

2 AS AMENDED BY THE HEALTH AND HUMAN NEEDS COMMITTEE ON 3/17/15

3 INVESTIGATING SOLUTIONS TO RACIAL DISPARITIES
4 AND MENTAL HEALTH CHALLENGES IN THE DANE COUNTY JAIL
5 AND THROUGHOUT DANE COUNTY'S CRIMINAL JUSTICE SYSTEM

6 Dane County is committed to addressing two critical issues which afflict the county's criminal
7 justice system: racial disparities in arrests and incarceration, and the mental health challenges
8 of those in and out of jail.

9
10 Dane County has worked on reducing racial disparities in criminal justice for several years and
11 has implemented some promising strategies that resulted from the collective work of community
12 and county via the Dane County Task Force on Racial Disparities in Criminal Justice Report
13 (2009), as well as the Disproportionate Minority Contact Juvenile Justice Solutions Workgroup
14 Report (2009). Additional reports and assistance has been provided by: The Sentencing
15 Project, American Bar Association, Bureau of Justice Assistance, and The Center for Court
16 Innovation, University of Wisconsin Law School-Restorative Justice. Other influential reports
17 and research includes: The State of Black Madison—Before the Tipping Point (2009), and Race
18 to Equity (2014).

19
20 ~~Despite progress and important initiatives, such as the new Community Restorative Court, Dane~~
21 ~~County's racial disparities in criminal justice continue to persist. In fact, Dane County has funded~~
22 ~~new initiatives, such as the Community Restorative Court. Even though the Community~~
23 ~~Restorative Court has not begun, we are hopeful in this new approach to justice.~~

24
25 It is critical that Dane County engage the larger community to address inequities in criminal
26 justice, specifically around mental health and incarceration, solitary confinement and length of
27 stay, and alternatives to incarceration. Additionally, Dane County must address the immediate
28 health and safety issues within the City-County Building Jail.

29 **Background:**

30 The lack of availability of reliable information regarding who is in the criminal justice system and
31 why continues to be a challenge in Dane County. Current and accurate measurement of
32 criminal justice data is integral to system reform and measuring success. While broad statistics
33 help to draw attention to problems, system change must be accompanied by better, more
34 precise and detailed data as to the jail population, improving integration of information with state
35 data systems, and increasing capacity for statistical analysis.

36

37 That said, the 2014 “Race to Equity” report from the Wisconsin Council on Children and
38 Families provides the larger picture of racial disparities in the Dane County juvenile and criminal
39 systems. According to the report:

40 ● The total population of Dane County, as reported in the 2010 Census, is just over
41 488,000. Of that total, African Americans are 31,300 of the county’s population, or about 6.5%.
42 African American youth (under age 18) make up 8.5% of all youth (under age 18) in Dane
43 County.

44 ● African American adults are eight times more likely to be arrested in Dane County than
45 white adults. This is double the adult arrest disparity rates in the rest of the state and more than
46 triple the national numbers.

47 ● African American adult males are 43% of the Dane County jail population, while only
48 comprising 4.8% of the county’s adult male population.

49 ● In 2010, the county’s black youth arrest rate was 469 per 1,000, compared to 77 per
50 1,000 for whites. Black teens in Dane County are six times more likely to be arrested than white
51 teens. This is double Wisconsin state’s juvenile arrest disparities and more than triple the
52 national numbers.

53 ● African American youth are 15 times more likely to spend time in the county’s juvenile
54 secure detention facility.

55 ● More than 54% of all African Americans in Dane County live below the federal poverty
56 level, compared to only 8.7% of Dane County’s white population. The numbers are even starker
57 for Dane County’s youth: 74% of African American youth live in poverty, compared to only 5.5%
58 of Dane County’s white population.

59

60 As highlighted by the Race to Equity Report, racial disparities between black people and white
61 people in Dane County are some of the highest in the nation. The data indicates that the Dane
62 County criminal justice system is not working fairly for all community members. Addressing
63 these issues will have a direct impact on the challenges of jail space needs.

64

65 **Mental Health, Solitary Confinement, and Incarceration:**

66 Dane County's support of individuals with mental health issues has not grown in the past
67 decade and has not kept up with the need for services. In fact, county General Purpose
68 Revenue (GPR) funding for adult mental health actually declined between 2003 and 2013, from
69 \$6.2 million in 2003 to \$6.1 million in 2013.

70

71 Criminalization of the mentally ill and those with mental health issues impacts hundreds of Dane
72 County individuals, families, and the community as a whole. It is critical to look for impactful
73 long term solutions to our residents with mental health issues.

74

75 According the United States Bureau of Justice Statistics, 44% of individuals incarcerated in local
76 jails throughout the nation have mental health challenges. Due to the lack of mental health
77 services overall throughout the United States, jails and prisons have become the largest care-
78 takers of individuals with mental health challenges.

79

80 Individuals with mental health struggles – diagnosed or not – who are incarcerated in the Dane
81 County Jail, often find themselves in solitary confinement or other segregated space.
82 Unfortunately, solitary and other confinement placement often exacerbates the individual's
83 mental health problem. The result can be making the individual sicker ~~and more dangerous~~
84 than when they arrived in the Dane County Jail.

85

86 Solitary confinement has been studied for decades, along with the short and long term
87 detrimental impacts on individuals. The Dane County Board and Dane County Sheriff are
88 seeking better solutions to this practice.

89

90 **Length of Stay**

91 According to national research, length of stay negatively affects recidivism for low and medium
92 risk offenders. The collateral consequences experienced by individuals, families, and
93 communities caused by length of time spent in jail may further overall inequities in Dane County.
94 Consequences include accused individuals, especially the poor, pleading guilty to get out of jail
95 for economic and family reasons, rather than based upon innocence or guilt of the alleged
96 offenses.

97

98 In the 2007 Criminal Justice System Assessment conducted by the Institute for Law and Policy
99 Planning (ILPP), two strategies were recommended to reduce workload growth in the criminal
100 system, including the jail. They were: “1. Reduce admissions at key justice system decision
101 points, and 2. Reduce length of stay and case processing times throughout the system.” Key
102 decision points include: the police decision to arrest and refer charges, and the District
103 Attorney’s decisions to charge multiple felony counts to pressure an accused to plead.

104

105 While there are measures Dane County may be able to take to reduce length of stay, typically
106 approximately 17 percent of the jail population are state prisoners being held because of
107 violations of probation or parole requirements. Solutions to this issue will require data analysis
108 to better define the reason prisoners are being held and for how long. This information could
109 inform discussions with state officials about their practices which result in jail stays.

110

111 **Alternatives to Incarceration:**

112 Dane County has many alternatives to incarceration—that for some—have proven to be
113 effective. However, minority participation in alternatives is minimal. Alternatives include:
114 deferred prosecution, (including the first offender program), electronic monitoring, and treatment

115 alternatives, among others. Eligibility criteria need to be developed to insure equitable access
116 and use of alternatives to incarceration, including use of evidence-based decision making
117 through a racial equity lens.

118

119 **Current Jail Safety Issues:**

120 From the Mead and Hunt study and the Sheriff's comments on the current facility, it is clear that
121 there are immediate mental health, solitary confinement, and life and safety issues with parts of
122 the facility.

123

124 To address the challenges outlined above, and recognize the value of public participation, the
125 Dane County Board will engage the public to identify next steps by establishing three work
126 groups of the Public Protection and Judiciary Committee. The work of these three groups will
127 not only inform the county's budget process, but also provide information that will be valuable as
128 the county seeks funding via grant opportunities. Additionally, the Board will provide the
129 Sheriff's Office access to funds to develop solutions which address the immediate health and
130 safety concerns of the current jail facilities in the City-County Building using the services of
131 Mead and Hunt.

132

133 NOW, THEREFORE, BE IT RESOLVED that the Dane County Board of Supervisors establish a
134 Mental Health, Solitary Confinement and Incarceration Work Group to advise the Public
135 Protection and Judiciary Committee, with up to eleven (11) members appointed by the Chair of
136 the committee, in consultation with other members of the Board, with the Department of Human
137 Services assistance in securing facilitators for the workgroup, and additional support from
138 members of the Sheriff's Office and the Courts, to investigate the possibility of establishing the
139 following:

140 1a. A mental health toolkit or mental health court to support Dane County's Circuit Court
141 judges. This includes but is not limited to: determining what charges/offenses to be
142 considered; screening tools or assessment to determine placement; options of
143 treatments/services need to be available (especially for individuals without health

144 insurance); and whether it should be a stand-alone court or toolkit integrated into all
145 criminal courtrooms.

146 1b. A stand-alone facility that serves individuals with: 1) mental health needs and who
147 are not incarcerated by the Sheriff, 2) mental health needs and who are in police custody
148 and need an alternative to jail placement, and 3) mental health needs and who are in the
149 Sheriff's custody. As part of a potential facility, investigate a mental health crisis
150 intervention field team that can be available to all Dane County law enforcement, fire,
151 and emergency entities, 24 hours a day.

152 1c. Eliminating or greatly reducing the use of solitary confinement. This includes but is
153 not limited to: creating mental health beds, medical and special needs beds; any other
154 space options that provide for those incarcerated with medical and mental health needs.
155 Additionally, this shall include investigating the impact of solitary confinement in any form
156 on incarcerated people whether it is used due to space needs or as a tool for changing
157 behavior. This includes but is not limited to: the long-term outcome of solitary
158 confinement in behavior management; the effects of solitary confinement on recidivism;
159 alternative tools to solitary confinement to address various situations that keep the safety
160 of the inmate, deputy and larger jail community in mind.

161
162 BE IT FURTHER RESOLVED that the Dane County Board of Supervisors establish a second
163 work group, the Length of Stay Work Group, to advise the Public Protection and Judiciary
164 Committee to address approaches to reduce the number of people in jail, with up to eleven (11)
165 members appointed by the Chair of the committee, in consultation with other members of the
166 Board, and with the Department of Human Services assistance in securing facilitators for the
167 workgroup to investigate the possibility of the following:

168 2. Initiatives that decrease the average length of stay post-booking for those
169 incarcerated in Dane County Jail, with the goal of diverting inmates from incarceration.
170 This includes but is not limited to: weekend arraignment court, signature bonds,
171 deferred prosecution, full-scale pre-trial services program, policies relating to probation
172 and parole holds, and alternative to bail programs.

173

174 BE IT FURTHER RESOLVED that the Dane County Board of Supervisors establish a third work
175 group, the Alternatives to Incarceration Work Group, to advise the Public Protection and
176 Judiciary Committee to address alternatives to incarceration, prior to being booked, with up to
177 eleven (11) members appointed by the Chair of the committee, in consultation with other
178 members of the Board, and the Department of Human Services assistance in securing
179 facilitators for the workgroup to investigate the possibility of establishing the following:

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181 3. Diverting inmates from incarceration by seeking options outside of the traditional
182 justice system. This workgroup shall explore diversion programs that include:
183 GED/HSED, employment, technical schools; apprenticeships, specialized courts,
184 identify and improve assessment tools. Locating all current Dane County alternatives to
185 incarceration programs, pre-booking, within one or more “one-stop shopping” facilities,
186 with a priority of addressing racial disparities in incarceration and racially equitable
187 access to participating in jail alternative programs. This includes but is not limited to:
188 community restorative courts, restorative justice practices, allowing for a continuum of
189 services for individuals needing more or less support; creating Day Reporting Centers as
190 part of these facilities; creating restorative justice programs for all individuals charged
191 with non-felony crimes or who would otherwise qualify for minimum-security placement
192 or work-study release. There also must be an investigation of what policies could be
193 implemented to encourage police and law enforcement to send and/or refer people
194 directly to services and programs instead of committing people into jail, whether referring
195 people to services reduces recidivism more than jail, and what services, especially
196 African-American and community-of-color led services, already exist (or could be
197 created given a critical mass of future referrals) that could be housed in such facilities.
198 This investigation shall include options for both adults and juveniles.

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200 BE IT FURTHER RESOLVED that all of the above investigations shall prioritize needs of
201 communities of color, especially African Americans, due to their large disproportionate numbers
202 in the criminal justice system.

203

204 BE IT FURTHER RESOLVED that each work group shall include community members,
205 explicitly including communities of color, particularly the African-American community.

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207 BE IT FURTHER RESOLVED that the chair of the Public Protection and Judiciary Committee
208 shall be an ex-officio member of each of the three work groups and may meet and deliberate in
209 their meetings, and may make motions, but may not vote while acting as an ex-officio member.
210 However, the chair of the Public Protection and Judiciary Committee may be counted as a
211 member present for the purposes of reaching a quorum.

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213 BE IT FURTHER RESOLVED that each work group shall include in their recommendations
214 regarding methods for improving baseline statistical information and evaluation of any system
215 change by developing better, more precise and detailed data as to the jail population, improving
216 integration with state data systems and increasing capacity for statistical analysis.

217

218 BE IT FURTHER RESOLVED that any funding needed to further study these issues beyond the
219 work teams shall come from the \$8 million in capital funding designated in the 2013 budget to
220 investigate jail space needs, to the extent that the study addressed capital issues. Additionally,
221 any outside request for proposals or studies shall be awarded to entities that have a
222 demonstrated history of understanding the impact of race discrimination, as well as race and
223 poverty combined, in Wisconsin and the United States on an individual's mental and physical
224 well being.

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226 BE IT FURTHER RESOLVED each of the work groups shall make ~~initial~~ recommendations for
227 tangible next steps to the Public Protection and Judiciary Committee and the Criminal Justice
228 Council by August 15, 2015, and shall then be dissolved. These recommendations shall be the
229 foundation of 2016 operating budget proposals to improve services and programs in the criminal
230 justice system and in the community, especially the African American community.

231

232 BE IT FURTHER RESOLVED each workgroup shall attempt to follow the guidelines
233 enumerated below, meeting at least 5 times by August 15, 2015 to gather information and
234 prioritize approaches.

235 1) the first meeting will include: understanding of the current issue and practices, idea
236 sharing and national best practices.

237 2) the second meeting shall determine obstacles to success,

238 3) the third meeting will consider short term recommendations,

239 4) the fourth meeting will review long term solutions,

240 5) the fifth meeting will finalize recommendations to assist the Dane County Board
241 prioritize approaches for these critical issues.

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243 BE IT FURTHER RESOLVED that the Dane County Board of Supervisors authorizes per diem
244 payments for non-supervisor and non-staff members of the three work groups on the same
245 basis and under the same polices as other Dane County bodies that receive per diems and
246 mileage.

247

248 BE IT FURTHER RESOLVED that the Dane County Board of Supervisors directs the Public
249 Protection and Judiciary Committee and the Criminal Justice Council's Racial Disparities
250 Subcommittee to review work group recommendations, as well as review and report on
251 progress to date, in January and July, 2016.

252 BE IT FURTHER RESOLVED that the Dane County Board of Supervisors hereby waives the
253 county's bid requirements in Chapter 25 of the Code of Ordinances to select Mead and Hunt,
254 Inc. to complete the analysis of life safety issues in the City-County Building Jail; and the County
255 Board approves an addendum to Agreement No. 11333 in order to complete analysis and make
256 recommendations as outlined below. A detailed scope of services is in the addendum and is
257 restated here:

258 1. Mead and Hunt shall complete a detailed analysis of the existing physical plant of the
259 CCB Jail focusing on life safety implications, electronic systems, and physical plant

260 security that exposes the County to vulnerabilities associated with emergency and life
261 safety issues.

262
263 Mead and Hunt shall recommend short-term solutions to mitigate vulnerabilities and life
264 safety concerns in the CCB Jail. The short-term recommendations shall consider staffing
265 and procedural options for life safety mitigation, as well as upgrades to door controls,
266 voice communication systems, video surveillance technology, door hardware and locking
267 devices, detention barriers, and other security systems consistent with industry
268 standards. For the purposes of this study, short-term solutions shall not exceed two and
269 one half (2 ½) years and are further defined as ones that allow for the implementation of
270 a long-term solution.

271
272 2. Mead and Hunt shall meet with each of the three workgroups: 1. Mental Health, Solitary
273 Confinement, and Incarceration; 2. Length of Stay and 3. Alternatives to Incarceration,
274 to provide input and address questions regarding housing and program-related space
275 issues. Mead and Hunt shall attend the first meeting of each group as well as the last
276 meeting of each work group in person, and shall further attend the meetings via
277 telephone when the work groups address short term and long term recommendations.

278
279 Mead and Hunt shall assist and provide professional advice and national trend
280 information, as needed by each workgroup, to help the work groups in developing their
281 respective short- and long-term recommendations.

282
283 3. ~~With consideration of all input from the workgroups, Mead and Hunt shall develop~~
284 ~~plans to identify and propose alternatives for eliminating or greatly reducing~~ the use
285 of solitary confinement, which may include creating specialized beds such as mental health
286 beds, medical beds, and restrictive housing beds that carry out the recommendations of
287 the Mental Health, Solitary Confinement, and Incarceration workgroup. ~~and establishing~~
288 ~~supportive jail-based treatments and interventions. Additionally, with consideration of all~~
289 ~~input from the work groups, Mead and Hunt shall summarize the prevailing research as it~~
290 ~~relates to the impact of solitary confinement for those with mental health issues or as a~~
291 ~~tool for changing or managing behavior, and on recidivism; and alternatives to solitary~~
292 ~~confinement that encompass safeguards for inmates, staff, and the larger community.~~

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4. Mead and Hunt shall propose a long-term solution incorporating the recommendations of the work groups for the consolidation of functions and operations at the PSB site, as detailed in the Needs Assessment and Master Plan. This long-term solution will include ~~shall be developed as~~ an incremental phased approach to allow the County to implement the program build special needs beds, address mental health and safety needs, and close the Ferris Center as growth and funding allows.

For each phase of the long-term solution, Mead and Hunt shall include strategies (i.e., physical plant and operational) to optimize programmatic, treatment, and behavior management resources that consider, at a minimum:

- a. The functional capacity of the Public Safety Building (PSB);
- b. Utilization of ~~the PSB for~~ medical, mental health and specialized housing and/or services;
- c. Care and custody of youthful offenders in compliance with the Prison Rape Elimination Act (PREA) Standards;
- d. Programmatic use of the PSB; ~~and~~
- e. Discontinuing use of the Ferris Center;
- f. Needs of inmates; and
- g. ~~Potential for r~~ Reduction in jail population due to reduction and elimination of reduce or eliminate racial disparities.

~~5. Mead and Hunt shall meet with each of the three workgroups: 1. Mental Health, Solitary Confinement, and Incarceration; 2. Length of Stay and 3. Alternatives to Incarceration, to provide input and address questions regarding housing and program-related space issues. Mead and Hunt shall attend the first meeting of each group as well as the last meeting of each work group in person, and shall further attend the meetings via telephone when the work groups address short term and long term recommendations.~~

327 ~~For each meeting, Mead and Hunt shall assist and provide professional advice and~~
328 ~~national trend information to help the work groups in developing their respective short-~~
329 ~~and long term recommendations.~~

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331 Mead and Hunt shall deliver, by September 15, 2015, operational and space recommendations,
332 an inmate disaggregation plan, macro staffing deployments and redeployments, operating costs
333 recommendations and preliminary drawings representing these recommendations, a written
334 report of the reasoning for recommendations, and associated opinion of probable project costs
335 of a phased project both in terms of probable repair, renovation and construction costs.

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337 Mead and Hunt shall be paid no more than \$_____.

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339 BE IT FINALLY RESOLVED that, except for the allocation for Mead and Hunt described above,
340 no further use of the eight million dollars set aside will be considered without both the outcomes
341 of the above ~~investigations~~ work group recommendations presented and the approval of the
342 Dane County Board of Supervisors, except to address imminent life and safety issues in the
343 current facilities.