

Review of Consolidated Jail Plan for Dane County

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Introduction

Dane County, Wisconsin has been developing a capital jail construction project that would serve to consolidate several existing jail facilities into a single jail complex. Known as the Consolidated Jail Plan (CJP), the Dane County Board of Supervisors (BOS) have authorized that \$148 million be made available to complete the project. Design and documents for construction proceeded. At completion of the Architectural Design Development phase in May of 2020 the estimate for construction and project costs revealed the project to be over budget. At that point the project was assessed by the design team and construction manager. That assessment resulted in a reduced scope of work that brought the project back to be within the budget. The project was authorized to proceed with the Construction Documents phase.

During these unusual times, construction pricing and construction schedules have been impacted by the COVID-19 pandemic. Material price increases have been dramatic and to a lesser extent, labor shortages have caused material delays and increased labor costs over this relatively short pandemic period of time. Dane County Public Works recognized these challenges for capital projects. Meetings and communications between Public Works, the architectural team and construction manager during May 2021 led to an update of the construction and project cost estimates. The updated estimate was delivered in August 2021, based upon 60% completed Construction Documents. That estimate revealed the estimated project costs, with the reduced scope of work, to have increased to \$170 million or \$22 million above the \$148 million allocated by the BOS.

Based on this development, the completion of the architectural Construction Documents currently at 60% completion was put on pause by the Department of Public Works. The Dane County Criminal Justice Council (CJC) requested staff engage The JFA Institute, who was then contracted by the BOS to determine what actions could be taken to reduce the projected construction costs from \$170 million to the approved \$148 million.

This report summarizes the JFA analysis and recommendations. In making these recommendations JFA staff completed a site visit of each existing Dane County jail facility, reviewed the Dane County Jail Update Study Option 3 Final Report, dated June 2017, prepared by Mead & Hunt in association with Potter Lawson and Pulitzer Bogard Associates, LLC; Dane County Jail Consolidation Design Development report, dated May 2020, prepared by Mead & Hunt in association with Potter Lawson, HDR, Inc. and Gilbane Company; 60% completed Construction Documents; and 60% CD (Cost) Estimate, dated August 10, 2021, prepared by Concord Group (Specialized construction cost estimating company and sub-contractor for Gilbane Company); and other miscellaneous reports and information related to the planned design and construction.

We also interviewed staff from Dane County Public Works, Criminal Justice Council, the contracted architectural team (Mead and Hunt and Potter Lawson) and Construction Manager (Gilbane Company); Updated jail population data were provided by the Dane County Sheriff's Office.

Finally, briefings were held with the BOS, Sheriff, other County agencies, the architects and construction manager to present our findings and options for reducing the costs of the CJP project.

Current Situation

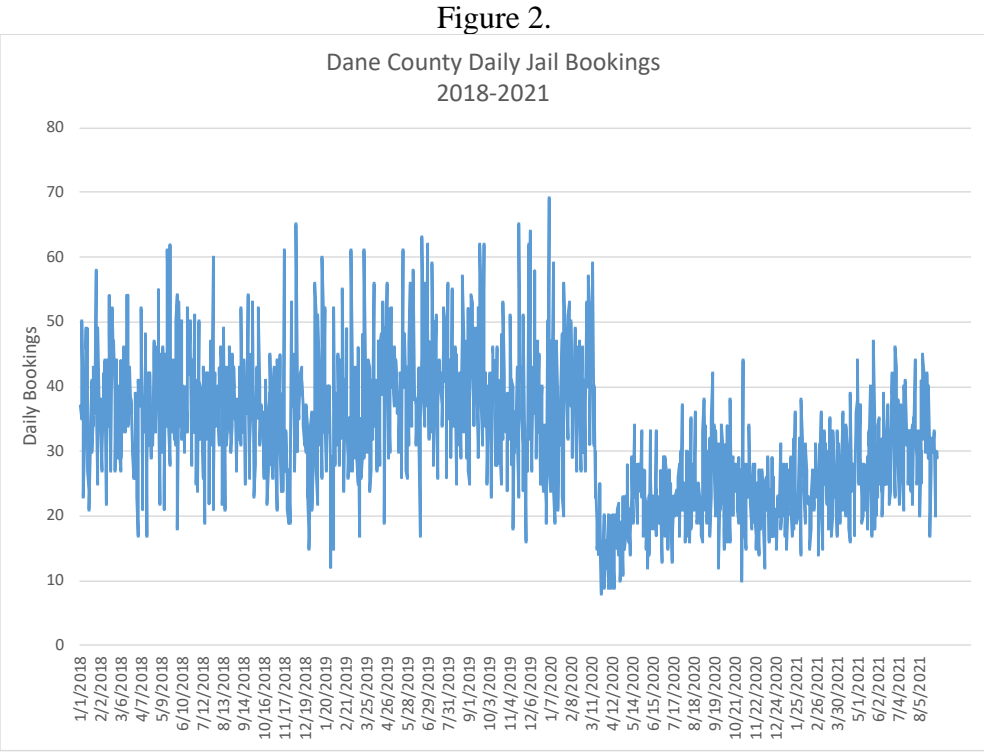
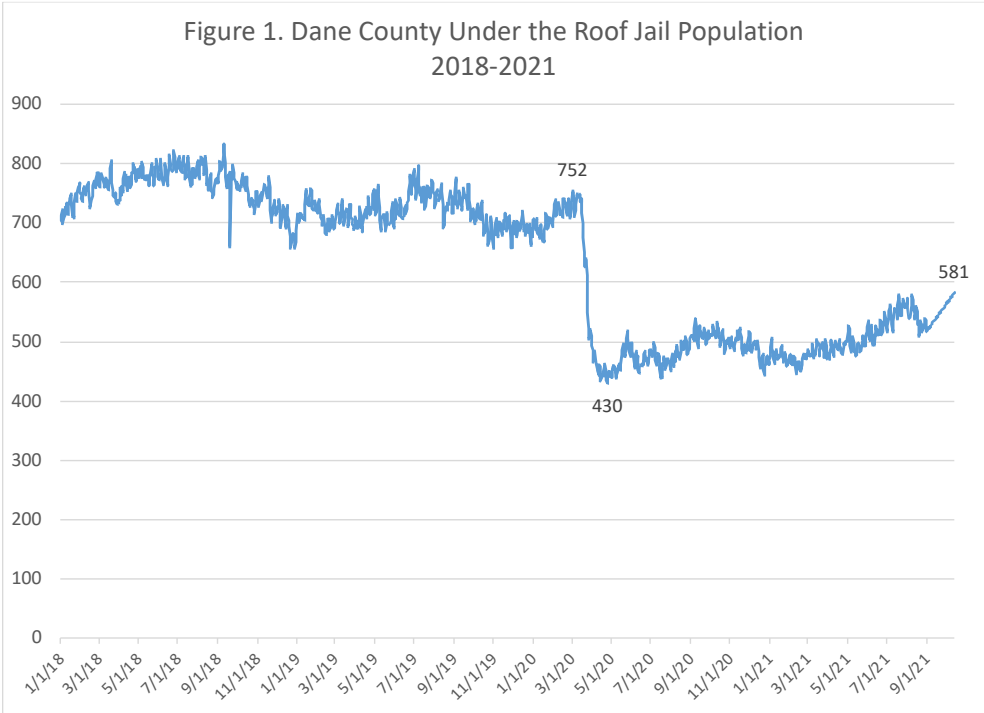
Together, the estimated material and labor costs for the Dane County area construction market experienced an overall construction cost spike of approximately 15% between May 2020 and July 2021. Overall construction material and labor cost increases have slowed but continue to rise. Some material prices have reduced, others continue to rise; however, it is very doubtful that overall, they will reduce to pre-COVID 19 levels. It is expected, over time, costs will stabilize and perhaps decline but will remain at a level higher than pre- COVID 19. Recent increases in oil prices will have additional construction cost impacts. At this time, future construction cost increases or reductions cannot be reliably predicted. Consequently, delays in starting any capital project, time becomes an issue for the project costing and purchasing. Long delays before moving forward may allow additional labor and material costs to further impact this initiative either upward or downward.

The current jail system consists of three facilities that have a combined bed capacity of 950 (Table 1). Under the JCP, only a renovated Public Safety Building (PSB) would remain with City-County Building (floors 6 and 7) and the Ferris Huber Center permanently closed. Currently the Huber Center is closed which results in a current jail capacity of 830 beds.

Table 1. Current and Projected Bed Capacities and Jail Population

Facility	Bed Capacity
City-County Building – Floors 6 and 7	341
Public Safety Building	465
Ferris Huber Center (closed)	144
Totals	950
Less Closed Ferris Huber Center	806
Current Under the Roof Population 10/18/21	581
Current Bed Needs at 15% Peaking/Classification	669
Proposed New System Bed Capacity	922
Net Excess Beds Based on Current Jail Population	+253

The reasons why Ferris Center is closed is due to the sudden drop in the jail population which occurred as the COVID-19 pandemic spread throughout the county (Figure 1). The primary reason for the jail population decline was the associated declines in jail bookings which was related to drops in some crimes and adoption of alternatives to arrest for non-violent misdemeanor or low level felony crimes by the county’s law enforcement agencies (Figure 2). For example, the Madison Police Department reported an overall 5% decline in all crimes while the Sheriff’s Office reported a decline in violent crimes but an increase in property crimes. The important statistic is the decline in adult arrests. For example, the MPD reported 6,027 adult arrests in 2020



as opposed to 7,891 adult arrests in 2019.¹ This drop in adult arrests had a major impact on jail bookings and the jail population.

More recently the jail population has been trending upwards. As of October 15, 2021 the jail population was 581 (Figure 1). Assuming the jail population were to stabilize at that approximate level, the bed need, taking into account population fluctuations and classification needs, would be 669 or 253 below the proposed JCP 922 level. The key question addressed in this report is the extent to which the jail population can be stabilized at the 600 or less level or will it continue to trend upwards to its former levels.

It should also be noted here that the proposed JCP 922 bed capacity is based on an excessive peaking/classification factor of 20%.² While there is no standard for establishing a peaking and classification level, they tend to range from 10-15% not 20%. These rates take into account the seasonable fluctuation in a jail population plus the need to have sufficient vacancies at all times to house special management populations.

In terms of seasonal fluctuation, the rate is 12% for Dane County. This is calculated by first computing the average jail population between January 1, 2018 and March 15, 2021 which was 737. The peak jail population for that time period was 834. The difference between the average and the peak population is 97 or 13% above the average jail population. Another 2% cushion is added to account for additional classification needs for a total of 15%. This rate is consistent with the range suggested by the National Institute of Corrections (NIC) 2009 publication “Jail Capacity Planning Guide Jail Population Management A Systems Approach”. In that publication the calculated peaking/classification rate was 12%. If the 15% rate is used as opposed to the 20% proposed by Mead & Hunt, the JCP bed need drops from 922 to 876 which is well above the peak jail population of 834 between January 1, 2018 – March 15, 2021.

The impact of the jail population reductions on the attributes of the jail population are shown in Table 2. Here one can see that the population has “harden” in terms of the type of charges the person is charged with or has been convicted of. Specifically, the percent of people with a felony level crime has increased from 72% to 77% and those charged with a violent felony level crime has increased from 24% to 37%. Conversely, those with misdemeanor crimes has decreased from 18% to 16%. The County requested a specific statistic on those charged or convicted of disorderly conduct. That group has always represented a small percent of the jail population and has further declined from 1.5% to 0.5%.

As the jail population has declined, the average length of stay (LOS) to date has increased from 91.4 days to 115.1 days. These data show that addressing the current LOS will be a key factor for keeping the jail population at its current level.

In terms of legal status, there are a wide variety of people being jailed under various legal statuses. Table 3 is based on the jail population that is “under the roof” as of September 21, 2021. While

¹ See <https://www.cityofmadison.com/police/documents/annualReport2019.pdf> and <https://www.cityofmadison.com/police/documents/annualReport2020.pdf>.

² See Dane County Jail Update Study. Final Report. December 2016. Mean & Hunt.

the largest number are people in pretrial status, the percentage is relatively low compared to other jurisdictions. There are large numbers of people with probation holds (either with a new charge or just a violation), being held for the Federal government, and recently booked and in the pre-arraignment phase. The under the roof Huber sentenced population was only 21 residents which has allowed the Ferris facility to close.

**Table 2. Current Jail Population - Most Serious Offense
April 2019 versus July 23, 2021**

Offense	April 25, 2019			July 23, 2021			Numeric Change	Percent Change
	Number	Percent	Average Length of Stay to Date (days)	Number	Percent	Average Length of Stay to Date (days)		
Total	825	100.0%	91.4	655	100.0%	115.1	-170	-21%
Total Felony	594	72.0%	91.7	507	77.4%	107.4	-87	-15%
Felony Violent	197	23.9%	139.6	243	37.1%	157.7	46	23%
Murder	22	2.7%	353.9	50	7.6%	338.7	28	127%
Sex	38	4.6%	201.5	46	7.0%	210.7	8	21%
Assault/battery/manslaughter	32	3.9%	116.7	51	7.8%	121.1	19	59%
Robbery	16	1.9%	157.3	8	1.2%	115.7	-8	-50%
Other Violent	89	10.8%	98.2	88	13.4%	134.1	-1	-1%
Felony Drug	61	7.4%	95.2	50	7.6%	91.7	-11	-18%
Drug Sale	36	4.4%	110.4	30	4.6%	119.7	-6	-17%
Drug Possession	25	3.0%	73.4	20	3.1%	49.6	-5	-20%
Felony Non-Violent	336	40.7%	62.9	214	32.7%	54.1	-122	-36%
Burglary	17	2.1%	89.4	12	1.8%	95.4	-5	-29%
Fraud/forgery	16	1.9%	149.0	8	1.2%	114.1	-8	-50%
Theft	30	3.6%	88.2	12	1.8%	41.7	-18	-60%
DUI	64	7.8%	114.2	59	9.0%	110.0	-5	-8%
Weapons	4	0.5%	142.9	10	1.5%	86.4	6	150%
Other Non-Violent	73	8.8%	59.1	28	4.3%	41.5	-45	-62%
Other Property	29	3.5%	82.3	14	2.1%	36.2	-15	-52%
Probation/parole violation	103	12.5%	47.9	71	10.8%	31.0	-32	-31%
Total Misdemeanor	150	18.2%	40.6	107	16.3%	74.4	-43	-29%
Violent	32	3.9%	44.2	27	4.1%	62.2	-5	-16%
Drug	3	0.4%	2.2	5	0.8%	36.8	2	67%
Property	21	2.5%	37.7	3	0.5%	167.4	-18	-86%
Disorderly conduct	12	1.5%	24.0	7	0.5%	40.2	-5	-42%
Other Non-Violent	82	9.9%	43.0	65	11.0%	90.8	-17	-21%
Civil-State	81	9.8%	81.6	41	6.3%	62.4	-40	-49%

**Table 3. Legal Status of Residents “Under the Roof”
September 21, 2021**

Judicial Status	Female	Male	Total
Total	62	461	523
Pretrial	18	135	153
Pretrial/Hold/Probation Hold	5	85	90
Parole/Probation Violation	7	62	69
Federal Resident In-transit	5	55	60
Pre-arraignment	12	33	45
Presentence Investigation	4	22	26
ES Sanctions	0	22	22
Sentenced With Huber	4	17	21
State Resident In-transit	4	14	18
Pre-arraignment/Probation	2	15	17
Prob Sentence/Work Release	2	12	14
Non-Fed Resident In-transit	1	4	5
Sentenced/Outside Hold	0	4	4
Prob Sentence/No Work Release	0	1	1

Table 4. Option #1; Modifying Tower Bed Capacity and Renovating PSB

	Scenario # 1 PSB and 5 Floor Tower	Scenario # 2 PSB and 6 Level Tower	Scenario #3 PSB and 7 level Tower
PSB Beds	302	302	302
Tower Beds	364	492	620
Total Beds	666	794	922
Operational Bed Capacity @ 85%	566	675	784
Youthful Offenders Beds	28	28	28
M & F Acute Medical Health Beds	74	74	74
M & F Acute, Sub-Acute Mental Health Beds	39	39	39
Estimated Capital Costs	\$146.4 million	\$158.9 million	\$170.1 million
PSB Renovation Costs	\$29.2 million	\$29.2 million	\$29.2 million
Tower Construction Costs	\$117.2 million	\$129.7 million	\$140.9 million
Estimated Operational Costs	\$31.5 million	\$33.7 million	\$36.5 million

Consolidation Jail Plan Options

With these trends in mind, it's clear that reducing the JCP costs to within the BOS allocated budget of \$148 million will require a major reduction in the size of the proposed Tower building *and/or the postponing the proposed renovation of the PSB* (emphasis added as this option has not been discussed by JFA in previous meetings with Dane County officials). In this section of the report we assess both of these options.

Option #1: Reduce the Size of the Tower facility and Renovate the PSB

Option #1 would reduce the size of the proposed seven floor Tower facility and proceeding with the renovation of the PSB. Table 4 summarizes three scenarios for Option #1. For each scenario the following cost assumptions are made:

1. Number of deputies assigned to Tower 7th Floor (estimated at 20)
2. Number of deputies assigned to Tower 6th Floor (estimated at 20)
3. Number of deputies assigned to Huber and Medical units (estimated at 6)
4. Cost per deputy (estimated at \$109,027 per year.
5. Net operational savings of \$5 million per year if above staff are not needed
6. 10 year operating savings of \$62 million @ 2.25 average inflation rate

The only scenario that would reduce the construction costs to the \$148 million level is Scenario #1 which would eliminate the construction of floors 6 and 7. This option would cost approximately \$146 million and an annual operating cost of \$31.5 million. Conversely, if the County proceeds with the seven floor Tower facility as presently designed (Scenario 3) the capital costs are \$170.1 million and a significantly higher annual operating costs of \$36.5 million. Scenario 2 assumes that a six floor Tower facility is constructed at a cost of \$158.9 million and an operating cost of \$33.7 million. As noted earlier, these three scenarios include the substantial and costly \$29.2 million renovation of the PSB. Specifically, the proposed PSB renovation makes the following adjustments to the current PSB:

1. Replaces 200 4th floor minimum security dormitory beds with a 40 bed male medical acute housing and infirmary wards unit, and, a 34 bed mental health bed housing unit;
2. Reduces the number of dormitory beds on the 1st floor by 48 beds by replacing them with six eight-bed dormitory units in the new Tower facility;
3. Upgrades and expands the kitchen and kitchen support space and requirements in the basement.

These modifications reduce the PSB bed capacity to 302 beds. Under Scenario #1, with the renovation of the PSB, the total JCP bed capacity is 666. Assuming a peaking/classification factor of 15% to accommodate daily fluctuations in the jail population and the need to maintain a certain number of vacant beds, the operational capacity is 566 people.

As noted earlier, the jail population has been trending upwards and has come close to 600 which is well above the 566 operational capacity. So in order for Option #1/Scenario #1 to be viable it

would need to implement a number of reforms that would reduce and maintain the current jail population at the 566 level.

Option #2: Construct A Redesigned Tower Facility with no PSB Renovation

The second major option would be to forgo the renovation of the PSB and only construct a redesigned Tower facility that will meet the security and programmatic needs of those residents who cannot be housed in the PSB.

The rationale for this option is as follows. The primary objective for the JCP was to close the 341 bed aging and dysfunctional 6th and 7th Floors in the CCB. Currently there are about 250 people housed in that facility.

It is assumed that people now housed in the PSB are being properly housed and classified from a security perspective in the PSB 472 bed facility. The most recent snapshot of the jail population shows that of the 585 jail population 335 are housed in the PSB while 250 are residing in the CCB. It is these 250 people now assigned to the CCB who would occupy most of the beds provided by the Towers facility.

The original JCP plan consisted of simply adding several floors to the PSB facility without renovating the existing four floors so that the CCB floors could be closed. However, it was discovered that the PSB structure could not accommodate additional floors being added to the existing facility. This gave birth to the concept of adding new floors via the Tower building that would be constructed next to the PSB. Option #2 adheres to that original goal of only providing sufficient bed space to house the current CCB population.

A closer look at the PSB show that it consists largely 12, 14, 28 and 50 person dorms that can only house mostly minimum but also medium custody residents (Table 5). It cannot provide adequate housing for general population maximum custody residents, those assigned to restricted housing units (e.g., administrative segregation, protective custody, etc.) and those with sub-acute and acute levels of mental illnesses.

Table 5. Current PSB Bed Capacity by Type of Beds

Single Cells	Double Cells	Dormitory Beds	No. of Beds
20	0	445	465

With regard to medical care, there is a need to include in the Tower facility an upgraded and larger medical clinic, but there is no necessary need to construct a 49 bed infirmary capacity as currently proposed in the JCP. Many jails the size of the Dane County jail rely on out-sourcing medical care that requires hospitalization to local hospital who are better equipped to provide such services. This is the current method used in Dane County and should be continued in the future. From January 1, 2019 through October 12, 2021 there were only 324 hospital admissions with an average

LOS of 1.3 days. This means the average hospital population is in the zero to 2 range. Clearly a 49 bed infirmary is excessive.

With regard to the need for an upgraded kitchen and associated space for kitchen supplies, the current system of out-sourcing the preparation of the meals seems to be functioning in a satisfactory manner and can continue in the future. While such enhancements might be desirable they are not essential

With these issues in mind, it would be feasible to construct the scaled down 5 story Tower building that would have an overall bed capacity of 377 beds. The beds would consist of cells and would house a mostly male population. There would be a 60 bed mental health unit (50 male and 10 female) and a 36 bed stepdown unit.

The estimated capital cost for Option #2 is \$138 million which would be well below the \$148 million that has been allocated by the BOS. The total bed capacity would be 842 with an operational capacity of 716 which is well above the current jail population of approximately 585. The type of beds that would exist would consist of approximately 191 single cells, 206 double cells, and 445 dormitory beds (all in the PSB). .

Table 6. Summary of Option #2: Construct Tower Building With No PSB Renovation

Bed Capacities	Bed Capacity
New Tower	377
PSB	465
Total Beds	842
Operating Capacity @ 85% of Beds	716
Types of Beds	
Single Cells	191
Double Cells	206
Dorms	445
Mental Health Beds	
Acute/Sub-Acute	60
Stepdown	36
Construction Costs	\$138 million

Summary Recommendations

If one assumes that the primary purpose of the JCP is to close the dysfunctional and CCB and stay within the \$148 million allocated for such a purpose the following recommendations are made:

1. Adopt Option #2 which eliminates the unnecessary PSB renovation plans to create infirmary, upgraded and expanded basement kitchen and related support functions.

2. Redesign the proposed Tower facility to include new medical clinic, acute/step-down mental health units, and houses medium and maximum security residents now residing in the CCB.
3. Implement population control measures to ensure the population remains below 716 which would include:
 - a. Increasing the number of Huber Sentenced Residents on EM;
 - b. Removing all Youthful Residents under age 17 and House them in the Empty Juvenile Detention unit;
 - c. Terminating/reducing Federal Contract for Housing Federal Transit Residents;
 - d. Implementing Weekend Initial Appearance Court ;
 - e. Creating a Jail Population Review Panel for Detainees in Custody for more Than 120 days; and,
 - f. Funding the Crisis Stabilization Center with surpluses from the \$148 million JCP construction costs.
4. Regardless of which option is adopted by the County, it should recalculate bed need using a 15% peaking/classification factor and not the 20% rate.

Specific Questions from the County Executive relating to efforts to minimize the jail population

1. *What impact would conducting weekend court have on limiting stays until Monday for initial appearance and what would be the overall impact on reducing the jail's ADP?*

To address this issue, it was possible to calculate the change in the ADP from Friday to Monday and compared the daily change with the week-day daily rate (Monday – Friday). For the month of August 2021, there an average difference in the weekend rate versus the week days rate of +10. One can assume that the higher weekend rate is due to the absence of court officials available to review charges at the initial arraignment hearing.

2. *What impact would reducing average length of stay for the sentenced population by 10 percent.*

The last data set that is available consisted of people who were released by completion of their sentences in 2018. That analysis showed that the average LOS for people completing their sentences was 73 days. If that number was reduced by 10%, the associated decline in the jail population would be 31 residents. A reduction of 10 days would reduce the jail population by 42 residents. Such reductions it the length of stay will have no impact on public safety and will serve to lower recidivism rates.³

³ See **Estimated Cost Savings from a Reduced Jail Population and Closure of Men's Central Jail and Jail Population Projections Final Report**, 2021. Denver, CO: The JFA Institute for a recent study of recidivism and length of stay for a major jail system. Also see the following studies of imprisonment and recidivism and/or crime rates. DeFina, Robert H., and Thomas Arvanites. M. 2002. The weak effect of imprisonment on crime: 1971-1998. *Social Science Quarterly* 83: 635-653. Rhodes, William, Gerald G. Gaes, Ryan Kling, and Christopher Cutler.

3. *What impact would there be to our ADP if the jail adopted a time limit for P&P holds for those being held on an infraction but who have not committed a new crime? For instance, consider a policy where we will not accept any new P&P holds if someone has been in custody on a violation where no new crime was committed.*

According to the Sheriff's Office, there were 46 people in the jail on October 19, 2021 that were being held as a probation or parole violator for a technical violation with no other pending criminal charges. This is a significant number that deserves further analysis to better understand the nature of the violations and how long these people have been in custody awaiting their respective violation hearing.

4. *What impact would further negotiations with the judges have on possibly moving more Huber-eligible people to electronic monitoring?*

There are about 25 people sentenced under Huber who have been approved but remain in the jail. Of that group eight do not have suitable housing and another 10 had positive UAs or drinking prior to enrolling in the program. There are another 8 people where the County Counsel has opined that people with civil commitments cannot be placed on EM. In short, the number of people that can be placed on EM who are now in the jail is relatively small but can be reduced further.

5. *What would be the impact of funding the triage center on jail admissions?*

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.

2012. Relationship between Prison Length of Stay and Recidivism: A study using regression discontinuity and instrumental variables with multiple break points. *Criminology & Public Policy* 17:731-769. Vieraitis, Lynne M., Tomislav V. Kovandzic, and Thomas V. Marvell. 2007. The criminogenic effects of imprisonment: Evidence from state panel data, 1974-2002. *Criminology & Public Policy* 6: 589-622.

Table 6. Major Reasons Current Approved Huber Jail Population Remains Detained

Sentenced w/Huber & work release	Female	Male	Total	
Total	8	23	31	
Approved-Needs Housing	2	6	8	Housing issues include: do not live in Dane County, their victim lives at the address, do not want to comply with conditions of program (no alcohol or persons with warrants)
Approved-Needs Negative UA	4	5	9	Their urine sample is currently positive for controlled substances
Approved-Resident (they) Declined	1	2	3	They prefer to stay in custody. Ex. they are getting out soon
Approved-Pending Case Management	0	2	2	Qualify for program with case management. Social Workers are setting up substance and/or safety plans before they are enrolled in the program
Approved-Positive PBT at Booking	1	0	1	Reported to be enrolled in the program but had alcohol in their system (drank before reporting for the appointment)
Denied-Contempt Civil Commitment	0	8	8	Per Corporation Council the Sheriff does not have the authority to enroll Contempt Civil Commitments on the EM program

6. *What impact would not bringing medical beds in-house have on our capacity needs? What is the cost/benefit to the county of housing those people in hospitals under supervision as opposed to in-house?*

Currently people who require hospitalized care are being transferred to one of three local hospitals for such care. There are no known complaints or issues regarding the level of medical care being provided to under this arrangement. There is a cost associated with these transfers in that correctional officers are needed to escort the patient to the hospital and supervise them until they are returned to the jail. However, if the County were to create an infirmary in the jail, there would be greater costs associated as that unit would have to be staffed 24 hours a day, 7 days week regardless of the number of patients in the infirmary. It is not certain that an infirmary operated by a private correctional health provider will be able to provide adequate care. There are a number of consent decrees in place due the lack of adequate medical care being provided by private correctional health care companies in jails and prisons.