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**THE COUNCIL OF THE CITY OF NEW YORK**

**BRIEFING PAPER OF THE JUSTICE DIVISION**

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**COMMITTEE ON CRIMINAL JUSTICE**

*Hon. Keith Powers, Chair*

**November 22, 2021**

**Oversight**

**Update on the Borough Based Jails**

## I. INTRODUCTION

On November 22, 2021, the Committee on Criminal Justice, chaired by Council Member Keith Powers, will hold an oversight hearing to get an update on Borough Based Jails. The Committee expects to hear testimony from the New York City Department of Correction (DOC), the New York City Department of Design and Construction (DDC), the Mayor’s Office of Criminal Justice (MOCJ), public defenders, advocates, and other interested parties.

## II. BACKGROUND

In February 2016, former New York City Council Speaker Melissa Mark-Viverito called for the creation of an independent commission to examine closing jails on Rikers Island.<sup>1</sup> In March 2016, former New York State Chief Judge Jonathan Lippman announced the members of the Independent Commission on New York City Criminal Justice and Incarceration Reform.<sup>2</sup> In April 2017, the “Lippman Commission,” chaired by former New York State Chief Judge Jonathan Lippman, issued *A More Just New York City*, unanimously recommending closing all jails on Rikers Island and setting forth a plan for how to do so realistically within 10 years, including recommendations to reduce the jail population, build new jails, and repurpose the land.<sup>3</sup> The Commission continues to monitor the efforts of the de Blasio Administration and reports on progress.

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<sup>1</sup> J. David Goodman. “Melissa Mark-Viverito, Council Speaker, Vows to Pursue New Criminal Justice Reforms.” *The New York Times*, 11 Feb 2016, available at [Melissa Mark-Viverito, Council Speaker, Vows to Pursue New Criminal Justice Reforms - The New York Times \(nytimes.com\)](https://www.nytimes.com/2016/02/11/nyspeakers-vows-to-pursue-new-criminal-justice-reforms.html)

<sup>2</sup> Gloria Pazmino. “Lippman announces members of criminal justice commission.” *Politico*. 17 Mar. 2016, available at [Lippman announces members of criminal justice commissionPOLITICO](https://www.politico.com/news/2016/03/17/lippman-announces-members-of-criminal-justice-commission/)[Search](#)[Search](#)[Close](#)

<sup>3</sup> Independent Commission on New York City Criminal Justice and Incarceration Reform. “A More Just New York City.” Apr. 2017, p. 13-19, available at [Lippman+Commission+Report+FINAL+Singles.pdf \(squarespace.com\)](https://www.squarespace.com/files/2017/04/13/19/lippman-commission-report-final-singles.pdf)

In March 2017, Mayor de Blasio announced his support for closing jails on Rikers Island;<sup>4</sup> and in June of 2017 the de Blasio Administration released the “Roadmap for Closing Rikers.”<sup>5</sup> The Roadmap included a number of strategies for reducing the pretrial detention rate and broad ideas for how to redesign jails, and created a task force to implement the Administration’s plan.<sup>6</sup> The task force has dozens of members organized into one steering committee and three working groups.<sup>7</sup> The steering committee includes all five District Attorneys, the New York City Police Department (NYPD), DOC, and Department of Probation Commissioners, and the second-highest ranking judge in the state among others.<sup>8</sup> The working groups are organized into three areas: reducing jail population, culture change, and jail design.<sup>9</sup>

A. Uniformed Land Use Review Procedure (ULURP) Process

In 2017, the de Blasio Administration released a request for proposals (RFP) for consultants to create a “master plan” for what to do with existing borough jails and identify sites for the new jails.<sup>10</sup> That process culminated with a proposed plan to build new borough-based facilities—three on sites where jails currently exist (Queens, Brooklyn, and Manhattan) and one on the site of a NYPD tow pound in the Bronx.<sup>11</sup> In October 2018, the de Blasio Administration began the environmental impact review, a process that assesses the proposed plan’s adverse

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<sup>4</sup> Colby Hamilton. “De Blasio commits to closing Rikers, with few specifics.” *Politico*, 31 Mar. 2017, available at [De Blasio commits to closing Rikers, with few specificsPOLITICOsearchsearchClose](#)

<sup>5</sup> Office of New York City Mayor. “Mayor de Blasio Announces ‘Smaller Safer Fairer: A roadmap to Closing Rikers Island,’” 22 Jun. 2017, available at [Mayor de Blasio Announces "Smaller, Safer, Fairer: A Roadmap to Closing Rikers Island" | City of New York \(nyc.gov\)](#)

<sup>6</sup> Id.

<sup>7</sup> New York City Mayor’s Office of Criminal Justice, “Ensuring Effective Implementation,” available at [Implementation Task Force - Rikers Rikers \(cityofnewyork.us\)](#)

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Durkin, Erin, “De Blasio Takes First Step in Shutting Down Rikers by Looking for Consultants.” *New York Daily News*, 16 Nov. 2017, available at [De Blasio takes first step in shutting down Rikers by looking for consultants - New York Daily News \(nydailynews.com\)](#)

<sup>11</sup> New York City Mayor’s Office of Criminal Justice. “NYC Borough-Based Jail System,” available at [NYC Borough-Based Jails - Rikers Rikers \(cityofnewyork.us\)](#)

impacts on the environment, including noise, air quality, displacement, and traffic.<sup>12</sup> In March 2019, following the issuance of the Notice of Completion for the Draft Environmental Impact Statement, the City Planning Commission certified the ULURP application for the borough-based jails plan.<sup>13</sup> In August 2019, DOC issued the Notice of Completion for the Final Environmental Impact Statement, which marked the completion of the project’s environmental review.<sup>14</sup>

The community boards,<sup>15</sup> borough presidents,<sup>16</sup> the de Blasio Administration, and the City Council held public hearings on the borough-based jails plan as part of the ULURP process.<sup>17</sup> The public hearings produced significant feedback from the public. One of the main concerns raised was the height of the proposed new jails.<sup>18</sup> In October 2019, the City Council’s Land Use Committee modified, and the City Council approved, the ULURP application with reductions in height and density in response to public concern and the projected decrease in the jail census.<sup>19</sup> To help achieve this, the city agreed to relocate about 250 beds from the borough-based facilities into New York City Health & Hospitals facilities for people with serious mental illness or serious health issues.<sup>20</sup>

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<sup>12</sup> Supra note 11.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> The community boards impacted by the project, including Queens Community Board 9, Brooklyn Community Board 2, Bronx Community Board 1, and Manhattan Community Board 1, held public hearings to get public input on the borough-based jails plan; and all four boards voted against the plan.

<sup>16</sup> Brooklyn, Queens, Bronx, and Manhattan Borough Presidents whose boroughs will each house one of the four new jail facilities held public hearing to get input on the borough-based jails plan. Bronx and Queens Borough Presidents rejected the plans, citing concerns with the proposed locations, the overall review process, and lack of community engagement. Conversely, Manhattan and Brooklyn Borough Presidents recommended approval with several modifications.

<sup>17</sup> New York City Council. “Speaker Corey Johnson, Subcommittee on Landmarks Chair Adams, Council Members Ayala, Chin, Kosloswitz, and Levin Announce Height Reductions and New Designs to Borough-Based Jails as Part of Historic Plan to Close Rikers Island.” 15 Oct. 2019, at <https://council.nyc.gov/press/2019/10/15/1816/>

<sup>18</sup> Amy Plitt and Caroline Spivack. “Rikers-Replacing Borough-Based Jails Will Drastically Shrink.” *Curbed NY*, 15 Oct. 2019, available at [Rikers-replacing borough-based jails will drastically shrink - Curbed NY](#).

<sup>19</sup> Jason Rogovich. “City Council Approves Borough Based Jails.” *City Land*, available at [City Council Approves Borough Based Jails - CityLand CityLand \(citylandnyc.org\)](#)

<sup>20</sup> Id.

### B. City Council's Legislative Action

The City Council also passed several laws as part of the plan to close Rikers Island and build new jails. Local Law 194 of 2019 established general requirements for the design of newly constructed jails, including permanent space for reentry services and programming, access to clinical space for each housing unit, and heating and air conditioning.<sup>21</sup> Local Law 192 of 2019 requires MOCJ to issue progress reports on closing jails on Rikers Island, including a timeline for the closure of the island, budget and procurement of contracts related to closure, design and construction of jail facilities, changes to information technology infrastructure and staffing plans, and any related efforts to reduce the jail population in the City.<sup>22</sup>

The City Council's Land Use Committee also adopted a resolution authorizing the City Council to file a land use application with the City Planning Commission to amend the official City map to designate Rikers Island a "public place" to prohibit the incarceration of persons on the island after December 31, 2026.<sup>23</sup> In December 2019, City Council Speaker Corey Johnson jointly filed the land use application with MOCJ and DOC.<sup>24</sup> That same month, the City Planning Commission certified the application, initiating the ULURP process to rezone Rikers Island.<sup>25</sup> This process involved input from Queens Community Board 1 and the Queens Borough President.<sup>26</sup> In

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<sup>21</sup> Local Law 194 of 2019.

<sup>22</sup> Local Law 192 of 2019.

<sup>23</sup> Office of New York City Mayor. "Mayor de Blasio and Speaker Johnson Agreement to Prohibit Incarceration of Individuals on Rikers Island Passes City Council Land Use Committee." 10 October 2019, available at [Mayor de Blasio and Speaker Johnson Agreement to Prohibit Incarceration of Individuals on Rikers Isl | City of New York \(nyc.gov\)](#)

<sup>24</sup> Michael V. Cusenza. "City Changing the Office NYC Map to Rikers Island a Public Space by 2026." 5 Dec. 2019. *The Forum*, available at [City Changing Official NYC Map to Make Rikers Island a Public Space by 2026 | The Forum Newsgroup](#)

<sup>25</sup> Caroline Splvack. "NYC begins process to ban jails from Rikers Island." 3 Dec. 2019. *CURB New York*, available at [NYC begins process to ban jails from Rikers Island - Curbed NY](#)

<sup>26</sup> *Id.*

January 2020, Queens Community Board 1 voted to approve the map change.<sup>27</sup> A month later, the Queens Borough President held a public hearing to solicit public input.<sup>28</sup>

The COVID-19 pandemic paused the ULURP process for all active applications, including the Rikers Island “public place” application. When the ULURP process resumed it was clear that the delay would also affect the procurement and construction timeline for the borough based jail facilities, with the completion target of December 31, 2026 no longer feasible. In October 2020, the City Planning Commission convened to consider the Rikers Island “public place” application and approved a modified version of the application, adjusting the date for the prohibition of incarceration on Rikers Island to August 31, 2027, to reflect the updated procurement and construction schedule for the borough based jails.<sup>29</sup> In December 2020, the City Council’s Land Use Committee and City Council voted to approve the modified application.

### *C. Neighborhood Advisory Committees (NACs)*

The de Blasio Administration also created Neighborhood Advisory Committees (NACs) to engage community leaders, advocates, and interested parties in a multi-step public review process to identify desired design elements, such as community space use, and solicit their input on the design of the new facilities.<sup>30</sup> NACs are in each of the four boroughs housing the new jails to address community concerns and advise on the borough-based jails plan.<sup>31</sup> Each NAC issues

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<sup>27</sup> David Russell. “BP hears arguments for Rikers land use.” 6 Feb. 2020. *Queens Chronicle*, available at [BP hears arguments for Rikers land use | Queenswide | qchron.com](#)

<sup>28</sup> Id.

<sup>29</sup> Rachel Smith. “Manhattan Jail Design Forges Ahead Even as Plan to Replace Rikers is Delayed to 2027.” 19 Oct 2020. *The City*, available at [Rikers Island Replacement Delayed as Manhattan Jail Design Forges Ahead - THE CITY](#)

<sup>30</sup> Supra note 11.

<sup>31</sup> Id.

recommendations that it shares with all the ULURP participants as an advisory document.<sup>32</sup> The Administration will incorporate the recommendations as a chapter in the Master Plan.<sup>33</sup>

*D. The Transfer of Rikers Island*

In February 2021, the City Council passed, and Mayor de Blasio signed, the Renewable Rikers Act, which requires the transfer of jurisdiction of Rikers Island from DOC to the New York City Department of Citywide Administrative Services (DCAS) by August 31, 2027.<sup>34</sup> To date, DOC has closed four facilities—the James A. Thomas Center, Brooklyn Detention Complex, George Motchan Detention Center, and the Manhattan Detention Complex.<sup>35</sup> However, in July 2021, DOC transferred only one facility.<sup>36</sup> DOC indicates it is identifying other portions of Rikers Island to transfer to DCAS.<sup>37</sup> While advocates welcomed the move, they continue to press Mayor de Blasio to transfer additional, unused parcels before he leaves office at the end of the year.<sup>38</sup> The Act also establishes an advisory committee made up of formerly justice-involved people and environmental advocates to make recommendations on the future uses of Rikers Island

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<sup>32</sup> Supra note 11.

<sup>33</sup> Id.

<sup>34</sup> New York City Council. “Council Votes to Pass the “Renewable Rikers” Act.” 11 Feb. 2021, available at [Council Votes to Pass the “Renewable Rikers” Act - Press \(nyc.gov\)](#); Office of New York City Mayor. “Mayor de Blasio Signs Bills to Secure a Renewable Future for Rikers Island, Prevent Public Corruption.” 25 Feb. 2021, available at [Mayor de Blasio Signs Bills to Secure a Renewable Future for Rikers Island | City of New York \(nyc.gov\)](#)

<sup>35</sup> New York City Mayor’s Office of Criminal Justice. “Local Law 192 Biannual Report on Progress Towards Closing Rikers Island Jan-Jun. 2021.” Retrieved 8 Oct. 2021, p. 1,

<sup>36</sup> New York City Department of Correction. “DOC Transfer First Facility to DCAS.” 27 Jul. 2021, available at [Department of Correction \(nyc.gov\)](#)

<sup>37</sup> Id.

<sup>38</sup> New York Lawyers for Public Interest. “Renewable Rikers Coalition Welcomes Announcement on Island’s First Land Transfer, Urges Mayor de Blasio Transfer Additional, Unused Rikers Acreage before Term Ends.” 13 Jul. 21, available at [Renewable Rikers Coalition Welcomes Announcement on Island’s First Land Transfer, Urges Mayor de Blasio to Transfer Additional, Unused Rikers Acreage Before Term Ends - New York Lawyers for the Public Interest \(nylpi.org\)](#)



The district level investments in the Points of Agreement also include commitments in the South Bronx, a community acutely impacted by the criminal justice system.<sup>46</sup> These commitments include upgrades to community centers and additional lighting/cameras at Mill Brook, Mitchel, Mott Haven, and Patterson Houses, in addition to an expansion of youth programming at Mill Brook, Mitchel, and Patterson Houses. Also included is funding for a new youth services center, to be constructed on the site of a parking lot that will be vacated by the NYPD's 40<sup>th</sup> Precinct, and \$5.7 million in capital improvements to Samuel Gompers High School.<sup>47</sup> Finally, the Points of Agreement include commitments to build affordable housing on three existing City-owned sites: East 142 Street/St. Ann's Avenue, 351 Powers Avenue, and 320 Concord Avenue.<sup>48</sup>

#### **IV. STATUS OF THE NEW FACILITIES**

As part of the borough-based jails plan approved by the City Council and signed into law by Mayor de Blasio, the city is required to open the four new jails by 2026. In October 2020, however, the de Blasio Administration delayed the plan to open new jails to August 2027 due to budget and resources constraints caused by the COVID-19 pandemic.<sup>49</sup> Nonetheless, DDC has made progress in the procurement of contracts for several projects related to the construction of the new jails. In June 2021, Mayor de Blasio announced the start of construction on the parking garage and community space that is part of the new Queens jail.<sup>50</sup> The city awarded the construction project to the design-build team of Hunter Roberts Construction Group with

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<sup>46</sup> Supra 40.

<sup>47</sup> Id.

<sup>48</sup> Id.

<sup>49</sup> Rachel Smith. "Manhattan Jail Design Forges Ahead Even as Plan to Replace Rikers is Delayed." 19 Oct. 2020. *The City*, available at <https://www.thecity.nyc/2020/10/19/21524219/manhattan-jail-tombs-replace-rikers-delayed-nyc>; JB Nicholas. "Plan to Close Rikers and Build New Jails Faces Significant Delays." 15 Aug. 2020. *Gothamist*, available <https://gothamist.com/news/plan-close-rikers-and-build-new-jails-faces-significant-delays>

<sup>50</sup> Office of New York City Mayor. "Mayor de Blasio Announces Beginning of Major Construction Activities for Borough-Based Jails Program." 25 Jun. 2021, available at [Mayor de Blasio Announces Beginning of Major Construction Activities for Borough-Based Jails Program | City of New York \(nyc.gov\)](https://www.nyc.gov/newsroom/2021-06-25-mayor-de-blasio-announces-beginning-of-major-construction-activities-for-borough-based-jails-program)

architecture firms Marvel and Urbahn Architects.<sup>51</sup> In August 2021, the city identified an apparent best value proposal to dismantle the Queens facility and construct a temporary swing space to facilitate DOC's transfers for court appearances.<sup>52</sup> The city is in negotiation with the design-build team responsible for the proposal.<sup>53</sup>

The demolition projects for the Brooklyn, Bronx, and Manhattan facilities are on a similar timeline. The city is coming to a consensus on the apparent best value proposal to dismantle the Brooklyn facility and construct swing space.<sup>54</sup> The city will soon enter negotiation with the design-build team responsible for proposal.<sup>55</sup> In addition, the city is reviewing dismantle and swing space proposals for the Manhattan and Bronx facilities.<sup>56</sup> The city will then hold a consensus meeting to identify the apparent best value proposal for those facilities.<sup>57</sup> The City indicates it is on track to have all dismantle and swing space project contracts registered before the end of 2021.<sup>58</sup>

In August 2021, DDC released a Notice of Intent (NOI) for the four new jails that details the procurement process to design and construct new facilities in Bronx, Manhattan, Brooklyn, and Queens.<sup>59</sup> The NOI indicates that DDC will release one Request for Qualification (RFQ) in September 2021 to identify the four design-build teams that will contract with city to design and construct the four new facilities, each an 886-bed high-rise detention facility with an anticipated

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<sup>51</sup> Supra note 49.

<sup>52</sup> New York City Mayor's Office of Criminal Justice. "Local Law 192 Biannual Report on Progress Towards Closing Rikers Island Jan-Jun. 2021." Received 8 Oct. 2021, p. 4.

<sup>53</sup> Id.

<sup>54</sup> Id.

<sup>55</sup> Id.

<sup>56</sup> Id.

<sup>57</sup> Id.

<sup>58</sup> Id.

<sup>59</sup> New York City Department of Design and Construction. "City Issues Notice of Intent for the Design and Construction of Four New Borough-Based Jails." 26 Aug. 2021, available at [City Issues Notice of Intent For The Design and Construction of Four New Borough-Based Jails \(nyc.gov\)](https://www.nyc.gov/site/ddc/city-issues-notice-of-intent-for-the-design-and-construction-of-four-new-borough-based-jails)

budget of \$1.5 to \$1.8 billion.<sup>60</sup> The City expects firms that are interested in participating in the program to respond to the RFQ with Statement of Qualifications (SOQs), which the City will assess to create a shortlist of firms for each new jail.<sup>61</sup> The shortlisted firms will have the exclusive opportunity to respond to the RFP, which the City intends to issue in December 2021 for each new jail.<sup>62</sup>

## **V. ISSUES AND CONCERNS**

The Committee would like an update on the contracting process and the construction status of each facility, the design process, and the transfer of Rikers Island from DOC to DCAS. In addition, the Committee is interested in how the Administration is addressing community concerns regarding the design and construction of the new facilities, and how the recent budget changes will affect the borough-based jails plan and the POA.

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<sup>60</sup> Supra note 58.

<sup>61</sup> Id.

<sup>62</sup> Id.