

## **Jails and Justice: Our Transformation Starts Today**

### *Phase II Recommendations*

#### **Section 1: Community Investments to Prevent Law Enforcement Contact**

1. Divest from D.C. Metropolitan Police Department (MPD), specifically targeting cuts to budgets for crowd control supplies, military style equipment, eliminating the School Safety Division, and reducing the number of patrol officers by 25%, and invest those funds into initiatives that prevent violence and harm, respond to crises without relying on law enforcement, and support the successful reentry of people returning home from incarceration.
2. Engage residents of public housing in a consultative process to design interventions to increase public safety through non-law enforcement strategies
3. Reduce the number of correctional officers employed by the D.C. Department of Corrections (DOC), as fewer people are incarcerated and DOC uses the direct supervision model more with the closure of the Central Detention Facility (CDF). Reinvest those funds into initiatives that prevent violence and harm, respond to crises without relying on law enforcement, and support the successful reentry of people returning home from incarceration.
4. Create additional affordable housing, workforce housing, and home ownership opportunities in the District.
5. Remove law enforcement officers and special police from regular contact with schools.
6. Invest in additional school-based behavioral health professionals and programs to build and maintain school safety
7. Continue training D.C.'s educators on social-emotional learning and transformative justice approaches to safety and accountability in schools.
8. Increase use of the Community Response Team (CRT) in response to incidents in which a person is likely to want or need a behavioral health intervention.
9. Establish a second "clubhouse" community center to provide individuals with behavioral health needs the opportunity to engage with long-term support to obtain housing, employment, and other services.
10. Invest in community-led restorative and transformative justice work, including a restorative justice community center to provide space for these initiatives.
11. Expand the use of violence interrupters.
12. Expand access to and engagement with high-quality behavioral health services.
13. Use participatory budgeting to give residents direct control over a portion of the District's budget for community investments.

## Section 2: Law Enforcement Contact

1. Limit traffic stops to circumstances in which there is a risk to public safety by transferring civil traffic enforcement from MPD to D.C. Department of Transportation (DDOT) and requiring the use of a mail summons for violations that do not pose immediate danger.
2. Increase pre-arrest diversions from MPD to Community Response Team (CRT).
3. Conduct a thorough review of the D.C. criminal code to decriminalize certain offenses, converting them to civil offenses where enforcement is still desired.
4. Permanently codify the D.C. Council's Comprehensive Policing and Justice Reform Second Emergency Amendment Act of 2020 with amendments to further limit consent searches.
5. Limit "Terry Stops," and "protective pat down" or "frisk" searches in alignment with the restrictions set by the consent decree governing the Newark Police Department.
6. Increase information recorded and analyzed by MPD about the type of encounters officers have with the public, without requiring identification be produced, consistent with the National Police Foundation's recommendations.
7. Create a private right of action for inappropriate searches and seizures by making violations a matter of civil enforcement.
8. Make de-escalation by MPD officers mandatory, with documentation of de-escalation efforts required, and consequences if de-escalation is not appropriately used.
9. Review the District's "Cooperative Agreements" with 32 federal law enforcement agencies and modify the agreements to restrict the footprint of federal agencies to the greatest extent permitted by law and to protect First Amendment rights.
10. Continue to train MPD officers on interacting with people with disabilities, including mental illnesses, substance use disorders, autism, and intellectual and developmental disabilities; people who are deaf and/or hard of hearing; and people for whom English is not their first language.
11. Maintain the COVID-19 responsive changes to MPD's citation release and field arrest orders at least through the end of the public health emergency, then conduct a qualitative and quantitative evaluation of the outcomes of the changes within six months of the Mayor's Order ending the public health emergency, and make further recommendations based upon what is learned.
12. The D.C. Code should be amended to require that any special police officer who has the authority to carry a weapon or make an arrest comply with all MPD regulations; receive pre-service and in-service training comparable to MPD; be subjected to MPD internal affairs and civilian oversight; and provide periodic public reporting on arrests, uses of force, stops, and searches.

### Section 3: Charging

1. Establish a 24/7 pre-arrest charging decision hotline within the U.S. Attorney's Office for the District of Columbia (USAO-DC) based on the Harris County model.
2. Consider comprehensive amendments to the D.C. Code to narrow the definitions of "dangerous" crime and "crime of violence."
3. Raise the age of juvenile jurisdiction to 21 and eliminate the waiver of youth into adult court.

### Section 4: Pretrial Release

1. The Pretrial Services Agency for the District of Columbia (PSA) should continue to regularly revalidate its Risk Assessment Instrument, paying particular attention to racial biases, and publicly share the process and results.
2. PSA should publicly share the results of its scheduled assessment of supervision protocols, including any changes made to the mode and frequency of reporting conditions to ensure use of the least restrictive conditions to supervise defendants.
3. Codify PSA's existing policy of prohibiting use of two-way live voice and audio recording capabilities on GPS monitors, unless the defendant explicitly consents to the use of the technology, and ban audio recordings from GPS monitors from being introduced as evidence in court.
4. Consistently provide victims notice of pretrial release hearings, pursuant to the Crime Victims' Bill of Rights, and the court should make reasonable efforts to hear from victims, if any, during the pretrial release assessment.
5. Prohibit the drug testing of people who have been arrested while in lock-up, allowing initial testing only after charges have been filed and the defendant has had the opportunity to consult with counsel.
6. Require, by statute, that to impose any condition of pretrial release (including drug testing and GPS monitoring), a judge must find that the defendant's compliance with that condition will make them less likely to commit a new crime, less likely to violate a stay away order, or more likely to appear in court.
7. Invest in community-based resources to support people released pretrial and train Superior Court judges, prosecutors, defense attorneys, and PSA on the effective use of these resources.
8. Amend D.C. law to require that judges expressly consider the potential adverse effect of detention on the defendant's dependents; parental rights; employment; housing; mental health; physical health; public benefits; immigration status; and any other adverse impact of the person's detention.
9. Repeal the rebuttable presumption of pretrial incarceration for certain people, instead requiring individual determinations in all cases.

10. Amend D.C. law to ensure that the pretrial detention of people who are believed to be “an addict” is used exclusively to facilitate bed-to-bed transfers from detention to substance use disorder (SUD) treatment.
11. Amend D.C. law to prohibit prosecution for contempt of court for a violation of a condition of pretrial release, except when that condition is a stay away or no contact order.

## Section 5: Case Processing

1. Open eligibility to Superior Court problem solving dockets to all defendants facing misdemeanor and low-level felony charges. Individual determinations about participation should be retained by the judge, based on consideration of the defendant’s current charge, history of substance use, mental health diagnosis, need for social service supports, criminal record, other active charges or supervised release; and age.
2. Transfers to a Superior Court problem solving docket should be made by deferred prosecution agreement (DPA), with limited exceptions, in which case a deferred sentencing agreement (DSA) or amended sentencing agreement (ASA) may be used.
3. Create a Young Adult problem solving docket for people up to age 25, including those charged with felonies, to participate in community-based programming as an alternative to incarceration.
4. Revise Superior Court rules to institute a standard *Brady* colloquy, in which judges question prosecutors on the record about disclosure obligations.
5. Allow defendants to waive their right to appear in certain misdemeanor court proceedings letting an attorney appear in the defendant’s place.
6. Redesign the summons ticket to focus on the defendant’s court date and location, and the consequence for not appearing.
7. Create a text notification system to send automated court date reminders to defendants.
8. Superior Court should organize Safe Surrender days at least twice a year.

## Section 6: Disposition and Sentencing

1. Repeal all statutory and mandatory minimums.
2. Amend laws regarding drug free zones to shrink the zone to 30 feet and reduce the sentencing enhancement.
3. Amend laws regarding gun free zones to shrink the zone to 30 feet and reduce the sentencing enhancement.
4. Pass the Racial Equity Receives Real Change (REACH) Act with an amendment requiring D.C. Council to conduct a racial impact analysis on any future bill impacting arrests, pretrial detention, criminal procedure, sentencing, corrections, and all forms of supervision.

## Section 7: Facilities

1. Reduce D.C.'s total pre-COVID-19 incarcerated population of approximately 5,800 people by one-third to one-half by FY30.
2. Build a new non-traditional facility to house all people who must be detained pretrial for community safety and all people who are sentenced to incarceration, including those sentenced for felony convictions.
3. Relax eligibility requirements for DOC residents to qualify for work release and increase the number of residents transferred to a halfway house or home confinement for participation.
4. As soon as space permits, transfer people serving felony convictions in BOP facilities back to DOC custody, prioritizing those who: are within two years of release; are housed on a dedicated medical unit; have minor children; have passed their initial parole eligibility date; are eligible for Second Look Amendment Act resentencing; are eligible for special education services under the Intellectual Disabilities Education Act; and/or have been diagnosed with a serious mental illness, intellectual or developmental disabilities, or a traumatic brain injury.
5. Prioritize quick and safe approval of the raze application and all other permits required for CORE D.C. to open its new halfway house facility at 3701 Benning Rd NE.
6. CORE D.C. should negotiate Memorandums of Understanding (MOU) with community-based organizations, supporting access to resources and supports for its halfway house residents while in the new facility and on home confinement.
7. CORE D.C. should negotiate a Community Benefits Agreement (CBA) with ANC 7F and other organizations based in the neighborhood surrounding a new halfway house to support cooperation with nearby residents and address community safety concerns.

## Section 8: Release from Incarceration

1. Amend D.C.'s Second Look Amendment Act to allow any person who has served at least ten (10) years in prison to petition for resentencing and require D.C. Superior Court to review sentences of any person who has served at least 20 years.
2. Make all reasonable efforts to provide accurate and timely notice of Superior Court hearings and release decisions to victims under D.C.'s Crime Victims' Bill of Rights.
3. Permanently codify COVID-19 responsive changes to D.C.'s misdemeanor and felony Good Time law and policy.
4. Amend D.C.'s Educational Time law so that all people are eligible for Educational Time credits, regardless of their date of sentencing.
5. Permanently codify expansions to eligibility requirements under D.C.'s Compassionate Release statute.
6. D.C.'s Clemency Board should begin accepting and processing applications, and making recommendations for commutations and pardons to the President of the United States.

## Section 9: Probation, Parole, and Supervised Release

1. Set a maximum probation period of one year for a misdemeanor offense and two years for a felony offense.
2. Set a maximum supervised release period of two years.
3. Establish earned discharge credits, which decrease any term of probation, parole, or supervised release by 30 days for each month a probationer is substantially compliant with conditions.
4. CSOSA should assess its supervision protocols and institute changes to the mode and frequency of reporting conditions based upon successful alternative supervision methods.
5. CSOSA should use a needs-based model, connecting supervisees to required resources to prevent alleged violations.
6. Raise the evidentiary standard at parole and supervised release revocation hearings on alleged violations of release to “clear and convincing.”
7. Prohibit revocations of parole and supervised release based solely upon new criminal charges that have not reached a disposition of guilty.
8. Prohibit revocations of release in response to the first finding of a technical violation, unless the releasee is in loss of contact status or has allegedly violated sex offense related conditions or a stay away/protective order.
9. Use non-custodial summonses rather than arrest warrants for all alleged technical violations, except loss of contact, sex offense related conditions, and stay away/protective orders.
10. Building on a robust stakeholder and community engagement process, the District should establish a mechanism for parole grants and parole and supervised release revocations that will process cases beginning not later than November 1, 2022. That mechanism must: a) reduce incarceration consistent with public safety, b) strengthen due process and other protections for people seeking a grant or facing revocation, and c) ensure local control, transparency, and accountability over process and decisions.

## Section 10: Reentry

1. Pass omnibus criminal record sealing and expungement legislation.
2. Expand entrepreneurship programming for returning citizens.
3. Expand peer support and mentoring opportunities for returning citizens at community-based organizations.
4. Increase the D.C. Office of Victim Services and Justice Grants (OVSJG) justice grants funding to support community-based reentry services.
5. Expand the use of the housing-first model among reentry housing providers.
6. Ensure immediate connections to high-quality behavioral health services upon release from incarceration.