

Phase II Report of the Committee on Facilities & Services to the District Task Force on Jails & Justice

October 20, 2020

Background

In 2019, the District Task Force on Jails & Justice published its Phase I report, with [seventeen recommendations](#), including these six sourced from the Committee on Facilities & Services:

12. Upon completing a plan for community investment, decarceration, and local control, the District should renovate or build facilities to support its new goals for prevention, intervention, secure detention, and reentry.
13. Location of a secure detention facility:
 - a. Any secure detention facility should be sited near the current location of the CDF and CTF.
 - b. Any secure detention facility should be designed to complement the surrounding community, including in its aesthetics and the way in which it implicates transportation planning and traffic, parking, and the environment.
14. Supporting visits and communication with incarcerated loved ones:
 - a. The District should fund transportation stipends and/or expand shuttle service for those family and friends visiting incarcerated loved ones in BOP facilities.
 - b. The District should maximize provision of in-person visitation in DOC facilities.
 - c. The District should ensure a robust network of free, remote video visitation sites, connecting to DOC facilities, that are integrated into other community uses, including libraries, recreation centers, and community-based organizations.
 - d. The District should ensure a robust network of free, remote video visitation sites, connecting to BOP facilities, that are integrated into other community uses, including libraries, recreation centers, and community-based organizations.
15. Design of a secure detention facility:
 - a. Any secure detention facility must be designed with ample, dedicated space for: family visitation; on-site service providers; on-site not-for-profit health care integrated into the community system; on-site educational instruction and career, technical, and vocational training; private spaces for incarcerated people to meet with their attorneys; space for staff wellness and professional development; green spaces; practice of faiths; counseling and restorative justice; a D.C. Public Library branch; technology to facilitate reentry; civic engagement, including voting; employment opportunities within the facility/ies, including employment of incarcerated individuals.
 - b. Any secure detention facility's design should emphasize: deinstitutionalized and normative aesthetics; open spaces and circulation whenever possible, consistent with the safety and security of both incarcerated individuals and staff; decoration and color; individualization and personality; natural light; quiet and mindfulness;

indoor and outdoor recreations; access for individuals with disabilities; collaboration among incarcerated individuals and between incarcerated individuals and staff; privacy, consistent with safety and security; multi-purpose uses; physical integration into the surrounding neighborhood; sustainable and resilient features that minimize environmental impact and can withstand climate change; emergency preparedness, including back-up water, heating, and cooling systems, and plans for evacuation in case of catastrophic events; safety and security of incarcerated individuals, visitors, and staff; and a healthy workplace environment for staff.

16. Housing in a secure detention facility:

- a. Any secure detention facility should include space for people convicted of D.C. Code offenses who, under the current system, are in the custody of the BOP.
- b. Any secure detention facility should adopt a smaller “pod” model of housing rather than housing large numbers of incarcerated individuals together.
- c. Any secure detention facility should consider prioritizing housing decisions based on incarcerated individuals’ age, programming participation, health needs, in addition to security level, unless best practices dictate otherwise.
- d. Any secure detention facility should take into account and respond to the specific housing needs of incarcerated women and LGBTQ-identified incarcerated individuals.

17. Programming at a secure detention facility:

- a. The District should expand innovative programming, such as the Young Men Emerging Unit, throughout any secure detention facility. The District should also develop similar programming for young women.
- b. Any secure detention facility should include multiple programmatic spaces, including ones that are spatially separated from housing tiers.
- c. Any secure detention facility must prioritize staff development and training, morale, and physical and mental wellness.
- d. Any secure detention facility should employ staff with specific expertise in responding to the programming needs of incarcerated women and LGBTQ-identified incarcerated individuals. Relevant training should be provided to all staff.
- e. Any secure detention facility must provide ample space for diverse educational offerings. Any secure detention facility must accommodate students with special education needs by providing a variety of classrooms and spaces for related services and therapies such as counseling. The space should be designed for ease of transportation between housing and educational spaces, with adequate space to accommodate eligible students from all housing units.
- f. Any secure detention facility should offer comprehensive care for those with mental health, medical, dental, and substance use disorder needs. Any secure detention facility should be designed to incorporate on-site mental health care for various levels of need and facilitate connectivity to the community.
- g. Any secure detention facility should include expansive opportunities for pre-release reentry planning that are incorporated throughout all programming. These

opportunities should be available to all incarcerated individuals, regardless of their release date (or lack thereof) or custodial status (District or federal), and staffed with employees responsive to the unique needs of the population (including returning citizens themselves).

- h. Any secure detention facility should offer employment opportunities within the facility, including non-traditional employment such as mentorship of other incarcerated individuals. Incarcerated individuals should be paid at least the District's minimum wage and receive financial literacy training to support reentry.
- i. Nothing within this recommendation should imply these services should only be available and accessible through a secure detention facility.

In Phase II, the Committee on Facilities & Services is now tasked with developing an implementation plan to guide the District in actualizing these recommendations. The implementation plan should answer the following questions:

- What is the recommended action?
- What is the intended outcome?
 - Number of people impacted
 - Type of impact (e.g., fewer people held at MPD stations and CCB awaiting arraignment, fewer people admitted to jail, shorter stays, more people released, less probation/parole time)
 - Size of impact (e.g. 10% of people admitted to jail, 5% reduction in average jail time)
 - Racial analysis
 - Analysis of impact on special populations:
 - People with physical health issues
 - People with serious mental illness and/or substance use disorders
 - People with intellectual disabilities
 - People with language barriers
 - Young adults (18-25 years old)
 - Single parents with custody of minor children
 - Elders (60+ years old)
 - "Short Stayers" (people who are in and out of jail within a week)
 - People not charged with a crime against another person
 - People who pose no risk of violence to the community
- How will the outcome be measured?
- What is the trigger of change? (law, regulation, policy, practice, and local or federal body with power to make that change)
- What are the steps required to achieve the outcome?
 - Actors
 - Deadlines
- How much will it cost? (budget and whether/how funded)
- How much of a priority is this? (based on impact, feasibility, community support, and ripeness - scored high, medium, low)

The Committee has chosen to let the Phase I recommendations on location, visits and communication, design, housing, and programming, stand as they are. We believe they are detailed enough to provide appropriate guidance to those planning the design, structure, and use of any future facility. The Committee's implementation plan recommendations focus on creating a facility to support the Task Force's "new goals for prevention, intervention, secure detention, and reentry." This report incorporates everything the Committee has learned in the past year from community engagement, data analysis, outside research and experts, and the Task Force's other three committees – Community Investment, Decarceration, and Local Control.

Guiding Principles

The Committee articulated a set of nine guiding principles in its Phase I report. We wish to explicitly add a tenth: antiracism.

The District's criminal justice system disproportionately arrests and incarcerates Black residents, particularly Black men. From 2013 to 2017, ACLU-DC found that Black people composed 47% of D.C.'s population but 86% of its arrestees.¹ The data analysis conducted in the Task Force's Phase I report found that the Department of Corrections' (DOC's) average daily population in 2018 remained overwhelmingly (92%) Black, despite the fact that census data shows growth rates are faster among White and Latinx people in the District's adult population. The population housed at DOC is also 92% male. The Task Force also found that Black people incarcerated in DOC custody had a longer median unsentenced length of stay than White people for nearly every charge category. The Task Force's recent analysis of data on individuals convicted of D.C. Code offenses in BOP custody found even more exaggerated disparities: 97.8% were male and 95.41% were Black.²

These data points make clear the need to reexamine the functioning of D.C.'s systems of public health, safety, and justice. The Task Force is attempting to do just that, and this Committee's work is just one piece of that comprehensive work. To ensure that racial equity is inextricably embedded in the administration of justice and the corresponding outcomes, we must educate ourselves in these matters and consciously use language that acknowledges the inherent value and humanity of each individual. We must achieve an understanding, rooted in empathy and compassion, to live in peace and achieve prosperity through opportunities for growth and reaching our full human potential.

Ibram X. Kendi defines racist and antiracist policy in his 2019 book, *How to Be an Antiracist*:

A racist policy is any measure that produces or sustains racial inequity between racial groups. An antiracist policy is any measure that produces or sustains racial equity between racial groups. By policy, I mean written and unwritten laws, rules, procedures, processes, regulations, and guidelines that govern people. There is no such thing as a nonracist or

¹ ACLU of DC, *Racial Disparities in D.C. Policing: Descriptive Evidence from 2013 – 2017*, (last updated July 31, 2019), <https://www.acludc.org/en/racial-disparities-dc-policing-descriptive-evidence-2013-2017>

² Council for Court Excellence, *Analysis of BOP Data Snapshot from July 4, 2020*, (Sept. 30, 2020), <https://courtexcellence.box.com/s/rgxkm869c0cb2edtjx52b5epphe9wirt>.

race-neutral policy. Every policy in every institution in every community in every nation is producing or sustaining either racial inequity or equity between racial groups.

The Committee on Facilities & Services is committed to promoting antiracist policy. The recommendations produced by this Committee will not only refuse to perpetuate the systematic and institutional racism of our current system, but explicitly combat racist structures and policies.

With that understanding, the Committee updates our Guiding Principles for Phase II, and recommends that every design, programmatic, housing, staffing, and funding decision made in conjunction with any secure detention facility should:

1. Be antiracist, especially focused on producing racial equity between D.C.'s Black and White residents;
2. Prioritize the dignity and humanity of those incarcerated, including by considering historical, cultural, and identity-based contexts, in a manner consistent with public safety;
3. Utilize evidence-based practices to define public safety, and to ensure the safety and security of the community, incarcerated individuals, correctional staff, and the families of those incarcerated;
4. Focus on rehabilitation, rather than "correction," and addressing root causes of crime;
5. Center harm reduction and restoration as core values;
6. Be reentry- and rehabilitation-driven, with the ability to rapidly deliver resources to those incarcerated for short periods of time and to those incarcerated for lengthy sentences;
7. Engage and integrate subject-matter and community-based expertise;
8. Be contextualized within other government and non-profit systems to facilitate continuity (including the local and federal justice and social services systems, and violence prevention and intervention programming);
9. Incorporate internal and public-facing data collection and analysis; and
10. Emphasize culturally- and developmentally-appropriate social and emotional learning.

Recommendation

D.C.'s first jail was built in 1838 and used to detain Black people who were captured fleeing from chattel slavery. The next, built in 1875, was overcrowded within the first 20 years but used for a century. We expanded our incarceration capacity by building Lorton Prison in 1916, then destroyed the old jail and built the current D.C. Jail (Central Detention Facility or CDF) in 1976. In 1992 we opened the Correctional Treatment Facility (CTF), but it has never lived up to its name, and now we have more jail beds than ever before. By the end of 2001, Lorton was shuttered and the last people were transferred to federal Bureau of Prisons (BOP) facilities. This Committee acknowledges the long history of incarceration and reform in the District and recognizes that building a new facility has never succeeded in serving as a "cure-all" for the system. At the same time, we believe that people should not be incarcerated or expected to work in conditions that are unsafe, unhealthy, or undignified. Better infrastructure will help to reduce harm to people who are incarcerated.

Therefore, this Committee recommends the District create a new non-traditional facility to house all people who must be detained pre-trial for community safety and all people who are sentenced to incarceration, including those sentenced for felony convictions. Both the number of people the District detains pre-trial and the number of people sentenced to incarceration should be drastically reduced. We await the recommendations of the Committees on Community Investments, Decarceration, and Local Control to set target goals for pre-trial and sentenced population reduction.

Even with major changes to law and robust community-based supports, there will still be individuals who are deemed unsafe to be in the community. The District's non-traditional new facility should be used as a last resort to house those people when community alternatives are deemed insufficient, inappropriate, or infeasible. The goal of the new, non-traditional facility is to provide a safe, secure, and healthy environment that supports personal growth through innovative, promising, and evidence-based practices. All programming will be designed to support each resident's safe return to community. Details about recommended location, visits and communication, design, housing, and programming, can be found in this Committee's Phase I report.

Creating an innovative facility for a reduced pre-trial and sentenced population will take a significant investment of resources. The District needs both time and funding to build more community supports that prevent justice involvement, expand our capacity to respond to crises without involving the justice system, and fulfill the needs of returning citizens. The District also needs time to pass, fund, and implement changes to law and policy that will result in incarcerating fewer people for shorter periods of time. The need for a new facility is urgent, and this Committee does not want to delay any longer than necessary. The economic distress wrought by the COVID-19 public health emergency, however, is unavoidable. Revenue estimates from September 2020 predict a recovery to the District's FY19 revenue levels by the end of FY22.³ In response to these factors, the Committee has developed a ten-year implementation timeline, divided into three stages, that provides for measurable progress in shrinking the incarcerated population and transitioning facilities in the short term and ultimately results in the recommended new non-traditional facility.

³Government of the District of Columbia, *September 2020 Revenue Estimates* by Jeffrey S. DeWitt, (Sept. 30, 2020), <https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/Revenue%20Estimate%20Letter%20093020.pdf>

Implementation Timeline

The Committee recommends building toward the new non-traditional facility in three stages.

		Fiscal Year										
		2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	
Stage 1	Policy Change	█										
	Continue Use of CDF	█										
	Continue Use of CTF	█										
	Design New Facility				█							
	Construct NFA					█	█					
Stage 2	Demolish CDF							█	█	█		
	Construct NFM							█	█	█		
	Use NFA							█	█	█	█	
Stage 3	Demolish CTF										█	
	Use NFM										█	
	End Use of BOP										█	

Stage 1 (6 years, FY21-26): Begin Policy Change to Minimize Population; Use CDF and CTF; Construct New Facility – Annex

During Stage 1, the District should adopt and begin implementing the recommendations made by the Task Force’s committees on Community Investment, Decarceration, and Local Control to shrink our incarcerated populations in both DOC and BOP custody. These policy recommendations will all be geared toward building safer communities and minimizing D.C.’s incarcerated population. They will target each intercept of the justice system, from preventing law-enforcement contact to release and reentry. Some will require federal or local legislative changes; others will be implemented at the agency or community level. The District will be able to act immediately on some of the recommendations, or perhaps will already have implemented them by the time the Task Force completes its Phase II work. Other policy recommendations will be dependent on other actions and require several years to implement. Most should be achievable within six years, allowing the District to simultaneously significantly reduce its incarcerated population and plan and construct its new facility.

DOC currently has a maximum operating capacity of 3,624 people: 1,400 at CTF and 2,164 at CDF. It currently houses approximately 1,450 people: 450 at CTF and 1,000 at CDF.⁴ The District will continue to use both of its current jail facilities during Stage 1, with a preference for housing as many people at CTF as is safe. DOC should begin retraining correctional officers during Stage 1 to ensure those who typically work in CDF have the opportunity to transition to using the direct supervision model used at CTF and in the future facility. Both existing facilities should be maintained and repaired minimally as needed to safely house residents and support their programming needs through FY28 at CDF and through FY30 at CTF. The District’s FY21-26 Capital Budget allocated DOC \$46.8 million for general renovations at all its facilities and

⁴ DC Department of Corrections, DOC Daily Population Report, October 3-9, (2020), <https://doc.dc.gov/sites/default/files/dc/sites/doc/publication/attachments/October%203rd%20through%20October%209th%202020.pdf>

the committees on Community Investment, Decarceration, and Local Control during Stage 1. Any bed space not filled by DOC's population should be used to begin bringing residents back from the BOP. The District should prioritize residents designated as special populations by the Task Force, including people with physical health issues, serious mental illness and/or substance use disorders, or intellectual disabilities; people with language barriers; young adults (18-25 years old); single parents with custody of minor children; and elders (60+ years old).

After transferring all remaining CDF residents to CTF or NFA, CDF should be demolished in Stage 2. CDF sits on 4.7 acres of land on Reservation 13. If the CDF site is retained as District property, the city must pay for demolition and any future construction on the site. One option would be to convert the site into a community resource center, as is being done in Atlanta.⁸ Another would be to use the site for additional recreational space for the new facility. If the CDF site is sold to developers, the District could sell the site as-is and require the new owner to take on the cost of demolition. This Committee does not make a recommendation on the future use of the former CDF site; any future decision should go through a robust public engagement process.

Construction of the New Facility – Main (NFM) should also occur in Stage 2. As described above, this NFM and NFA will together constitute the new non-traditional facility envisioned by this Committee. The new facility should be designed with space for D.C.'s total remaining reduced incarcerated population, both pre-trial and sentenced. If we roughly estimate reducing the District's total pre-COVID-19 incarcerated populations (both DOC, approximately 1,800 residents, and BOP, approximately 4,000 residents, a total of 5,800 people) by one-third to one-half, the combined new facility would need enough bed space for approximately 2,900 to 3,800 residents (between 900-1,200 residents from DOC and 2,000-2,600 residents from BOP). If the NFA is constructed in Stage 1 with 768 beds, then the NFM would need to be constructed in Stage 2 with enough bed space for an additional 2,132 to 3,032 residents.

Original cost estimates for a new facility were in the range of \$500 million. If we work with that assumption and subtract the amount already spent to construct NFA in Stage 1, Stage 2 construction costs for the NFM are estimated to be between \$248 and \$330 million, depending upon how many space options are previously built into the NFA.

Stage 3 (1 year, FY30): Use New Facility – Main; Demolish CTF; End Use of BOP

During Stage 3, the District will move all remaining DOC residents from CTF to the combined NFA and NFM facility. As with CDF, once the transfer is complete, the District can either demolish CTF and use the site for a new purpose or sell the land. Again, this Committee does not make a recommendation on the future use of the former CDF site; any future decision should go through a robust public engagement process.

All remaining people serving D.C. Code sentences in BOP custody will be transferred to DOC custody and housed in the combined NFA and NFM facility. The District will no longer use the BOP or any other facilities to house people incarcerated due to D.C. Code offenses.

⁸ Reimagining the Atlanta City Detention Center (ACDC), (June 2020)
<https://www.atlantaga.gov/Home/ShowDocument?id=46584>

By the end of this ten-year implementation plan, the District will have a new, innovative, safe facility to house all people who are deemed unsafe to be in the community, even with robust supports. This reduced pre-trial and sentenced population will live in D.C., in a safe, secure, and healthy environment that supports personal growth through innovative, promising, and evidence-based practices. The new facility will accommodate the full range of security, health, and mental health classifications and legal designations. Programming will be tailored to each individual resident. DOC leadership will continue to consult with experts on facilities with combined unsentenced and sentenced populations to ensure the new facility provides safety and opportunity for each of its residents.