

Testimony For the 2/7/22 Personnel and Finance Committee

Related to 2021Res-319 Change Order #12 (agenda item D.2.)

By Members of the MOSES Justice System Reform Initiative Task Force

We all want to create a jail that is humane, a place where people leave in a healthier condition than when they arrived. We also want to use the jail only when it is necessary for public safety. Building and maintaining such a facility is difficult in the best of times, but it is almost impossible if the public debate is not grounded in the realities of the Dane County criminal justice system.

The following points are intended to clarify some of the issues that were discussed at the 1/25/22 Public Works and Transportation Committee Meeting discussion about Resolution #319. These observations were identified through MOSES research.

Please note that MOSES has actively followed the daily Jail Residents reports since they have been published on the Sheriff's website starting on 7/21/2020. We have also had multiple discussions with Jail staff to learn what the judicial statuses displayed on the report mean.

1. **STAYS:** Because of the concern about a potential surge in the Jail population, there should be a way of identifying all of the individuals who are sentenced but have not yet reported to the Jail.

Judges sometimes convict people and then stay the sentence for a later date. We have noticed some of these individuals appear in the Sheriff's on-line "Current Residents" listing. They are sentenced and are not physically in jail. They show up with a building code of "Outside" and a location code of "STAY." When we look at the CCAP cases for these individuals, the sentencing section states that the sentence was stayed by the court. During the first year of COVID, a small number of individuals were in this status. From 4/1/2020 through 10/1/2020, we identified and followed 26 individuals who had their sentence stayed. Currently only **2** individuals are in this status.

We do see other instances where people are sentenced to time in the Jail with a begin date for the sentence that is several months in the future. They don't appear in the Sheriff's on-line "Current Residents" listing until they show up in jail on the begin date. When we look at CCAP, the sentencing section shows a future jail begin date but does not state that the sentence was stayed.

2. **Huber and Electronic Monitoring:** This was a confusing discussion. The follow-up questions were helpful. Work privileges fall into three categories: "sentenced with Huber,"

“probation sentenced/work release,” and “Extended Supervision w/work release.” During COVID, the Huber Center was closed, but all three of these categories continued, although at lower levels than before COVID. Since the courts have reopened, the number of people in all three categories has increased. The CAMP Program (electronic monitoring) continued during COVID. Recently, it has been going up. It is currently in the 80’s, which is about double the amount during the early part of COVID.

We are pleased that questions were asked about the CAMP policy. These questions are very relevant to the jail population because CAMP is the main way the Sheriff can reduce the jail population. We would like to learn more about the criteria for CAMP eligibility. Following the 1/25/22 Public Works & Transportation Committee meeting, we looked at the information available from the Sheriff’s web pages about people who were in these three categories.

One of our ongoing concerns about the CAMP program is that it serves a higher percentage of White Jail residents than Black Jail residents. This unfortunately results in a higher percentage of Black people in the Jail population. We reviewed all of the individuals in the Sheriff’s Current Residents on-line listing on 1/26/22. In the CAMP program we found that 56 were White, 22 were Black, and 4 were Other. We have seen this disparity every time that we have done this type of review. In looking at these cases, it wasn’t always obvious to us why some of the individuals were not on CAMP. It is worth noting that people with high level felonies are sentenced to prison and are not in the jail after sentencing, so people convicted of horrific crimes are not sentenced to jail and would not be considered for CAMP. We would like to see an independent evaluation of the CAMP program to determine why there is such a disparity and to identify ways to address it. Here are some of our questions: 1) Is the CAMP criteria different from the criteria for signature bond and bail decisions? 2) How long after sentencing are people in Jail before CAMP starts? 3) What are the criteria for ending CAMP for a person? 4) Why do people turn down the opportunity to be out of the Jail in the CAMP program? 5) Why is someone who is out of jail for months on a signature bond before sentencing (with Huber) not put into the CAMP program? With COVID, CAMP is the only way that individuals can exercise their Huber privilege. Is the Sheriff acting as a judge, in effect, by denying CAMP to individuals who were given Huber privileges by the sentencing judge?

- 3. Crisis/Triage Center:** At the Committee meeting, the Sheriff said that the JFA report stated that the Crisis/Triage Center would have no significant effect on our Jail population. Here is the actual statement from JFA: “The proposed Triage Crisis Center could have a modest impact on the number of people admitted to the Jail on an annual basis. Its current focus is on people charged with non-felony charges who are suffering from a mental illness who require a short (up to 23 hours) period of stabilization. It’s not possible to make a precise estimate on the potential impact on the Jail until a more rigorous assessment of the deflection criteria that

would be applied. But one would expect the impact to not exceed 25 people who are currently in the jail system.”

While this may not have a large impact, we feel that modest reductions in multiple areas do add up. Furthermore, every person helped with a better outcome is a positive success.

4. **Federal Prisoner Intransit:** We understand the argument about being good partners with the federal law enforcement system. However, we have seen the numbers fluctuate from a low of 28 to a high of 77. At minimum there should be some analysis of this group and discussions with federal officials to ensure that people are not in the Jail longer than is needed.
5. **Dane County Population Increase:** The discussion about the population increase in Dane County was incomplete. First, we are very concerned with the current percentage of Black people who end up in the Jail relative to the percentage of Black people in the overall population. More attention needs to be paid to understand the causes and to address them. This is one of the biggest challenges facing Dane County.

Secondly, the JFA Institute pointed out that the projected Dane County population growth is primarily older people who are not typically in the Jail. Furthermore, the percentage of White population who end up in the Jail is very small and the projected population increase won't have much impact on the number of White people who end up in the Jail.

6. **Dane County Jail Capacity:** The jail has not had 1013 functional beds for some time. The official stated capacity of the current jail is 1013 beds. The official stated capacity of the now closed Ferris Center is listed as 144 beds, and the second floor has been unused for years. Consequently, the size of the current jail without the Ferris Center is 869 beds, about 50 beds smaller than the 922 bed capacity of the 7 story remodeling proposal.
7. **Operating Costs:** At the public works meeting, the Resolution #319 option was described as increasing operating costs. The counterbalancing savings from not staffing the 7th floor were minimized. The JFA report suggests the savings would be 2.8 million dollars annually reflecting a decrease of 20 deputies.
8. **Options:** There does not seem to be much emphasis on identifying multiple ways for safely reducing the Jail population. Most of JFA's suggestions were just dismissed with little review and discussion. There should be an intense effort to identify multiple ways of reducing the Jail population. It should be an ongoing effort. Here are some examples and ideas.
 - a. Resolution #180 and JFA suggested that having a weekend Initial Appearance (IA) Court would reduce increases in the Jail population that now occur every week because there is no IA Court on weekends. It goes up every weekend and then goes down during the week. We have also noticed that holiday weekends, such as the

Martin Luther King holiday, have an additional impact. Since the Jail has to have enough beds for peak occupancy, the impact of no IA court on weekends and holidays may be greater than JFA's projection of 10.

- b.** Both Resolution #180 and JFA address the need for ongoing Jail population management. The Dane County Jail has recently hired a jail population manager. The CJC recently has had presentations from two counties in other states that have successfully implemented jail population management teams that include representatives from the jail, the judges, the public defenders, prosecutors, and defense. These teams operate with consensus. They help to make sure people are not needlessly stuck waiting. In some instances, they can eliminate the need for bail reduction hearings. They have demonstrated a reduction in jail bed days. We would like to see a jail management team established for Dane County.
 - c.** **All three of the Resolution #556 workgroups identified the need for data as one of their top priorities.** Unfortunately, there is still very little data that is readily available. Additionally, when we listen to Dane County Board committee meetings, we are concerned that the people who are making decisions have a minimal understanding and information about how the Jail works and may be drawing inaccurate conclusions.
- 9. Resolution #319:** We are very concerned about Resolution #319 with the six additional change orders. We feel that some of the six additional change order items are bad ideas. Eliminating in-person visitation is harmful and if implemented would greatly erode trust between the Board and the parts of the community that will be most affected. We fear that, if it went to referendum, that Resolution #319 would be chosen simply because it is cheaper than the full project option.

We would prefer an option that has fewer than 922 beds and that prioritizes the multiple ways of safely keeping people out of the Jail and out of the criminal justice system. There have been some changes that were made under COVID that can and should continue. For instance, police are making fewer arrests and issuing more citations. Additionally, the DOC has significantly reduced the number of people in the Jail by regularly holding out of custody revocation hearings - a policy that they plan to continue - as documented in a report to the Criminal Justice Council.

We feel that Resolution #319 needs to be amended or there needs to be a better option. An amendment to Resolution #319 that reinstated the visitation elevator, the Huber entry, and the kitchen facilities in the jail, while raising the costs, would reduce redesign costs and return the proposal more closely to the options suggested in the JFA report and retain the larger savings achieved by dropping the 7th floor of the project.

The resulting six floor tower version with 794 beds (922 less the 128 currently shown on the 7th floor) would be only 73 beds less than the actual current capacity of 869 (see item 6. above). By including an add-alternate to reinstate the 7th floor, if affordable, once actual costs are better understood next summer, the decision on final size could be deferred for now.

10. Collaboration and Buy-in: The recent discussions about the Jail have involved the County Board and the Sheriff's Office. If Dane County truly wants to control and reduce the Jail population, there should be involvement, collaboration, and buy-in by all parts of the criminal justice system including judges, the DA's Office, Public Defenders, the Sheriff's Office, the County Executive, Law Enforcement, the DOC, directly impacted people, and other relevant partners.

There should be commitment and confidence that we can do this.

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