



# Human Rights Defense Center

*DEDICATED TO PROTECTING HUMAN RIGHTS*

April 1, 2016

Mayor Ed Murray  
City of Seattle  
600 4th Ave., 7th Floor  
Seattle, WA 98104

## **Re: Children and Family Justice Center MUP Permit**

Dear Mayor Murry,

We are writing to express our concerns about toxic contamination in the groundwater and soil surrounding the proposed King County Children and Family Justice Center on 12th Avenue between Spruce and Alder. We are concerned that current plans for the construction of the facility could expose incarcerated youth and employees to dangerous levels of carcinogens including trichloroethylene and tetrachloroethylene. **We are asking the City of Seattle to deny the requested Master Use Permit for this facility**, or at a minimum delay permitting until further evaluation of the potential toxic hazards on this site is conducted.

The Human Rights Defense Center (HRDC) is a Washington non-profit organization dedicated to protecting the human rights of people held in U.S. detention facilities. In 2015, HRDC launched the Prison Ecology Project, a national alliance of environmental and prisoners' rights advocates exploring the intersections of environmental pollution and mass incarceration.

For the past year HRDC's Prison Ecology Project has been conducting extensive research, interviews and reviews of Environmental Impact Statements and Environmental Assessments to understand how environmental justice criteria has been applied to prisoner populations, given the overwhelming evidence that prisoners are disproportionately people of color and almost entirely low-income, regardless of race.

From prisoners being abandoned during natural disasters such as Hurricane Katrina, to those made sick by pollution and contamination, to being forced to drink lead-contaminated water in Flint, Michigan, there is an **unrecognized environmental justice crisis in our nation's prisons and jails**. Despite many examples of this injustice and reports detailing the "numerous violations of health, safety and environmental laws," the EPA has never classified the nation's over 2.2

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million incarcerated people as an environmental justice community.<sup>1</sup> Following suit, the U.S. Bureau of Prisons has never taken its prison population into consideration under the National Environmental Policy Act's Environmental Justice guidelines. Last year **93 organizations** filed a joint comment with the EPA requesting that prison populations be considered in the EPA's Environmental Justice 2020 plan.<sup>2</sup>

Across the United States it has become standard procedure to permit new and expanded prison projects without taking adequate consideration for the health and environmental impacts on incarcerated populations. There is an alarming trend in prison-related permitting attempting to claim a Finding of No Significant Impact (FONSI) in permitting, using inadequate mitigation or alleging "categorical exclusions" that keep these plans off the radar of public input.<sup>3</sup>

We point this out to explain our hesitancy to trust King County's permitting process to fully consider and account for the impacts of toxics and environmental pollution on incarcerated youth. Given that the County was not required to conduct a full Environmental Impact Statement for the Children and Family Justice Center, it would be all too easy for this project to exemplify the national pattern of injustice with respect to detention facilities and environmental issues.

Specifically, the Environmental Checklist required by Washington's State Environmental Policy Act and prepared for King County's Department of Executive Services and Facilities Management Division states, "*Recognized Environmental Conditions (RECs) were identified including ... migration of dry cleaner solvents (trichloroethylene and tetrachloroethylene) in groundwater on to the property from historical operations at sites located to the north.*" The checklist further states, "*Groundwater and/or soil contamination at certain locations on the site has been found to exceed MTCA [Model Toxics Control Act] level A and B cleanup levels,*" which indicates that the contaminants are present in the groundwater and/or soil at a level hazardous to human health.

Both trichloroethylene and tetrachloroethylene are associated with several types of cancers including bladder cancer, non-Hodgkin lymphoma, multiple myeloma, lung, liver, kidney and testicular tumors and lymphoma.<sup>4</sup> The EPA has classified tetrachloroethylene as likely to be carcinogenic to humans.<sup>5</sup>

This is particularly alarming because this facility includes a number of sections below grade, and presumably surrounded by contaminated soil including "*secure youth holding cell areas, secure*

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<sup>1</sup> Source: <http://www.mcclatchydc.com/2010/11/09/103445/whistleblower-exposed-violations.html>

<sup>2</sup> Source: <http://nationinside.org/campaign/prison-ecology/posts/ninety-three-organizations-challenge-epa-to-consider-prisoner-populations-i/>

<sup>3</sup> The following is a 2014 announcement of a FONSI on a 2,000-bed immigrant detention facility, before there was even a site selected. According to the notice, "A geographical restriction associated with the RFP required the facility to be located in one of the following states: Ohio, Michigan, Pennsylvania, Delaware, New Jersey, or New York. See: <http://www.gpo.gov/fdsys/pkg/FR-2014-09-26/html/2014-22616.htm>

<sup>4</sup> Source: <https://www3.epa.gov/airtoxics/hlthef/tri-ethy.html>

<sup>5</sup> Source: <https://www3.epa.gov/airtoxics/hlthef/tet-ethy.html>

*adult holding cell areas, food service [and] facility management offices....*”<sup>6</sup> We are concerned at the implications of keeping youth incarcerated in cells surrounded by carcinogens.

The SEPA Checklist implies that not all contaminated soil can be removed, and given that the source of contamination is north of the location, up a grade and not owned by the County, “*no remediation measures are planned.*”

The Checklist states that “*new buildings will be constructed with protective measures.... These measures will likely include vapor barrier and ventilation systems.*”<sup>7</sup>

This statement is alarming in its lack of specific information about what measures will be used to protect incarcerated youth and facility employees from this toxic threat. Furthermore the use of the word “likely” leaves open the possibility that even the suggested methods, vague as they are, may not be used.

We are concerned that this facility has advanced this far in the permitting process without adequate examination of the toxic threats. We are further concerned that the City of Seattle is considering a Master Use Permit for this facility without any detailed information about measures to protect incarcerated youth and employees from environmental hazards.

On September 16, 2015, Prison Ecology Project Steering Committee Member Ahmed Gaya spoke about this issue before the City’s Public Safety, Civil Rights and Technology Committee and asked the City to look into the matter. We are disheartened to learn that this issue remains unexamined.

Our extensive research into the issue of prison environmental injustice in America leaves us unconvinced that the protection methods proposed in the SEPA Checklist are adequate to protect the health of incarcerated youth and employees at this facility.

We also understand the City has a commitment to environmental justice, and that you recently announced an Environment & Equity program. We believe ignoring this issue will significantly undermine the City’s work to address environmental justice issues.

Once again we ask the City of Seattle to **deny the Master Use Permit for the King County Children and Family Justice Center**, and immediately take action on this issue.

If you would like to speak with us further you may contact Prison Ecology Project Steering Committee Member Ahmed Gaya at [adgaya@gmail.com](mailto:adgaya@gmail.com) or 773-960-2587.

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<sup>6</sup> Source:

<http://www.kingcounty.gov/~media/operations/FacilitiesManagement/documents/CFJC/SEPAChecklistCFJC.ashx?la=en>

<sup>7</sup> *Ibid*

Thank you for your consideration of this important matter. We look forward to your prompt reply, and trust you share our concerns about environmental hazards at the facility.

Sincerely,



Paul Wright  
Executive Director, Human Rights Defense Center

cc: Seattle Councilmember & President Bruce Harrell  
Seattle Councilmember Tim Burgess  
Seattle Councilmember Mike O'Brien  
Seattle Councilmember Sally Bagshaw  
Seattle Councilmember Kshama Sawant  
Seattle Councilmember Lorena González  
Seattle Councilmember Rob Johnson  
Seattle Councilmember Debora Juarez  
Seattle Councilmember Lisa Herbold  
Nathan Torgelson, Director of Construction and Inspections