

1 SUB ____ to 2014 RES-556 (PROPOSED- STUBBS)

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

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

8
9 Dane County has worked on reducing racial disparities in criminal justice for several years and
10 has implemented some promising strategies that resulted from the collective work of community
11 and county via the Dane County Task Force on Racial Disparities in Criminal Justice Report
12 (2009), as well as the Disproportionate Minority Contact Juvenile Justice Solutions Workgroup
13 Report (2009). Additional reports and assistance has been provided by: The Sentencing
14 Project, American Bar Association, Bureau of Justice Assistance, and The Center for Court
15 Innovation, University of Wisconsin Law School-Restorative Justice. Other influential reports
16 and research includes: The State of Black Madison—Before the Tipping Point (2009), and Race
17 to Equity (2014).

18
19 ~~Despite progress and important initiatives, such as the new Community Restorative Court, Dane~~
20 ~~County's racial disparities in criminal justice continue to persist. In fact, Dane County has funded~~
21 ~~new initiatives, such as the Community Restorative Court. Even though the Community~~
22 ~~Restorative Court has not begun, we are hopeful in this new approach to justice.~~

23
24 It is critical that Dane County engage the larger community to address inequities in criminal
25 justice, specifically around mental health and incarceration, solitary confinement and length of
26 stay, and alternatives to incarceration. Additionally, Dane County must address the immediate
27 health and safety issues within the City-County Building Jail.

28 **Background:**

29 The lack of availability of reliable information regarding who is in the criminal justice system and
30 why continues to be a challenge in Dane County. Current and accurate measurement of

31 criminal justice data is integral to system reform and measuring success. While broad statistics
32 help to draw attention to problems, system change must be accompanied by better, more
33 precise and detailed data as to the jail population, improving integration of information with state
34 data systems, and increasing capacity for statistical analysis.

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

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

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

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

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

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

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

58

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

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

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

69

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

73

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

78

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

84

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

88

89 **Length of Stay**

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

96

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

103

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

109

110 **Alternatives to Incarceration:**

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

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

117

118 **Current Jail Safety Issues:**

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

122

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

131

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

139 1a. A mental health toolkit or mental health court to support Dane County's Circuit Court
140 judges. This includes but is not limited to: determining what charges/offenses to be
141 considered; screening tools or assessment to determine placement; options of
142 treatments/services need to be available (especially for individuals without health

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

145 1b. A stand-alone facility that serves individuals with: 1) mental health needs and who
146 are not incarcerated by the Sheriff, 2) mental health needs and who are in police custody
147 and need an alternative to jail placement, and 3) mental health needs and who are in the
148 Sheriff's custody. As part of a potential facility, investigate a mental health crisis
149 intervention field team that can be available to all Dane County law enforcement, fire,
150 and emergency entities, 24 hours a day.

151 1c. Eliminating or greatly reducing the use of solitary confinement. This includes but is
152 not limited to: creating mental health beds, medical and special needs beds; any other
153 space options that provide for those incarcerated with medical and mental health needs.
154 Additionally, this shall include investigating the impact of solitary confinement in any form
155 on incarcerated people whether it is used due to space needs or as a tool for changing
156 behavior. This includes but is not limited to: the long-term outcome of solitary
157 confinement in behavior management; the effects of solitary confinement on recidivism;
158 alternative tools to solitary confinement to address various situations that keep the safety
159 of the inmate, deputy and larger jail community in mind.

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

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

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

179

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

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

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

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

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

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

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

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

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

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

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

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

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

241

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

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

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

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

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

261
262 Mead and Hunt shall recommend short-term solutions to mitigate vulnerabilities and life
263 safety concerns in the CCB Jail. The short-term recommendations shall consider staffing
264 and procedural options for life safety mitigation, as well as upgrades to door controls,
265 voice communication systems, video surveillance technology, door hardware and locking
266 devices, detention barriers, and other security systems consistent with industry
267 standards. For the purposes of this study, short-term solutions shall not exceed two and
268 one half (2 ½) years and are further defined as ones that allow for the implementation of
269 a long-term solution.

270
271 2. Mead and Hunt shall meet with each of the three workgroups: 1. Mental Health, Solitary
272 Confinement, and Incarceration; 2. Length of Stay and 3. Alternatives to Incarceration,
273 to provide input and address questions regarding housing and program-related space
274 issues. Mead and Hunt shall attend the first meeting of each group as well as the last
275 meeting of each work group in person, and shall further attend the meetings via
276 telephone when the work groups address short term and long term recommendations.

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

281
282 3. ~~With consideration of all input from the workgroups, Mead and Hunt shall develop~~
283 ~~plans to identify and propose alternatives for eliminating or greatly reducing the use~~
284 ~~of solitary confinement, which may include creating specialized beds such mental health~~
285 ~~beds, medical beds, and restrictive housing beds that carry out the recommendations of~~
286 ~~the Mental Health, Solitary Confinement, and Incarceration workgroup. and establishing~~
287 ~~supportive jail-based treatments and interventions. Additionally, with consideration of all~~
288 ~~input from the work groups, Mead and Hunt shall summarize the prevailing research as it~~
289 ~~relates to the impact of solitary confinement for those with mental health issues or as a~~
290 ~~tool for changing or managing behavior, and on recidivism; and alternatives to solitary~~
291 ~~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 reduction in jail population to 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.~~

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

328
329 Mead and Hunt shall deliver, by September 15, 2015, operational and space recommendations,
330 an inmate disaggregation plan, macro staffing deployments and redeployments, operating costs
331 recommendations and preliminary drawings representing these recommendations, a written
332 report of the reasoning for recommendations, and associated opinion of probable project costs
333 of a phased project both in terms of probable repair, renovation and construction costs.

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

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