates and staff in North Carolina prisons.***

Prisons contain many health and environmental hazards that harm incarcerated individuals as well as prison staff. In addition to inadequate access to health, dental, and mental health care, sanitation issues, overcrowding, and pollutants are just some of the

---

<sup>15</sup> DORIS J. JAMES & LAUREN E. GLAZE, MENTAL HEALTH PROBLEMS OF PRISON AND JAIL INMATES (2006), <https://bjs.ojp.gov/content/pub/pdf/mhppji.pdf>.

problems inmates and staff confront every day in prison.<sup>16</sup> People who work and are held in state prisons are exposed to environmental contaminants, have limited access to fresh and healthy foods, and have limited access to the outdoors, green space, and exercise opportunities.

Providing a healthy and hazard-free environment is within the scope of duty of the Department to care for its inhabitants, as “North Carolina courts and lawmakers have long recognized the state's duty to provide medical care to prisoners.”<sup>17</sup> The Department of Adult Corrections has “general supervision over the sanitary and health conditions of the central prison, over the prison camps, or other places of confinement of prisoners under the jurisdiction of the Division of Prisons of the Department of Adult Correction.”<sup>18</sup> The DAC further has the authority to set health standards in these facilities.<sup>19</sup>

***D. Environmental justice concerns are health issues for which the Department has responsibility.***

To improve the conditions at these facilities, DAC should track and share data related to physical environmental factors concerning the prison population (both staff and incarcerated individuals). Such factors would include tracking: air and water quality, access to healthy food, and access to physical activity. A comprehensive study identifying health hazards and health care in these facilities is both necessary and overdue. Air pollutants and inadequate sanitation have the potential to create lifetime negative health effects for affected individuals, so the DAC should investigate patterns of health issues amongst incarcerated North Carolinians and take further steps to alleviate health disparities that disproportionately affect members of EJ communities; this tracking should include mental health screenings and care conducted by licensed mental health professionals.

The Department of Adult Corrections has identified key areas it can combat environmental injustices through these draft goals, but we hope the Department will go further beyond identifying existing projects and instead develop intake processes and facility evaluations to prevent the exacerbation of existing inequalities. We welcome any direct discussion if the Department would like clarification on this feedback and these alternate goal suggestions, and we appreciate the Department’s dedication to environmental justice.

---

<sup>16</sup> Wilson Guo, et al., *A systematic scoping review of environmental health conditions in penal institutions*, INTL. J. HYGIENE ENVTL. HEALTH (2019), <https://pubmed.ncbi.nlm.nih.gov/31078437/>.

<sup>17</sup> *Medley v. N.C. Dep’t of Corr.*, 330 N.C. 837, 842, 412 S.E.2d 654, 657 (1992).

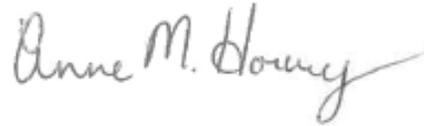
<sup>18</sup> N.C. GEN. STAT. § 148-10 (2022).

<sup>19</sup> N.C. GEN. STAT. § 148-19 (2023).

Sincerely,

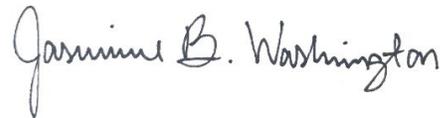


James Huey  
Counsel for Environmental Justice  
james@scsj.org

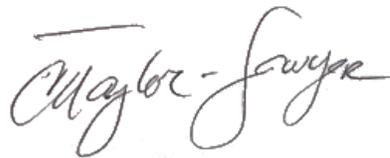


Anne Harvey  
Chief Counsel for Environmental Justice  
anne@scsj.org

SOUTHERN COALITION FOR SOCIAL JUSTICE  
P.O. Box 51280  
Durham, NC 27727  
919-323-3380



Jasmine Washington  
Associate Attorney  
jwashington@selcnc.org



Chandra Taylor-Sawyer  
Senior Attorney  
ctaylor@selcnc.org

SOUTHERN ENVIRONMENTAL LAW CENTER  
601 W. Rosemary Street, Suite 220  
Chapel Hill, NC 27516  
919-967-1450

cc (via e-mail):

Justin Duncan  
justin.l.duncan@dac.nc.gov

Virginia Guidry  
Virginia.Guidry@dhhs.nc.gov

Dr. Tamara Holmes Brothers  
tamara.brothers@dncr.nc.gov

Sherri White-Williamson  
swhitewilliamson@ejcan.org

Dr. Marian Johnson-Thompson  
marian.johnsonthompson@gmail.com

On Behalf of:

Adam Colette  
Programs Director  
Dogwood Alliance

Omega and Brenda Wilson  
Co-Founders/Directors  
West End Revitalization Association

Dr. Crystal Cavalier  
CEO  
Seth Harris  
Programs Director  
7 Directions of Service

Danielle Koonce

Yesenia Cuello  
Executive Director  
NC FIELD, Inc.

Hannah Connor  
Environmental Health Deputy Director  
Center for Biological Diversity

Jefferson Currie II  
Lumber Riverkeeper  
Winyah Rivers Alliance

Scott Schang  
Director  
Wake Forest Environmental Law and Policy  
Clinic

Grace Fitzgerald  
Community Project Manager  
McDowell Local Food Advisory Council

Lindsay Savelli  
Program Manager  
UNC Environmental Justice Action  
Research Clinic

Vicki Lee Parker-High  
Executive Director  
North Carolina Sustainable Business  
Council

Erin Carey  
Acting Director  
NC Sierra Club

Jeff Robins  
Executive Director  
CleanAIRE NC

Kendall Wimberley  
Policy Advocate  
Toxic Free NC

Caroline Armijo  
Director  
The Lilies Project

Deborah Maxwell  
President  
North Carolina NAACP

Jaelyn Miller  
Staff Attorney  
Emancipate NC

Bobby Jones  
President  
Down East Coal Ash Environmental and  
Social Justice Coalition

James Smith  
President  
Duplin County Branch of NAACP

Will Hendrick  
Environmental Justice Director  
North Carolina Conservation Network

Christopher Taylor  
Equitable & Economic Engagement  
Coordinator  
Neighbors for Better Neighborhoods

Denise Robinson  
Deputy Executive Director  
Environmental Justice Community Action  
Network