

CRIMINAL JUSTICE SYSTEM ASSESSMENT

Final Report



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Dane County Board of Supervisors
Dane County, Wisconsin



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Criminal Justice System Assessment: Final Report

Introduction

In 2006, the Dane County Board of Supervisors released a request for an audit, a comprehensive criminal justice system assessment, with emphasis on a jail population management review. The proposal of the Institute for Law and Policy Planning (ILPP) noted that jails are usually on the receiving end of inefficiencies throughout the system, and that these system influences should be studied to better manage crowding, resources and public safety.

ILPP had worked with over 300 counties over 35 years to resolve inefficiencies that lead to higher public safety costs without increased public safety. Following a review and interview process, ILPP was awarded the project.

The proposed work plan involved reviewing existing data and many prior reports by the County, gathering extensive new data, soliciting forthcoming input from justice system agencies, and a full draft resulting in extensive comments.

No one could have attended the early meetings and interviews, or later read the comments on the draft, without realizing the enormous commitment that elected officials, managers and supervisors, and staff have to the county, its residents, and especially to their public safety. This final report is therefore aimed at public safety, and it is beholden to the fine people who work in the system and to their efforts aimed at improving public safety.

Dane County comprises a complex governmental system. ILPP has been in communication with each branch of government, as well as all public safety agencies: State and local law enforcement, offices involved in the adjudication process, and corrections. Each agency demonstrated a strong commitment to taxpayers, professionalism, and public safety.

This report first provides an overview of the entire system and introduces the analyses set out later, weaving together the various elements that make up the report. Because the report is comprehensive, it begins with generalities and data, and then moves to analyses of specific agencies and functions. It ends with an action plan and an appendix of public safety resources. The final report has been modified from the draft to act as a primer for change.

The large section on data includes analyses of intake, booking and arrests, case flow through a tracking analysis, and a new section on comparisons with other Wisconsin counties and a neighboring state.

The next chapters comprise detailed studies of the agencies, following case processing from arrest and incarceration through adjudication and community corrections. Each offers findings and recommendations aimed at refining system

management and producing efficiencies by reducing unnecessary workload, jail bed demand, and escalating costs, all aimed at improving public safety.

The chapters on agencies and stages of the process are not agency audits, but rather lay out key issues relating to system dynamics. They feature aspects of the Dane County justice system management, procedure and culture that impact public safety, crowding, and budget inefficiencies.

Changes in the Final Report from the Draft Report

For the most part, the comments on the draft report were very helpful and were almost all responded to by corrections, explanations, elaborations and some objections. Quite a few recommendations were changed, eliminated, expanded, and strengthened as a result. The only comments that were not responded to were those which seemed to suggest that not much that was recommended would work, as they seemed to represent simple resistance to change.

Added to the appendix are a major comparative study of Wisconsin counties and a neighboring state, various appendices on resource material including a customized draft of bylaws and a mission statement, organization chart, etc., for the recommended reorganization of the Criminal Justice Group. It additionally includes materials such as an official job description and extensive references to other jurisdictions where most recommendations have been effectuated. There is a large new chapter, an Action Plan, aimed at supporting implementation of the reports major recommendations. All materials, such as the list of contacts and bibliography, have been significantly updated.

The reader should remember that change is a difficult undertaking.

ILPP has found the need for a great many changes, some major, to modernize the system with best practice, maximize scarce public safety resources, and change the paradigm and culture of the County's progressive but generally traditional justice system. Initially, there was some resistance. County leaders are predictably proud of their work. In light of the difficulty of change, and the investment in the past, citizens should expect some resistance by long established office holders. However, they should also expect a very positive and very aggressive approach to making the well documented needed changes. The public safety system cannot be static in changing times, and now is the time for serious and system-wide reengineering to improve public safety.

I. System Assessment

The study commissioned by the County Board sought to identify causes of and solutions to crowding and rising costs throughout the criminal justice system, aimed at slowing and reversing needless workload growth in order to better focus on public safety.

Reductions in unnecessary workload growth will help postpone capital construction and delay and avoid substantial leaps in projected agency programming and facility requirements. Thus, they will reduce the burdens of excessive caseloads and improve the morale of management and staff.

These changes and others will produce enormous benefits for public safety by freeing wasted resources and seizing new opportunities for preventing recidivism.

The report suggests many new approaches, but chiefly recommends fundamental changes in the way the justice system is managed. Many recommendations set forth in this chapter have been implemented in other jurisdictions. For a listing of some of those jurisdictions, see the chart included in the Action Plan. ILPP recommends different approaches to operational decision-making aimed at improving public safety performance in six general areas:

1. **Improved analysis of criminal justice system problems.** The system is not yet able to analyze the underlying causes of recidivism, crowding, escalating costs, nor understand the most powerful solutions.
2. **Improved communication, cooperation, and coordination.** While policy groups and committees work to find ways to expand capacity and control crowding, they work without a “big picture” approach to public safety, an objective independent outside perspective, or adequate management or staffing to coordinate improvements.
3. **Clearer goals, objectives and priorities.** There is no overarching mission statement aimed at reducing recidivism, nor a focus on accomplishing public safety objectives to reduce wasteful workload. A process of efficiently identifying public safety system priorities is lacking.
4. **More effective allocation of resources.** Budgets are incrementally planned by agency or program. Systemic planning with a full system budget perspective concentrated on public safety, This focus is needed to allocated limited federal, state and local resources.

5. **Improved criminal justice programs and services.** Programs appear well implemented but overlap, are not aligned with public safety priorities or the goal of reducing workload, and are not rationed by risk assessments and data-based analyses of impacts or outcome.
6. **Improved capacity and quality of personnel.** The system's culture places value on hard work over workload management, "counts" in an effort to exercise apparent "control" over public safety measures, and reflexively chooses policies that suggest "law and order" to the public without looking for answers that produce real public safety outcomes.

The justice system, in letting the current amount of work direct its efforts, is being negatively affected by this focus on merely coping with the mounting workload. This counters the now widely held belief among national justice system experts that jurisdictions cannot "build or spend their way out of crowding." Building (both programs and facilities) to cope with or manage workload often has the confounding effect of inflaming the workload, creating the need for yet more programs and buildings. In the end, agencies are not confronting the need to directly improve public safety by tuning up the system in that focused direction. Doing "more of the same" is a strategy that can result in bankruptcy without improvement in public safety.

A New Business Model

The County needs to develop the ability to better manage the size and character of the justice system workload. Management must willingly make decisions to slow or even reverse workload growth in favor of directing more energy toward public safety rather than maintaining the existing overloaded system.

ILPP proposes a new business model for improving the justice system that seeks to invest "the next marginal dollar" and monies saved from recommended improvements to advance the planning, management and information sharing infrastructure that supports the system's efficiency and effectiveness in obtaining outcomes that improve public safety. The report recommends investing in organizational development. The objective is to obtain improved decision-making at the policy, program, and operational planning levels in order to focus the system on the overriding objective.

For example, average length of stay (ALS) has grown independently of and much faster than population, crime, arrests and bookings growth. ALS is the most important driver of jail crowding and budget. Notably, length of stay is highly susceptible to improved management. Minor offenders who are briefly in-custody could be quickly transported out of the system, thereby reducing the unnecessarily long stays of other smaller groups. Better use of the jail and budget directly results in a likelihood of improved public safety.

This report will focus on two strategies for containing workload growth:

1. Reduce admissions at key justice system decision points, and
2. Reduce length of stay and case processing times throughout the system.

These strategies are not “liberal”, in releasing hardened criminals. Rather they are conservative and oriented toward “law and order.” The intent is reserving hardened jail beds for dangerous criminals, and more seriously punishing minor offenders at a significantly lower cost.

Based on major reviews of prior studies, reports, and plans, the predominant strategy for containing caseload growth, and thus population growth, has been to expand capacity of jail space, other facilities and alternative programs. This growth engine has resulted in a budgetary “culture” in which obtaining more beds, staff, courts, and resources is seen as the only available course of action to contend with caseloads. It results in a narrow view of maintaining the status quo rather than focusing on public safety. Over time, this strategy is highly inflationary because more resources for expansion of capacity fuels itself, limiting both management and policy approaches to reducing workload as well as “extending the net” of various justice system initiatives. It blinds the system to the goal of improving public safety, and in many ways it causes degradation in achieving that goal.

Over time, the Dane County Circuit Court bench has thoughtfully evaluated the functions of the criminal justice system and has initiated alternative programs aimed at reducing crowding. The ability to improve public safety and reduce jail crowding and budget inflation requires a similar kind of system-wide leadership and shared commitment. The system as a whole must be better managed with a long term perspective, as opposed to simply adding more resources, which is ultimately a short-term, budget-busting solution.

Effective management simplifies, streamlines, and embraces modern business practices. It focuses on profits, which in this case is represented by the reduction of recidivism and the priority-setting emphasis on serious crime. The system must restructure and reorganize itself. The Court, which suffers greatly from the workload inflation, is in the position to begin the new conversation of setting expectations and of working collaboratively to improve overall performance. No one can refuse the invitation of the court to be part of an effort to examine and improve the quality and value of the criminal justice system and its impact on what the citizens value most- justice that improves their safety.

System Assessment Issues

The issues facing Dane County are system overcrowding and increasing costs associated with case processing that divert the focus from public safety. Crowding is attributed to an array of factors that also explain higher costs. Overcrowding demonstrates the expensive consequences of a lack of system wide management and coordination, a system which is unable to use appropriate data to adequately monitor its collective public safety performance, nor plan improvements at an appreciable level across agency lines. These traits unavoidably lead to even longer processing times.

Again, the resulting increases in ALS drives the crowding rather than population growth and patterns in crime, arrests, or bookings. While each of those matter somewhat, average length of stay plays the biggest role. To repeat, it is neither crime nor population growth that explains crowding and escalated costs. It is a failure to improve efficiency and a loss of focus on improving public safety by adjusting the system's means of coping with workload through management.

The justice system in Dane County consists of state, county, and local agencies, so when considering the system's efficiency and management, one must consider the separate and sometimes competing funding streams and corresponding agencies involved. Locally described as "silos", these monies and agencies chiefly share difficulties in sharing data and in coordinating a unified, data-based approach to management.

ILPP's analysis of the jail population begins with these key facts and assumptions:

- 1. Minimum security (non dangerous) inmates make up 63% of the jailed population; no fact is more important than this.**
- 2. The jail is overcrowded due primarily to significant increases over the past ten years in the average length of stay (ALS); no cause is more significant.**
- 3. If admissions to the jail were reduced by 10% and the average length of stay reduced by 7%, the jail would remain within its capacity, renting out-of-county cells would end, saving more than \$3,000,000.**
- 4. Reducing admissions through focused evidence-based screening and pretrial release procedures, and more efficiently moving cases to disposition would result in enormous savings. This would not sacrifice public safety, but instead improve it in many ways.**
- 5. Moving half or more of the minimum security inmates out to work crews, electronic supervision, and other monitoring would leave empty beds to facilitate flexibility in classification, reduce the stress of crowding and budget, and improve rehabilitation.**

Although all justice agencies are led by experienced, able, committed professionals, points of reference for effective practices that are being used nationally are missing. These are proven best practices which represent better ways to solve problems, leading to more effective planning.

Although a Criminal Justice Group has been established by a prior Chief Judge and Sheriff, the group's performance has been inhibited by dilution of leadership (i.e., too many outside players at the table), the discussion of philosophy, and the absence of an executive decision making group, with an independent facilitator and staff to support consensus decisions.¹

Jail Population Overview

Jail crowding in Dane County can be characterized by the misuse of admissions to jail and the failure to coordinate release policies and procedures. The jail population has been growing at a higher rate than the overall population growth and conflicts with crime statistics, which show a reduction in serious crime.

Release policies and practices do not reflect the character of offenses or offenders. Out of the 1400 bookings in March 2007, only 37 people made bail immediately. At the time of initial appearance, 48% of the defendants in the ILPP sample were in jail, with an ALS of 40 days in jail for criminal felony cases that eventually bailed out. Both numbers are strikingly excessive compared to the norm, and do not at all reflect the excellent and validated classification of the in-custody population, which distinguishes 63% as minimum security, (i.e. non dangerous).

The majority of the jail population consists of persons who (a) are being held on probation violations, (b) failed to appear on warrants, and/or (c) are awaiting court appearances for the purpose of disposing of their cases.

Probation violators represent a challenge for most jurisdictions and consequently are often elsewhere the subject of monitoring and collaboration between the courts, Probation and Parole, and the Sheriff's Office. These agencies commonly agree to a process of dealing with probation violations, including specific judicial assignments to probation violation matters and weekly calendars devoted to probation violation arraignments, advisements, and hearings, all to avoid case backlog. Specially assigned prosecutors and public defenders are also a common way of expediting the review and disposition of these cases. Four different decision points were identified by consultants in the examination of the Dane process that could significantly reduce time in-custody for this large group.

¹ The Appendix contains a set of model materials including an organizational chart, a draft mission statement, and draft bylaws, etc. that can be employed by Dane County to quickly build and establish the legitimacy of a renewed Criminal Justice Group.

The excessive delay in bringing cases to conclusion directly aggravates crowding and undermines the justice system overall. The Court has a wide array of mechanisms and data exclusively within its purview to reduce delays in the disposition of cases. As previously suggested, “best practice” literature and programs at the national level offer many proven and new approaches.

I.1 Overall System Recommendations

- 1. Establish a Jail Population Analysis System (JPAS).** This system will link changes in jail occupancy to changes in the number of bookings and lengths of stay of all inmate subtypes, providing documentation demonstrating how a change in policy and practice by users of the jail causes the occupancy level to change. The data needed by such a system is already collected by the jail information system, but needs to be put into a proper form, analyzed, routinely reported, widely distributed, and studied.
- 2. The jail population analysis system should also be used to continuously determine if programs that have been/are being initiated to reduce crowding and/or change the composition of the jail population are meeting their intended objectives.**

Dane will likely need some readily obtained assistance to help set up this system.

- 3. Upgrade the current Criminal Justice Group by moving all non-governmental stakeholders to an advisory group, establishing an Executive Committee and topical subcommittees, engaging an outside facilitator, and providing staff and agendas dedicated to generating data-based analyses that lead directly to decisions.**

In Appendix to this report, ILPP has prepared a set of model materials that can be employed by Dane County to quickly build and establish the legitimacy of a renewed Criminal Justice Group. These materials include such things as an organizational chart, a draft mission statement, and draft bylaws, etc. The material is certainly only precatory, and is intended to provide a "jump start" for the County's own efforts.

- 4. ILPP has identified four areas of need that, if strengthened, would assist the Dane County justice system in operating to successfully rise to the considerable challenge before it.**

- a. There is a need to improve certain basic business practices. Prescriptive recommendations are contained herein.
- b. There is the related need to discover and emulate best practices. This calls for focusing on “what works” while diminishing expenditure of time, money, and effort on what is shown not to work.
- c. There is the need to strengthen planning, management and information sharing abilities of individuals, divisions, agencies and systemwide, through executive staff development, training, and organizational development.
- d. There is a need to improve systemwide communication, cooperation and coordination. The Criminal Justice Group is the vehicle for accomplishing this.

The draft report called for five new managers based on their relevant experience from outside the county to meet these four areas of need. They were to “spearhead best practice management approaches,” and be located in the courts, jail, District Attorney’s Office, Information and Technology Department, and in the Criminal Justice Group. They were expected to attend conferences to generate current methods, validated elsewhere, of improving operations in these departments and be experienced in implementing new ideas.

Many comments on the draft criticized the half million dollar price tag to fund these five new managers, and so ILPP considered other means of increasing individual and organization competencies in the four areas, which are listed below:

- 1. Hire “experts”**
- 2. Hire consultants or a consulting firm**
- 3. The Kitchen Cabinet/Mentor²**
- 4. Executive development**
- 5. Strengthen the Criminal Justice Group³**

This option calls for an aggressive organizational development effort to strengthen the Criminal Justice Group. The final recommendation holds that the Executive Committee of the Criminal Justice Group is the

² A jurisdiction with very advanced planning and analysis capabilities (five staff members working for the CJCC) is Jefferson County, CO. Contact: Mike Jones, Ph.D., Staff Director (MJones@co.jefferson.co.us).

³ Criminal Justice Coordinating Committees: The NIC publication: "Guidelines for Developing a Criminal Justice Coordinating Committee" presents contact information for twenty counties with advanced practices, at that time (2002). This document can be found on the web at <http://www.nicic.org/pubs/2002/017232.pdf>. A couple of good, current examples, include Stearns County, Minnesota, which is close by. The group is referred to as the "Criminal Justice Management Council." Contact: Mark Sizer, Director of Community Corrections (mark.sizer@co.stearns.mn.us).

intergovernmental and inter-agency mechanism that needs to be developed and empowered to lead and manage the justice system operating within Dane County. The effort should begin with a core group of the elected and appointed officials most responsible for the administration of justice: The “gatekeepers.”

This approach can nonetheless be unsuccessful without a number of capable staff people. Therefore, some of the new managers previously called for would instead be current managers and “national experts to be.” They would be asked to employ this report, work for, and report to the Criminal Justice Group’s Executive Committee, instead of individual agencies. A strong outside facilitator should be hired to help the Executive Committee and its staff work through the difficult job of establishing itself as a “Board of Directors” responsible for improving public safety and administration of the justice system.

Two existing jail managers would be dedicated to population control, the existing County Executive’s IT Director to data-base integration development, the Court Administrator to new approaches toward case management approaches, the newly elected Court Clerk and Executive’s justice specialist would support the Criminal Justice Group (with the Clerk on the Executive Committee), and one new manager would be assigned to the DA’s Office

While this major structural change must be implemented in a way that protects and preserves the independence of all participants, the idea would be to change to a real board with dedicated managers as staff, to manage the system towards improved public safety by more efficient processing, jail crowding management, and re-budgeting based on public safety performance.

II. Inmate Tracking Analysis

An integral part of ILPP's evaluation of criminal justice system operations is the inmate tracking analysis. The inmate tracking analysis examines the flow of arrestees and inmates through the county jail from the time of booking until release. It provides valuable information on how arrestees and inmates move through the criminal justice system. The information obtained from a tracking study can be used to identify crucial criminal justice policy issues, such as points in the flow of case processing that can be more efficient, effective, and/or productive. Many recommendations set forth in this chapter have been implemented in other jurisdictions; for a listing of some of those jurisdictions, see the chart included in the Action Plan.

ILPP uses the tracking analysis model recommended by the National Institute of Corrections (NIC). Following this model, a raw database was obtained from the County of all inmates released from incarceration during the week of September 19, 2006. This file contains information on approximately 325 individuals incarcerated in the Dane County detention facilities on slightly more than 1,200 charges. The charge resulting in incarceration, almost always the most serious charge, was tracked for each individual.

The tracking process required that the jail records on the 325 inmates be matched with corresponding court docket information viewable on the Wisconsin Circuit Court web portal. This is the method that the County should be using in the future to continue performing this basic analysis, as it will help support critically needed population and system management. The docket pages contain more specific case and charge information than the raw data from the jail, and thus provide richer knowledge of the inmates' status. In addition, cross referencing jail and court records greatly strengthens the reliability of the data⁴; however court records were not available for all types of cases.⁵

All raw data from the jail and the court dockets were combined and entered into a statistical spreadsheet program (SPSS) to yield a comprehensive data bank on the tracking sample. Data from the analysis are described below.

⁴ ILPP found that jail records pertaining to court activity frequently did not capture the details and events that were available through the electronic court dockets.

⁵ The Wisconsin Circuit Court Access (WCCA) did not contain case information on municipal court cases, Federal inmates, and many (but not all) probation violators.

Inmate Demographics

Comparable to the 2006 jail profile study, the inmates in the tracking analysis were predominantly male (83%), Caucasian (61%), single (70%), and residents of Madison (51%) (see Table 1). The average age was 32 years old, with a sizable proportion of inmates falling between the ages of 18 and 26 (42%). Roughly seven out of every ten reported reaching at least the twelfth grade (72%), and many were not employed at the time of incarceration (43%).

Compared to the U.S. Census data, the inmate tracking sample was quite different in that more males (+33%) and minorities (+28%) were represented than in the County's general population. Furthermore, while Dane County has a remarkable high school graduation rate coupled with an impressive employment rate, the inmate population had significantly more drop-outs (+20%) and unemployed persons (+40%).

Table 1: Inmate Tracking Demographics (n=325)*

<u>Characteristic</u>	
<i>Gender:</i>	83% Male 17% Female
<i>Race:</i>	61% Caucasian 37% African American 2% Other
<i>Age:</i>	21% 18-23 years old 28% 24-30 years old 14% 31-35 years old 13% 36-41 years old 15% 42-47 years old 9% 48 or older
	◀ The average age was 32 years old
<i>Marital:</i>	70% Single 15% Married 13% Divorced 2% Other
<i>Residence:</i>	51% Madison 4% Stoughton 3% Fitchburg 3% Middleton 3% Sun Prairie 36% Other
	◀ 94% resided in Wisconsin
<i>Education:</i>	72% Twelfth grade or more 28% Eleventh or less
<i>Employment:</i>	43% Employed 57% Unemployed

* Totals may exceed 100% due to rounding.

Criminal Case Information

As shown in Table 2, offenders brought into the Dane County Jail largely resulted from arrests made by the Madison Police Department (MPD); the MPD accounted for 39% of all bookings. The Dane County Sheriff's Office, the next largest arresting agency, added another 21% from their patrol and court related activities. The remaining 40% of the jail's intakes were divided among the smaller local police departments, as well as probation and parole, the Wisconsin Highway Patrol, and Federal law enforcement agencies.

The largest portion of inmates in the tracking analysis entered the detention facilities on a new arrest (42%). Other detention intakes were divided mostly into three categories: commits (19%), warrants (19% when including bench warrants), and probation and parole violators (15%). Importantly, public order offenses were by far the most common offense booked (30%). Examples of public order offenses include, in order of commonality, Disorderly Conduct (over half the public order arrests), Resisting or Obstructing an Officer, and Trespassing. Following public order offenses in intake frequency were probation and parole violations (15%), property (12%; e.g., Damage to Property, theft, retail theft), DUI (12%), violence (9%; e.g., Battery, Robbery), and drug (7%; e.g., Possession of THC, Possession of Drug Paraphernalia). Very few bookings were for traffic and sex offenses. Given that many of the bookings were tied to public order crimes, DUI and small thefts, it is not surprising that relatively few of the releases were for felony level offenses (16%) and a vast majority were for misdemeanor offenses. This data is consistent with the very high proportion of minimum security inmates housed in the Dane County incarceration facilities.

Table 2 also indicates how individuals were released from incarceration. Many of the releases (55%) were related to the inmate posting bond (41% were released on a signature bond and 14% on cash bond). When cash bail was ordered, the median amount required was \$900.

After bond releases, credit for time served (23%) and transfers (9% to prison and 8% to other law enforcement agencies) accounted for nearly all the remaining portion of discharges from the facilities. Often, detainers played a role in the timing of the releases. Twelve percent of the inmates had a detainer from a law enforcement agency. Nearly two-thirds of the detainers originated from surrounding police departments, while Federal agencies were the source of the other third.

Table 2: Tracking Criminal Case Information (n=325)*

<u>Characteristic</u>		
<i>Intake Agency:</i>		
39%	Madison PD	
21%	Sheriff	◀ Custody taken mostly in court
11%	Circuit Court	
5%	Fitchburg PD	
4%	Probation/parole	
3%	Stoughton PD	
3%	Middleton PD	
3%	Town of Madison PD	
11%	Other	
<i>Intake Reason:</i>		
42%	New Charge/Arrest	◀ 26% of inmates had multiple cases
19%	Commit	◀ Inmates had an average of 2 charges
15%	Probation violation	
11%	Bench Warrant	
7%	Warrant	
4%	Writ	
3%	Hold	
<i>Offense Type:</i>		
30%	Public order	
15%	Probation violation	◀ Includes parole violations
12%	Property	
12%	DUI	
9%	Violence	
7%	Drug	
2%	Traffic	
2%	Sex	
3%	Other	
<i>Offense Level:</i>		
6%	Felony B-G	
10%	Felony H-I	
21%	Misdemeanor A	
10%	Misdemeanor B	
30%	Forfeiture/unassigned	
25%	Not available	◀ Ex: probation violations, writs, municipal court cases, etc.
<i>Release Reason:</i>		
41%	Signature bond	
23%	Time served	
14%	Cash bond	◀ Median bond value: \$900
9%	Transfer to prison	
8%	Transfer to other agency	
3%	Release to probation	
2%	Other	
<i>Detainers:</i>		
88%	None	
12%	Other jurisdiction	◀ Includes Federal & local agencies

* Totals may exceed 100% due to rounding.

Intake and Release

Table 3 breaks down the intake reason by the release reason to simultaneously illustrate how inmates in the tracking sample came into the facility and the terms under which they exited. Items of note include:

1. New Arrests

A vast majority (85%) of the new arrestees that entered the Dane County Jail were for low level offenses (i.e., misdemeanors, traffic charges, etc.). Ninety-three percent of the new arrests, both accused misdemeanants and felons, were released on bail, mostly through a signature bond (86%). Those new arrestees who were not released on bond (7%) generally had a detainer or a high cash bond.

2. Warrants and Bench Warrants

Persons booked on a warrant or bench warrant were also mostly released on bond (70%), although they were roughly three times more likely to receive a cash bond than new arrestees. In addition, persons arrested on warrants/bench warrants were a) more often associated with failure to appear (“bail jumping”) in misdemeanor level cases and b) more often with felony charges.

Bench warrants, much more than warrants, caused the arrestee to remain incarcerated pending adjudication. Nearly two out of every five bench warrant arrestees were discharged from the detention facility after their jail terms were completed, or they were sent to a state institution.

Sixty-four percent of the bench warrants were issued for “bail jumping” by the defendant.

3. Commits

Offenders sentenced directly to jail were typically convicted of a misdemeanor level offense (92%). More than two-thirds were found guilty of either a public order offense (35%) or a DUI charge (32%). Drug and property crimes were fairly common as well, but to a much lesser extent (8% and 7%, respectively).

The median jail term imposed by the courts was 20 days. In 90% of the cases, it was directly noted that Huber was permitted by the court. The number of days the commits were sentenced broke down as follows:

- 16% 1-7 days
- 20% 8-14 days
- 21% 15-30 days
- 16% 31-45 days
- 9% 46-90 days
- 16% 91-365 days

4. Probation and Parole Violators

Roughly one out of every four probation or parole violators was released pending a revocation hearing. The overwhelming majority were detained until they were a) sentenced to prison (38%), b) given a local jail term (29%), or c) released back to probation or parole (22%).

Table 3: Intake and Release Matrix*							
Release ► Intake ▼	Sign. bond	Cash bond	Time served	Prison	Other agency	Probation release	Other
New arrest (n=136)	81%	12%	2%	2%	3%	-	1%
Warrant (n=23)	48%	39%	4%	4%	-	-	5%
Bench war. (n=34)	24%	35%	29%	9%	3%	-	-
Commit (n=61)	-	-	88%	5%	3%	-	4%
Prob. Viol. (n=50)	10%	14%	14%	38%	2%	22%	-
Writ (n=12)	-	-	-	-	100%	-	-
Hold (n=9)	-	-	-	11%	89%	-	-

* Row totals may exceed 100% due to rounding.

Pretrial Detention

In the tracking sample, 193 arrestees were brought into the jail on a new arrest, warrant, or bench warrant. Of these individuals, 85% were released on some form of bond, 11% were held until adjudication (i.e. pretrial detention), and 4% were released to another agency or program.

Looking specifically at the relatively small group of pretrial detainees, a majority were charged with felony offenses (57%) and crimes of violence or property (52%). The best predictor of continued pretrial detention, as mentioned above, was arrest on a bench warrant as well as the defendant having multiple cases.

The average length of stay for individuals held during the pretrial period was 112 days. Two-thirds of the pretrial detainees were given local confinement at sentencing, while the other third were sentenced to the state prison system.

Average Length of Stay (ALS)

Overall, inmates in the tracking sample spent an average of 27 days in the Dane County Jail. A significant portion of the inmates was booked and released in one day or less (36%) and more than half were released in three days or less (53%). It was the other 47%, therefore, that dramatically skewed the ALS upwards (see Table 4). Indeed, if all the inmates released in three days or less were excluded from the analysis, the ALS would rise to 53 days.

Table 4: Overall Average Length of Stay (n=325)	
<u>Days</u>	<u>Percentage of Cases</u>
0-1	36%
2-3	17%
4-10	16%
11-30	11%
31-90	11%
91-365	8%
366 or more	1%

Table 5 provides some further analysis of the ALS by breaking it down into several categories. Beginning with the reason for intake, the shortest length of stay generally occurred when individuals were brought into custody on new charges (ALS: 3 days) and released. In contrast, the longest ALS was associated with individuals booked on bench warrant arrests (ALS: 52 days), probation violations (ALS: 50 days), and commits/jail sentences (44 days).

Also captured in Table 5 are the average lengths of stay based upon offense types and offense levels. As one would expect, crimes of violence (ALS: 63 days), sex (ALS: 41 days), property (ALS: 25 days), and DUI (ALS: 25 days) tended to have the longest incarceration times, while shorter confinements were found for the unthreatening offenses of public order (ALS: 19 days) and traffic (ALS: 3 days). Likewise, the lengths of stay for higher level crimes (felonies) were roughly three times greater than for lower grade crimes. On the spectrum of offense levels, grade B through G felonies averaged 77 days in the detention facilities compared to 6 days for class B misdemeanors.

Finally, Table 5 displays the ALS by release reason. From the ALS perspective, persons who completed a jail sentence (i.e., “time served”) stayed in jail the longest, at nearly two and a half months (ALS: 70 days). It may seem contradictory that the ALS for time served is so much greater than the “commit” ALS reported above (70 versus 44 days, respectively). The difference occurred because of pretrial detention, as approximately two dozen persons entered the jail on a warrant or new arrest and were held through adjudication (and possibly any sentence imposed by the courts). Likewise, the same situation existed for inmates who were released/transferred to prison (ALS: 55 days). Seventy-seven

percent of these inmates were detained pending case disposition, mostly on a probation violation (63%).

Persons held for other law enforcement agencies (i.e. transfer to other agency) also served significant jail time based on release reason (ALS: 30 days). Here, the ALS was driven upward not by inmates detained on writs (ALS: 5 days), but by persons brought in on Dane County related charges and held on a detainer. About half of the detainees originated from Federal agencies, such as Immigration or the U.S. Marshal.

Table 5: Tracking Average Length of Stay (n=325)

	<u>Length of Stay</u>
<i>Intake Reason:</i>	
Bench Warrant (n=34)	52 days
Probation violation (n=50)	50 days
Commit (n=61)	44 days
Hold (n=9)	30 days
Warrant (n=23)	26 days
Writ (n=12)	5 days
New Charge/Arrest (n=136)	3 days
<i>Offense Type:</i>	
Violence (n=31)	63 days
Probation violation (n=50)	50 days
Sex (n=5)	41 days
Property (n=40)	25 days
DUI (n=39)	25 days
Drug (n=23)	19 days
Public order (n=96)	16 days
Traffic (n=17)	3 days
Other (n=24)	19 days
<i>Offense Level:</i>	
Felony B-G (n=18)	77 days
Felony H-I (n=33)	63 days
Misdemeanor A (n=67)	18 days
Misdemeanor B (n=34)	6 days
Forfeiture/unassigned (n=99) ⁶	12 days ⁷
Not available (n=74)	38 days
<i>Release Reason:</i>	
Time served (n=75)	70 days
Transfer to prison (n=30)	55 days
Transfer to other agency (n=25)	30 days
Release to probation (n=11)	12 days
Cash bond (n=45)	11 days
Signature bond (n=133)	2 days
Other (n=6)	156 days

⁶ The “Forfeiture/Unassigned” category included the following charges: Operating while Intoxicated (33%), Operating after Revocation (17%), Disorderly Conduct (16%), Possession of Drugs or Drug Paraphernalia (12%), Trespassing (7%), Resisting Arrest (5%), and other (9%).

⁷ Many from this category were released in less than 24 hours (53%), and nearly three-quarters (73%) were released in one week or less. All offense levels coded as “FU” (n=19) by the criminal justice system stayed in jail less than two days. On the other hand, offense levels coded as “MU” (n=80) were incarcerated an average of 14 days. Half of the MU labeled cases that resulted in detainment longer than three days were Operating while Intoxicated. The remainder were largely resisting, disorderly, possession crimes.

II.1 Findings

1. **Many of the individuals booked into the Dane County Jail were charged with low level offenses and subsequently released fairly quickly on signature bonds.** To reduce the burden on the jail, misdemeanor citations that set a mandatory court date should be utilized more, in order to avoid bringing these individuals into the jail unnecessarily.
2. **Public order offenses are the most common types of crimes coming into the jail and generally are the most suitable for diversion from the criminal justice system.** Diversion may occur by officer intervention (removing the individual from the scene without arrest), referral to a community-based dispute settlement program, homeless/mental health/detoxification services, or community service options.
3. **Detainers and bench warrants, including bail jumping, were common reasons for arrestees to remain incarcerated for significant amounts of time.** Efforts should be expended to determine if conditional release or fast tracking of dispositions is a possibility in some of these cases.
4. **Probation violators contribute greatly to jail population levels.** It must be determined why persons fail on probation or parole so as to uncover possible solutions that may reduce program failure and thus, lower incarceration levels. Expediting the processing of probation violation cases should also be considered.
5. **The Municipal Courts must improve the level of information given to the jail regarding inmates and their cases.**

Jail Population Dynamics

Following the discussion of **who** comprises the jail population and **how** people move through the justice system, this next analysis seeks to determine how much of the change in the average daily jail population has been driven by a change in the number of bookings/admissions versus changes in the length of jail stays. This will help determine what factors lead to elevated jail population levels.

Dane County provided the number of monthly bookings into the Dane County Jail for the period January 2000 through March 2007. The County also provided the total average daily inmate population for each of these same months.

The number of bookings, average daily population, and average length of inmate stays fluctuated over the 63-month period from January 2000 through March 2007. Highlights of these fluctuations appear below.

Table 6: Monthly Highs/Lows for Selected Indicators		
Indicator	Lowest	Highest
Average Length of Inmate Stay (Days)	19.4 days in June 2005	26.9 days in December 2002
Average Daily Jail Population	960 inmates for May 2005	1,143 inmates for July 2006
Bookings/Jail Admissions	1,172 in the month of February 2007	1,607 in the month of August 2002
Biggest month to month decrease in ADP	n/a	- 77 in December 2002
Biggest Month to month increase in ADP	n/a	+ 73 in January 2006

Methodology

The ADP ended this 63-month period within 35 inmates of where it started. However, it should be clear from the data in table 1 that there were considerable fluctuations over the 63 month period, the peaks of which cause some stress on the jail and overall system.

The month-by-month data were split into two periods: a period in which the jail population declined (January 2002-May 2005) and a period in which the jail population increased (May 2005-July 2006).

The analysis then examined the extent to which changes in jail occupancy levels were driven by changes in the number of bookings (admissions to jail), or by changes in the average length of stay, or some combination of both of these factors.

A Period of Declining Jail Occupancy Levels

Table 7 provides basic information about the period of declining jail population. Reduction in the average length of inmate stays drove the average daily jail population down. The ADP would have declined further, except for the increase in bookings over this same period. These two forces partially canceled each other out.

Table 7: Declining Average Daily Jail Population (ADP) Over 41 Months January 2002 – May 2005	
ADP in January 2002	1031 inmates
ADP in May 2005	960 inmates
Decline in ADP	- 71 inmates
ADP change due to the increase in admissions	+ 47 inmates
ADP change due to decrease in average length of inmate stays (ALS)	- 118 inmates
Net result of (47 inmates) – (118 inmates) = - 71 inmate ADP Average length of stay over the 41-month period is 22.5 days	

A Period of Increasing Jail Occupancy Levels

Table 8 provides basic information about the period of increasing jail population. Here we see that the increase is a result of an increase in admissions and an increase in the average length of stay.

Table 8: Increasing Average Daily Jail Population (ADP) May 2005-July 2006	
ADP in May 2005	960 inmates
ADP in July 2006	1,143 inmates
Increase in ADP	168 inmates
Increase in ADP due to increase in admissions	44.2 inmates
Increase in ADP due to decrease in ALS	123.8 inmates
Net result of (44.2 inmates) + (123.8 inmates) = 168 inmates	

Requirements for Reducing ADP to the System Design Capacity

What would it take to reduce the jail system population from current levels to the designed bed space capacity? ⁸

This would require reducing the jail system population from the current ADP of 1,113 inmates to an ADP of 949 inmates, or by 164 inmates.

This goal could be accomplished if the number of monthly bookings was reduced by 10% and the current average length of stay was reduced to 22.8 days (about 7%).⁹

⁸ In March 2007, the ADP averaged 1, 113. The average length of inmate stay in March 2007 was 24.5 days. Monthly data appears in Table 4. The design capacity of the current bed space is 949 beds.

⁹ The median ALS for the 63 months in this analysis was 22.8 days.

The basic calculation is:

1. (Number of monthly bookings) x (number of months in the year) x (average length of stay) = Jail Person Days Required.
2. Jail Person Days Required divided by 365 days in the year = Average Daily Jail Population.

Table 9: Numbers for Calculations					
Period Compared	# of Bookings	Months in Year	Average Length of Stay	Jail Person Days Required	Average Daily Jail Population
March 2007	1,410	12	24.5	414,540	1,136
Future	1,266	12	22.8	346,385	949

II.2 Findings

1. **The number of bookings and their lengths of stay determine the number of people in jail.** This dynamic also determines changes in the size of all of the subgroups of the inmate population.
2. **There is significant month-to-month and quarter-to-quarter variation in the number of bookings and average length of stay.** These fluctuations appear to stem from changes in decision-making about cases and people as they make their passage through the justice system, rather than real swings in the behavior of the criminal population.
3. **Managing the size of the jail system population, to conserve resources so as to focus on public safety, will depend upon achieving agreements about changes in justice system policies.** This is because changes in the size of the jail population are primarily the result of changes in the response of the justice system, but are not changes consciously aimed at public safety.
4. **Managing jail system occupancy levels can only be accomplished in three ways.**
 - a) Increase bed space capacity;
 - b) decrease admissions; and
 - c) decrease average lengths of processing time and resulting inmate stays.

While one or more of these three strategies may be easier, technically or politically, employing all three strategies will make it easier to manage the future size of the jail system population and use the saved resources to focus on better outcomes.

5. A jail population analysis system that provides continuous information about changes in bookings and lengths of stay of inmate population subgroups will permit policy makers to better understand and manage the size and character of the jail population.
6. **The data, analysis, findings and following recommendations of the Inmate Tracking Study may be usefully read in comparison with the new and enlarged Comparison Study in the Appendix, which compares Dane to other Wisconsin counties, and Wisconsin to Minnesota and some national data.** This is a new and technical section that offers a distinct and comprehensive perspective.

II.3 Recommendations

1. **Dane County justice officials must work together** to determine and manage the size and character of the system workload, and reduce the extent to which the workload itself manages the system in order to maintain public safety as the central priority.
2. **Dane County's Executive Committee of the Criminal Justice Group, with its new management team, should establish a Jail Population Analysis System (JPAS) that traces changes in jail occupancy levels to changes in the number of bookings lengths of stay of inmate subtypes.** This JPAS will provide empirical information to demonstrate how a change in policy/practice by one or more users of the jail causes occupancy levels to increase/decrease.

The data needed by such a system is already collected in the County information system and simply needs to be put into a proper form, analyzed and routinely reported out.¹⁰

3. The JPAS should also be used to continuously determine if programs that have been/are being initiated to reduce crowding and/or change the composition of the jail population are meeting their intended objectives, and lead to budget strategies accordingly.

¹⁰ A very basic jail population analysis system is described in a short 12-page publication available **at no cost** from the National Institute of Corrections. See: *Preventing Jail Crowding: A Practical Guide, 2nd Edition*, NIC publication number 016720, available from the National Institute of Corrections Information Center, 800-877-1461 or send an e-mail request for the publication to asknicic@nicic.org. An electronic download PDF version of the publication is also available at <http://nicic.org/Library/016720>

III. Information Technology

A local criminal justice system's organizational structure can be viewed systemically through its components: the arresting agency, jail system, prosecutor, defender, court, and pre- and post-conviction service organizations. Most of these entities are under the control of separately elected local public officials or state agency heads, each responsible for the operation of their own "domain" and not directly accountable to others in the system.

Notably lacking from this viewpoint is any one official's responsibility for the whole system. In other words, no one is in charge of the system. Each component often works well within its own dynamic, but is often unaware of how its operations interact with those of other agencies, except in a general way. When interaction is forced, some mutual accommodation is reached and then stays in place until some new upheaval forces a re-examination of the process.

Another way to view the system is as a flow or stream. A crime is committed, an investigation is made, and a criminal is arrested and booked into the jail. Pre-conviction services (bail, bond) and supervision occur and an arrest report is prepared and sent to the prosecutor, who prepares criminal charges based primarily on that report.

Various scheduling activities occur among the prosecution, defense, and courts, some information is exchanged (discovery and presentation of evidence), and some decisions are recorded. Adjudication finally occurs, almost always as a result of a plea, and post conviction services such as probation or parole are rendered if an offender is convicted. Viewed as data entered into a series of fields in a database, or boxes on a paper form, the information is mostly static after the arrest, aside from dates and outcomes of court events. What each agency does or does not do is passed along to all of the downstream agencies. The effects are not always intended or even known to the acting agency.

The arrest report is the single document containing the largest amount of information that will be needed by almost every agency downstream. It has the defendant's name and identifying information, as well as his demographics. Basic information about the crime is recorded, which will change little if at all in the large majority of cases as they progress. Criminal history and other initial information is noted and cross-referenced to many other sources of information, including charges and status in the system. The information in the arrest report will be needed repeatedly by each of the downstream operatives.

Nationally, significant progress has been made in the last two decades in developing management information systems for the various components of a criminal justice system. The big conundrum for the last five to ten years has been

getting the different parts to integrate with each other and the overall system; in this, Dane County is no exception.

During the 1990s, a language called XML (extensible markup language) evolved from web browsers that permitted information to be broken into individual units, such as a first name or street address, and to be given a tag that would permit another machine also speaking the language to receive the information and put it into the appropriate place in its own database. This permitted whole industries to develop their own forms of XML, allowing suppliers, wholesalers and retailers to quickly, cheaply, and easily share their data despite incompatible systems. Private industry has been quick to adopt this technology.

The U.S. Department of Justice sponsored an XML coda for the justice system to allow the many justice system databases to reap the same benefits. Wisconsin has adopted this schema, called GJMXD. This is the integration method that allows PROTECT and CCAP to readily exchange data. Many recommendations set forth in this chapter have been implemented in other jurisdictions. For a listing of some of those jurisdictions, see the chart included in the Action Plan.

Information Systems

Apprehension of offenders in Dane County is recorded through arrest reports from numerous law enforcement agencies, but the very large majority of arrests are covered by just three records management systems (RMS¹¹): the Madison Police Department system (New World), the Sheriff Office's RMS (Spillman), and a third system utilized by a number of smaller agencies in Dane County (Global).

While all of the systems produce electronic or "soft" copies of arrest reports, none presently passes the soft copies to criminal justice agencies downstream. Furthermore, none of these systems presently transmits the individual electronic information fields (such as defendant's name, address, and arrest crime) electronically to other criminal justice agencies to prevent duplicative entry of information.

Instead, each law enforcement RMS produces a paper copy of the arrest report and the agency then delivers copies of the paper reports to the prosecutor's office. The District Attorney's Office must then retype all the information from the arrest report into its own electronic system, called PROTECT. This system is provided by the state and used by almost all prosecutors' offices in Wisconsin. PROTECT tracks all cases referred to it by law enforcement, and records all

¹¹ A Records Management System generally refers to an electronic database that holds static records that can be retrieved usually by name, date, identifying number or other key identifiers. A Case Management System (CMS) is often distinguished by including all the static information of an RMS, but is additionally layered with processing rules, such as how long a case may remain in a given stage of the process. A CMS is dynamic, applying rules developed by its users and showing where a case or group of cases may be in the system, how long it has to go to the next step, or how lengthy (potentially overdue) such a transition is, according to the rules it has been given.

subsequent dates and decisions made by the prosecutor, such as whether charges are filed, the nature of the charges, preliminary and plea information, and updated address information. PROTECT is a fully capable CMS, but is presently used primarily as a RMS. There are no goal-oriented timeframes built into the system for individual ADAs or management tools to efficiently control the flow of cases through the system.

The system used by the courts is called the Consolidated Court Automation Programs (CCAP). CCAP electronically imports information from PROTECT as its primary information for each criminal case filed in the courts, leaving out all those cases that are referred by law enforcement that the District Attorney's Office declines to prosecute.

Both systems are funded and operated by the state, though they have different staff designing and maintaining the systems, different constituencies they respond to, and different governance.

CCAP was originally created to automate the court clerks' records. It now tracks all circuit court cases filed in Dane County (and almost all of the rest of the state), providing most case information to the public, and a full set of information to judges, prosecutors and court clerks. Its counterpart, WCCA, is accessible through a simple web browser. It displays case histories back to its inception, in addition to some case data from before, and can quickly and conveniently display the status of criminal or civil cases involving Dane County citizens. The courts use CCAP to notify judges as to how their case management statistics compare with guidelines for the handling of criminal and civil cases.

Law Enforcement

The Sheriff's Office uses several different information systems, each fulfilling a separate purpose and tracking different data. Spillman Technologies was acquired in 1997 as the main RMS for the Sheriff's Office and is used for all main law enforcement and jail related information. (Some Sheriff's Office information that Spillman is incapable of handling is managed by a specially created Microsoft Access database.)

Though the Sheriff's Office consulted with the Madison Police Department at the time the New World system was adopted, it could not use that system because New World lacked an adequate jail module. When Madison Police Department chose New World, the Sheriff's Office went a different direction.

Another program acquired in 2005, the TraCS software provided by the State of Wisconsin, keeps track of electronic citations and traffic incidents. It uses an SQL database as the storage platform for this data.

Both Spillman and New World are widely used, and each agency is relatively happy with its choice. More importantly, each recognizes that it has become heavily dependent on a reliable system and neither wants to discard it without a sound replacement. Neither system integrates with the other, though both now integrate with TraCS, the traffic citation system and ADSI, the emergency communication software. In a similar fashion, Global does not integrate with the other law enforcement databases or with the prosecutor's or court system.

In order to operate its RMS software, the Sheriff's Office has a number of server and client systems. The server that runs the Spillman software is an IBM RISC 6000 F50 Unix server. There is also a Dell Power Edge 2850 LINUX InSight server used to share data with other agencies using Spillman in Wisconsin. Client machines are largely terminal server clients using Citrix Metaframe, numbering 202 in total. There are also 71 desktops running Windows XP, and 51 laptops with various operating systems, serving a total of 650 users. All workstations and servers are maintained by Dane County's Information Management Department, and downtime occurs infrequently.

All law enforcement agencies have a regular system for upgrading their servers, their workstations and their operating software. The Sheriff's Office currently has a server used to run Spillman that will be replaced in June 2007 with two IBM P5 520Q servers. The Sheriff's Office is also currently in the process of migrating from some servers running Windows NT Server to Blade Servers running Windows XP.

District Attorney's Office

In 2006, the District Attorney's Office moved to PROTECT, the Wisconsin statewide prosecutor's management information system, and was among the last to do so. PROTECT, to its credit, interfaces both with CCAP and with the state Department of Justice CIB criminal history system using GJXDM. It also interfaces with TraCS, the State Patrol's traffic information system, as well as with other important databases, such as the crime victims' services database in the Department of Justice, the e-citation system of the State Patrol and other special purpose data systems. PROTECT is provided by the State of Wisconsin through the District Attorney IT program and was developed specifically for Wisconsin with input from the Wisconsin District Attorney's Association.

The PROTECT system is people-centric rather than case-centric, meaning that people are linked to cases and have their data stored separately, rather than as part of a case. If a person is involved in two separate cases as witness, victim, or defendant, the person's data does not need to be entered into the system twice; the later case simply retrieves it from where it was stored for the earlier case. In addition, further cases involving that individual are linked to that person. It also keeps track of criminal history.

The system tracks all information regarding adult and juvenile cases, and in addition it generates all necessary paper documents for processing by combining standard templates with the data from the case in question. For example, PROTECT generates an electronic copy of the complaint, the primary charging document, and transfers that document to CCAP, making the key charging document available to downstream users. CCAP then generates a PDF of the complaint. (This capacity is already available in CCAP, but is not currently used for lack of an electronic signature).

PROTECT is used by some DA's offices in Wisconsin to implement time standards for processing of cases by ADAs, but it is not so used by the Dane County District Attorney's Office.

E-mail is increasingly used by the DA's Office, as it is by the rest of the world, for routine correspondence. However it is not used to speed discovery, either from law enforcement or to defense counsel, and only informally and sporadically to make plea offers to the defense.

To run PROTECT, the District Attorney's Office uses Dell 4600 servers acquired in 2003. In addition, there are also 102 Windows 2000 workstations as well as six laptops for courtroom use, with 99 users in total. The District Attorney's Office has not experienced any downtime due to system failure, and all systems are maintained by the State of Wisconsin District Attorney IT Program.

Courts

Since 1995, the courts have used the CCAP case management system. CCAP was created by the Wisconsin Director of State Courts specifically for the circuit courts of Wisconsin and handles not only case records, but also financial data and jury processing. Important pleading documents, such as amended complaints and motion practice documents, currently must be input into the system by hand, while others such as criminal complaints filed by the DA's Office, forfeitures, and citations are electronically imported. CCAP provides access to Department of Justice, Department of Corrections, and Department of Transportation records, although some users of the system seem unaware of this capability. This could be resolved through training or an improved user interface. Document scanning is integrated into the case management system, allowing easy access to paper records from the interface.

The Wisconsin Circuit Court Access website publicly provides information on a case as it goes through the system in accordance with the Director of State Courts Policy on Disclosure of Public Information over the Internet. It shows information on all cases from the CCAP system, both as the case moves through the courts and afterwards. CCAP has interfaces with the District Attorney's system and with TraCS, but does not currently interface with Spillman, New World, or Global. There is a limited XML interface available for Spillman

currently in use in Waukesha County that only provides access to citation data, and includes no arrest and custody data. However, even this would be a great and very cost-effective improvement over the current situation where all data from Spillman must be entered by hand.

During the time CCAP has been in operation in Dane County, it has in effect become the primary criminal history system for county users. This is because it not only has the ongoing criminal histories of defendants charged since it was started in 1995, but much of the prior criminal history imported from previous systems as well. These histories have been supplemented by some of the other systems as CCAP integrates with them. This primacy is a good thing. Because the criminal history has a reasonable user interface, and is available with a simple web browser, the criminal history of an individual is easily read and understood, in sharp contrast to the opacity of traditional law enforcement criminal histories.

CCAP has an extensive report-writing ability. Its standard reports, such as the "age at disposition summary" produced for judges, show some general categories of cases (e.g. felonies, misdemeanors, criminal traffic), permitting a judge to see how many cases were disposed during a particular time period, and after a given time (1, 2, 3, 6, 12, 18, 24, and 24+ months), and median age at disposition. Every six months the Court Administrator for District Five (Dane, Rock, Green and Lafayette counties) gives the summary to the Chief Judge, who reviews the performance reflected and can choose to discuss the report with individual judges. A case processing time standards report compares the percentage of cases closed within the time standard for each of the four counties in District Five, and with the statewide figure as well, and is given to the Chief Judge. Other standard reports are provided, such as a caseload report, a case filing trend, a clearance report, and an event and activity report. Some of these reports are provided by the Court Administrator to each individual judge. The system is quite capable, both in its potential for creating useful reports and its configurability as a case management system.

There is no presiding criminal judge for Dane County. Instead, the presiding criminal judge is for District Five, which includes Dane County and three smaller counties. Since the problems and challenges faced by large counties are very different from those of small counties, it makes little sense to have common rules for one large county and three small ones on many matters. There is, however, a lead criminal judge in Dane County who is first among equals on the criminal bench, leading by persuasion rather than with institutional authority.

Like the software, all the servers and workstations used by the courts are provided and maintained by CCAP. There is a database server used to store CCAP data, a file server used to store non-CCAP programs as well as jury instructions, legal research tools, and e-mail, and a utility server used to remotely image workstations. The workstations are Pentium 4 systems made by IBM

running Windows XP, and they are standardized throughout the state. All hardware is replaced on a 4-year cycle to ensure that systems are not outdated, and in the event of server hardware failure, CCAP provides redundancy by automatically redirecting users to working servers, which nearly eliminates downtime. The court's servers are going to be replaced in the upcoming fiscal year, in accordance with their four-year replacement policy.

911 Communications Center

The 911 Communications Center operates the Applied Data Systems (ADSI) CAD/911 software acquired in 1988. This software is used to log incidents and dispatch appropriate fire, police, or EMS personnel to an incident's location. It is accessed through a GUI that was designed after the initial system was purchased. This GUI initiates a connection to a telnet server that runs the software and interprets the telnet session to provide the data in the form of a graphical interface. Due to limitations in the server software running ADSI, data files are limited to two GB in size, and so old data must be archived after six months. Digital and analog audio records of the calls is stored and passed onto other agencies.

The 911 center has five IBM RISC 6000 43P AIX Unix servers to run its software, in addition to ten HP servers. The 911 communication center's servers will be replaced in June of 2007 by five IBM P505Q servers. These servers fill a variety of roles, being used for the CAD system as well as for mobile data, file storage, EMD software, the radio system, and the telephone system. There are also 90 workstations with over 200 users, and these systems are primarily PCs. Most system maintenance is performed during the center's least busy hours of the day, between 4:00 am and 6:30 am, in order to reduce the impact of such maintenance, and system downtime is minimal overall. All systems are maintained by the county's Information Management staff except for the telephone system, which is maintained by AT&T.

Electronic Signatures

Wisconsin has proposed and the Supreme Court will adopt, probably in October of 2007, a rule governing electronic signatures in court filings. Based loosely on the federal model, the rule will permit all forms of electronic documents to be filed with the court system, CCAP, and become the primary electronic document, as is the situation in many federal courts today. The proposed rule is sensible and well thought out, and will permit significant changes in the data systems of criminal justice agencies.

First, it will permit the electronically generated copy of the complaint to be signed, and therefore to become the core of the downstream users' electronic files. This, if appropriately managed, should trigger the remaining documents to be generated electronically, and result in a shift from paper files to electronic ones.

In a similar fashion, users will gain the capability to file motions and responses to motions electronically, speeding up criminal motion practice. This will enable court orders to be filed and transmitted electronically, also accelerating the process.

Secondly, it will permit law enforcement officers to electronically sign their arrest and crime reports and other forms of discoverable materials, easing the job of filing those reports electronically and helping downstream users to access that information electronically.

III.1 Findings

Law Enforcement

- 1. The law enforcement RMS systems do not integrate, which hurts the system as a whole.**

The lack of integration with any other CMS or RMS is the major problem facing law enforcement. Each of the law enforcement and management information agencies interviewed expressed annoyance to frustration that these systems have not integrated with other systems. At one point, Spillman agreed to work on a WIJIS project and become GJXDM compliant, but pulled out at the last minute after spending years on the project. Integration of the Sheriff Office's RMS is particularly important, since a good system would have a complete set of current and case custodial data, permitting prosecutors and courts to know a defendant's current custodial status, the reason for it, what other reasons for custody might exist, and how long a defendant has been in-custody on a particular set of charges. Spillman's failure to integrate has had a particularly harsh effect on downstream case management systems.

The county spends \$185,000 annually in helpdesk and upgrade fees, and if the large number of Wisconsin Sheriff's departments who use Spillman were to collectively decide to develop an alternate system, Spillman might find it advantageous to actually integrate.

If the Wisconsin legislature or the Supreme Court were to adopt a rule requiring that all Sheriff's agencies must transfer arrest and custodial information electronically to CCAP, via PROTECT, using GJXDM, Spillman might finally realize that it would lose enough revenue to justify facilitating integration with GJXDM. Integration using GJXDM is not a difficult task, and can be done by a proficient coder with access to the data maps of the target databases in a relatively short period of time. Most of the delay is caused by the business models of various vendors who see their business interests as better served by forcing others to comply with their system rather than cooperating in a larger effort.

The lack of integration of law enforcement databases with the prosecutor and courts means that substantially all the key information needed must be re-entered by hand. Further, it significantly delays the flow of information to downstream agencies, resulting in longer jail time for people who would otherwise be released earlier than they are presently.

Courts

1. **The judges and courts fail to use the CCAP-generated reports to full ability.**

The reports provided to judges appear to have little “buy-in” by the judges themselves. Judges are at best only vaguely aware of what proportion of their cases they are expected to have disposed of by what time period; some seem unaware of the time standards at all. Ninety percent of felonies are expected to be closed within 180 days, and 95% of misdemeanors and criminal traffic cases. In fact only 62%, 69%, and 63% reached disposition in 2006. While this success rate seems dismal on its face, it is about the same as the statewide rate for felonies (62% versus 63%), slightly less for criminal traffic (63% versus 69%), and dramatically lower for misdemeanors (69% versus 80% statewide.)

The court system is clearly not holding itself accountable for its own time standards. Despite a generous misdemeanor time standard of disposition within 180 days, Dane County courts are only reaching that goal in two-thirds of their cases, whereas statewide, courts are doing it in about 80% of cases. This pace may help account for the high rate of “time served” sentences given to defendants who had at the time of sentencing already served all of or more than their sentence.

Thus, despite the ability of the system to produce useful and even more detailed reports than are currently generated, the fairly generic current reports are still in use because even they are apparently not being studied or used to motivate progress toward goals.

2. **CCAP does not adequately provide information about the custody status of defendants.**

The system now reports on only whether a defendant is in-custody, and if so, where. Total time in-custody needs to be reported, and information on what charges or holds are actually causing the custody, as well as what the bail/bond status is. Solving this problem will require integration with the jail’s RMS, and solution to the Spillman problem.

3. The success of CCAP has led to a broadening of its base of users, which calls for a review of its governance process.

CCAP was designed by and is responsive to court clerks who initially wanted a docket system to keep their case records, and show what was on the court docket for particular calendars. It was not originally designed as a case management system. However, the excellent design work, the funding, and the key role it has come to play has resulted in its de facto metamorphosis into a case management role. CCAP is run by the state, with multiple layers of control between actual users and those who decide on the development of new features. Court users, such as judges, court administrators, prosecutors, defense counsel, and others play a lesser role in these decisions than current prominence as users and dependence on the data would indicate is appropriate. The result is that the large bulk of current users may not be receiving a governance role as power users of a highly sophisticated system that is rapidly becoming central to their jobs.

4. Dane County courtrooms do not have hardware that will shortly be necessary and should plan for the training needed to move to a broader use of technology in the courtroom.

With the advent of electronic signatures in late 2007, described elsewhere herein, both criminal and civil cases will be filed electronically. The new courtrooms in Dane County lack the wireless network that will be needed by attorneys to view case files for a variety of proceedings. Paper files will soon be decreasing in use, and access to screens will be in demand in the courtroom.

While judges have terminals on the bench, few are familiar with their use on a productive basis. While today almost “everyone” accesses the Internet, most judges and lawyers currently in practice were trained using paper books and fail to see the advantages of electronic media. While paper research will continue to be valuable for many years, judges and lawyers throughout the country are increasingly discovering the value of databases for managing a docket, retrieving information on individual cases, looking up the law on key points, and generating vast new resources. But an organized way of making this convenient through a good user interface, with appropriate training in whatever local approach is taken, will be necessary as the time for that transition approaches.

III.2 Recommendations

Sheriff's Office

- 1. The County should require all law enforcement vendors to comply with GJXDM standards by Jan. 1, 2009.**

This could be done by negotiating with Spillman directly, by withholding annual update payments from Spillman until compliance is achieved (perhaps in conjunction with other Spillman counties), or by leading an effort by the state, by rule or CMS standard (CCAP or PROTECT), to make ineligible any non-compliant RMS.

- 2. The Sheriff's Office should begin producing pdf copies of its arrest reports and transmitting those to the DA in lieu of the paper reports currently being produced.**
- 3. The Sheriff's Office should work with Spillman to assure that current and cumulative information on defendants' custody status is produced in XML format for CCAP and PROTECT.**

Law Enforcement

- 1. The three primary LE RMS systems in Dane County should promptly begin producing arrest reports as pdf documents, and electronically transmitting them to the DA's office under a mutually agreeable protocol.**

District Attorney's Office

- 1. The District Attorney's Office should work with Dane County LE agencies to receive arrest reports electronically.**

These electronic reports should then form the core of the DAO's electronic file, together with the charging document and other criminal pleadings filed in the case. The use of paper files should be limited to working files for individual ADAs who have a need for printouts.

Until arrest report data is transferred electronically to PROTECT, the DA's Office will have to continue to use its clerical personnel to retype all the information into PROTECT, at the expense of work on other tasks. However, at a minimum, the DA should obtain the arrest reports in pdf format, to eliminate delays in receiving them from law enforcement agencies and delays in producing them to defense counsel, This would

make the identical information available to PROTECT and CCAP users downstream.

2. **The District Attorney's office should work with PROTECT to assure that the following appropriate fields are included in PROTECT:** whether a defendant is presently in-custody, how long the defendant has been in-custody, and the primary cause for custody (i.e. hold, failure to make bail, failure to meet a condition of bail). In addition, an interface with Spillman should be created in order to allow these fields to be populated automatically from the Sheriff's data.
3. **The District Attorney should use the available features of PROTECT to adopt time standards for processing cases and to establish ticklers for critical events for a variety of cases.**

At a minimum, PROTECT should be used to assure that discovery is produced shortly after arraignment in both felonies and misdemeanors, that plea offers are produced to the defense via e-mail once a defense attorney is known, and that responsive pleadings are filed on a regular schedule once motions are filed by the **defense**.

4. **The District Attorney should adopt an internal procedure assuring early release of discovery to the defense, preferably shortly after the defense attorney is known, and should use e-mail to transmit discovery whenever possible.**
5. **The District Attorney should prepare for the advent of electronic filing** by identifying simple, useable procedures for filing complaints, motions, responses and amended pleadings electronically, and for accessing electronic case files as needed by ADAs, not only in the office, but also in courtrooms, law enforcement offices and other places where access is needed.

Courts

1. **The courts should utilize the CCAP system to set up a tickler/reminder structure for processing misdemeanor and felony cases through the system in a timely fashion, distinguishing between in-custody and non-custody cases. This structure should incorporate the best practices standards promulgated by the National Center for State Courts.**

Though the system can be set up to use ticklers for key events, as some courts in Wisconsin do, Dane County courts have not used this capability. A well-run court system will establish time standards for each of the key events in the criminal justice case flow. Thus, from the filing of a felony,

the time to the preliminary hearing should be tracked. Time to dispositive motions, when applicable, should also be tracked. In-custody cases should be distinguished from those out-of-custody cases in the electronic information system used on a daily basis. Pleas should be distinguished from trials to help see where problems with processing may lie. Other, more sophisticated kinds of information can be tracked on either an ad hoc or regular basis to pinpoint potential problems and to assist the court with meeting its performance standards. There seems to be little or none of this activity going on in Dane County.

2. **CCAP should begin generating daily reports for judges on in-custody cases, showing who has been held and for how long, as well as who is past the standards adopted by the court, so clerks and administrators can assist judges in expediting overdue cases.**
3. **Courts should receive a daily report of all cases over local guidelines for case processing.**
4. **Judges should receive a monthly timeliness comparison of their cases with the cases of other local judges.**

Individual judges should know at all times how their caseload compares with their colleagues, what time standards they are expected to meet, and how they are doing in meeting the time standards. They should know how they compare with their immediate colleagues, similarly sized courts around the state, neighboring courts, and courts statewide. These are among the valuable measures of individual and collective job performance for judges and the court, and should be a matter of interest.

5. **At least once every quarter, courts should review with the lead criminal justice their progress in case processing, until guidelines are substantially achieved.**
6. **The Chief Judge should employ existing authority to directly adopt timeliness standards for Dane County (not limited by minimum timelines) and enforce them among the criminal bench until they are achieved.**
7. **The courts should make screens available for CCAP on counsel's tables and for the bench, and for PROTECT for the DA at the prosecution table.** Alternatively, the courts are currently considering making wireless network access available, as the cost of counsel workstations is prohibitive. If the courts pursue this option, they must be sure to employ the modern WPA or 802.11i security mechanisms.

8. **The courts should complete the process of making a printer available in each courtroom so that the clerk can print notices of the next date and time of hearing before a defendant leaves the courtroom.**
9. **The courts should adopt a rule governing discovery.**

In the large majority of cases, discovery involves only the arrest report, which should be provided by electronic copy from the ADA to the assigned counsel shortly after first appearance. Regardless of when discovery must be given, it should be given within a reasonable time after it and the defense attorney are known.

10. **The courts should begin scheduling cases through CCAP in a way likely to assure timely and coordinated appearances of the prosecution and the defense.**

Courts should integrate with all LE agencies to permit coordination of LE officers to appear as witnesses at motions and appearances. Courts should integrate with PROTECT to similarly facilitate coordination of other witness appearances.

11. **CCAP should integrate with Spillman and New World (and Global, if possible) to permit reporting of court case status, dispositions and the coordination of officers, as well as to permit current and cumulative data on defendant custody to be displayed in CCAP.**

While these users and their recommendations are considered in the decision-making process, they are not considered “clients” and do not actually have a say in decisions. These other users rely on CCAP, and their systems interface with CCAP. As it gains increased dominance as the primary criminal justice information system, it is less reasonable to consider it to be strictly a court system.

12. **CCAP should create a series of local use fields for individual court systems to use as they determine.**

These fields should be easily set up, utilized and controlled by the court clerk for any purpose deemed advisable by the Chief Judge, without requiring the approval of the multiple layers of the CCAP structure statewide. Use of these fields should be monitored by CCAP for potential inclusion in the statewide system.

- 13. The state, having done a very creditable job to this point in developing a good system, needs to re-examine its governance of CCAP to give its de facto users (judges, district attorneys, public defenders, and others) a greater role in deciding features and other aspects of CCAP.**

While these users and their recommendations are considered in the decision-making process, they are not considered “clients” and do not actually have a say in decisions. These other users rely on CCAP, and their systems interface with CCAP. As it gains increased dominance as the primary criminal justice information system, it is less reasonable to consider it to be strictly a court system.

Public Defender

- 1. The public defender should set up systems for receiving electronic discovery and promptly distributing it to the assigned APD/attorney.**
- 2. The public defender should set up an electronic system for promptly assigning either an APD or contract attorney to a case, and logging the assigned attorney information into PROTECT and CCAP.**

Probation and Parole

- 1. Probation officers should have Spillman and New World terminals to be informed of criminal history and current custody status.**
- 2. Probation should revise its automation system to trigger review and presumptive release of holds on persons held longer than guideline standards.**

IV. Sheriff's Office

The current jail system in Dane County consists of 949 beds in three separate facilities: the City/County Building, the Public Safety Building, and the Ferris Center.

The **City/County Building (CCB)** is the oldest building, with a capacity of 341 secure single cell beds.

The **Public Safety Building (PSB)** was designed in 1994 to hold 400 (dormitory style) Huber/Work Release prisoners, with 64 intake and receiving beds.

Ferris Center (FC) is an antiquated two-story facility marked for replacement. It was originally built for 144 beds, and received State authorization for double bunking (resulting in 288 beds) prior to the opening of PSB. This authorization was provided with the stipulation that the 1994 opening of the PSB would eliminate the need for the double bunking. The building is a two story structure containing 144 double-bunked beds on each level, for a total of 288. During the transition and opening of the PSB building, the population in FC was reduced to 72 and the second level was closed. Staff was reassigned to the new PSB building. The County reopened the second level and continues to double bunk to accommodate the increasing population.

City County Building - CCB
341 Beds of Medium and High Security

Public Safety Building - PSB (1994)
Built to 400 beds of Huber
Now housing 100 WR and 300 pretrial prisoners

On average, FC population was 194 during 2006 and 244 during the 2007. The population on the day of the visit was 250.

Ferris Center - FC
Minimum Security Huber - Work Release Center
Built for 144 Beds now housing 250 prisoners

Facility issues

The ILPP study is not a facility assessment report, but it must be noted that several factors are significant in the existing design.

The Ferris Center is intended for replacement or elimination. The replacement should carefully consider the composition of the future inmate population.

The visiting spaces are completely inadequate for the existing jail population and should be remedied by more thorough study before the installation of video equipment and reassignment of space.

The medical spaces are inadequate for the volume and intensity of the inmate population.

The building does not support the many differing needs of the inmate population. In particular, the special needs group can not be treated or accommodated in the type of cell structures of this antiquated design. The staff is separated from the population by the structural design causing minimal effective contact to manage the inmate population. The special needs of this inmate group are not met with current facility resources and regardless of other modifications, system or structure, the County should develop facilities for the special needs group. This is well documented in earlier reports.

The construction of the new courts building complicates the movement of inmates from the jails to the courts, significantly increasing the time and staffing demands required, creating a series of problems which have not been solved.

The intake and admissions space is inadequate for the volume and number of arrests. Whether there are plans for the remodeling or replacement of the building, new booking spaces should be planned for. The current flow pattern does not allow for separation of incoming and outgoing prisoners.

Classification and Risk Assessment

ILPP reviewed the classification system employed by the Dane County Sheriff's Department. The department initiated a major change to the classification model used. Prior to the implementation of an objective jail classification instrument recommended by the National Institute of Corrections, the department conducted extensive training of supervisory and classification staff. The department developed written policy and procedure governing the implementation and use of the new classification system in 1994.

POLICY: All prisoners admitted into custody of the Dane County Jail will be classified during the admissions process. The primary objective of an initial (intake) classification is to determine the appropriate custody status and prisoner classification of prisoners for housing prior to arraignment proceedings.

POLICY: All prisoners remanded to the custody of the Dane County Jail following court proceedings will undergo the primary classification process. The Primary Classification process will classify prisoners for housing in all jail facilities in a manner that protects both the prisoner population and jail staff.

DEFINITION: Classification - Is a non-punitive method by which the jail reaches an objective, consistent, and valid decision about the separation of prisoners into certain groups for specific purposes. Classification provides a mechanism which produces decisions about the diverse processing, housing, and treatment needs of prisoners. The intent of classification is to group prisoners in a manner that reduces risk to personal safety and institutional security, while enhancing the effectiveness and efficiency of prisoner management.

Source: Dane Sheriff's Manual

The previous classification system used in Dane County was similar to earlier models of the NIC classification instrument, but the actual model employed significantly over-classified inmates and the Sheriff's Office ultimately recognized that deficiency. The NIC recently evolved to the newer objective classification model, which Dane County adopted in June 2006. Management and assigned classification staff are well versed and educated in the new model.

The new classification system has greatly modified the classification ranking of existing and new prisoners. The following data show averages for the year 2005 and the classification groupings shown on April 9, 2007 during the ILPP assessment. Since the Sheriff's Office has implemented the newer system, the group classified as minimum security has increased from 26% of the total population to over 62%. Sheriff's staff noted that they have reported this change to the local justice system community numerous times in the past and the data appears in monthly reports and daily reports issued by the Sheriff's Office.

	<u>2005</u>	<u>2007</u>
Minimum	26%	62.6%
Medium	34%	24.9%
Maximum	40%	12.3%

The new classification system offers greater flexibility in the assignment of prisoners to many programs and services that must be applied within the constraints of the existing building structure and selection criteria for programs. This flexibility does not extend to blanket assignment of these offenders to programs without consideration of their mental health needs and medical requirements. While prisoners may be classified as minimum-security due to these modifications, their criminal histories still influence program assignment. For programs to be effective, inmates must be carefully assigned based on a

validated risk and needs assessment. Nonetheless, the new system also offers tremendous opportunities to reduce the custody level overall, defining a “low minimum security” population which can be effectively punished without custody.

A primary program offering alternative incarceration in Dane County, as in other counties, is the work release program (Huber), which is used to cope with many low security inmates assigned to county jails. Typically, county jails offer temporary housing for work release inmates. Inmates assigned to work release are released daily to maintain employment or seek new employment and are required to return to the jail for housing during the night. Many jurisdictions, including Dane County, are considering the long-range impact of requiring prisoners to be housed at a county facility during the night. The cost of this intermittent incarceration in Dane County is high and consumes many beds that could be used for more permanent residents classified at the same security level. The county has noted the potential and benefits of adopting the “La Crosse model”. The Huber facility in La Crosse, Wisconsin was closed down in 2006; Huber/work release offenders were assigned to electronic monitoring and other sanctions in lieu of intermittent incarceration.

On a national basis, many Sheriff’s offices and county administrations are positively considering this approach. It seems unreasonable, in a now typical crowded and resource-thin setting, to employ jail beds for offenders who are released daily to work or seek employment in the community, when other inmates are assigned to out-of-county rented beds, limiting family visitation capabilities. Counties are now identifying alternative methods of coping with this low-risk population, who should instead be sanctioned without occupying the scarce resource of jail beds. One option is weekend work programs, where inmates are housed in non-secure environments and supervised by county staff or Sheriff's deputies to develop community projects or work for nonprofit agencies. Low-cost housing is often arranged in lieu of jail space for these individuals, and many jurisdictions are using electronic monitoring or supervised release instead of the jail.

The court currently refers most offenders for the Huber program, although local Huber program criteria may eliminate some offenders’ eligibility to participate. Since all Huber offenders are assigned to the Sheriff’s Office, the Sheriff is primarily responsible for the development of Huber criteria, which has been modified over time¹². The modifications are usually made as a result of incidents or pressure from interest groups. The current criteria were reviewed by ILPP and found to be reasonable, although they could be more liberal under the classification criteria now in use. The Sheriff or any administrator must be careful in their selection of offenders assigned to the jail to be released from custody, even on a temporary basis. Should a prisoner be involved in a significant criminal

¹² Sheriff’s staff provided a historical view of how the criteria changed over time.

incident, and ultimately this does happen, there will be difficulty explaining or justifying some releases. Systems that have been successful in improving the release criteria use committees composed of agency representatives from throughout the justice system, like the Criminal Justice Group (CJG), which carefully reviews the criteria and collectively supports them. Representatives band together to support the decision-making process when incidents occur and refuse to criticize the program managers. In the absence of such agreements, program managers are often left to defend themselves with little support. The natural response is to be more conservative than needed, resulting in more crowding.

Could more offenders be assigned to the Huber program in Dane County? The ILPP review concluded that the Sheriff's Office is using sound logic in its decision-making process for assignment to the Huber program. However, given the support of the Criminal Justice Group, the classification outcomes, and national best-practice directions, the program could be greatly expanded by allowing more serious non-dangerous offenders to be assigned to the program. For instance, more serious drunk drivers were assigned to the program in the past. The program now allows fewer serious drunk drivers to participate, in large part as a result of outside influences and the fear of re-offense. However, rehabilitation of most offenders can occur outside of incarceration with far greater potential for success.

The new classification system classifies each inmate according to the following groups:

1. Maximum Security
2. Maximum Security- With Behavior problem
3. Medium Security
4. Medium Security - With Behavior Problem
5. Minimum Security

The system then further identifies the following needs or elements for each inmate in each broad security category:

1. Behavior problem
2. Criminal History
3. Medical Issue
4. Mental Health
5. Protective Custody
6. Suicide Risk

The Sheriff's Office data system compiles complex information about the status of each inmate on a daily basis. The following table shows the various statuses attributed to the inmate population.

County Pre-arraignment	Probation/Parole Hold (PO)	State Prisoner new charge
County Pre-arraignment/ Hold	Probation Hold/ Outside Hold	State Prisoner Contract
County Pre-arraignment/ Probation Hold	Pre-sentence Investigation	State Prisoner In Transit
Municipal Pre-arraignment	Pre-sentence Investigation/ Hold	Non Fed Prisoner In Transit
Municipal Pre-arraignment/ Hold	Pre-sentence Investigation/ Probation Hold	Federal Court Prisoner
Municipal Pre-arraignment/ Probation Hold	Sentenced without Huber	Federal Prisoner In Transit
County Pre-trial	Sentenced without Huber/ Probation Hold	Federal Prisoner Contract
County Pre-trial/ Hold	Sentenced with Huber	Juvenile Traffic
County Pre-trial/ Probation Hold	Sentenced with Huber/ Probation Hold	Juvenile Waived
Municipal Pre-trial	Huber Revoked	Juvenile Custody
Municipal Pre-trial/ Hold	Probation sentence/ no Huber	Sentenced with Outside Hold
Municipal Pre-trial/ Probation Hold	Huber revoked	Sentenced w/ Outside Hold & Huber
	Probation sentence with Huber	
	State Prisoner Writ	

The system goes further by indicating the special needs of each inmate:

Administrative Confinement	Receiving
Alcohol Review	Segregation
Classification Review	Special Housing-Alcohol
Disciplinary Status	Special Housing
General Population	Special Needs High Security
Inmate Worker	Special Needs-Medical
Mental Health Segregation	Special Needs-Mental Health
Medical Segregation	

Understanding the complex information gathered for each inmate can be daunting. ILPP's review of the classification system revealed that Dane County is at the leading edge of local systems in developing true objectivity in jail classification systems. Daily rosters, which provide detailed information concerning inmate status, are widely distributed to key decision makers. Many recommendations set forth in this chapter have been implemented in other jurisdictions; for a listing of some of those jurisdictions, see the chart included in the Action Plan.

IV.1 Findings

1. **The Sheriff's Office achieved a major improvement to the system by adopting NIC's objective jail classification process** and created extensive opportunities to expand the use of alternatives and non-custody sanctions and limit out-of-county rental of bed space.
2. ILPP interviews concluded that few persons in Dane County understood the significance of this improvement and enormous opportunities created by the revised classification system, or were even aware of the changes.
3. **The dramatic change resulted in over 60% of the jail's population now being classified as minimum security** but has not resulted in significant reductions in the jail population.

4. **The classification system now needs increased stratification to show the opportunities for the use of alternatives by the substantially larger minimum security population.** Not all prisoners classified as minimum security are then eligible for release to other alternatives. Classification as minimum security only increases the opportunity for diversion; the full 62% cannot be diverted from the jail. Many jurisdictions find alternative participants from medium and maximum security populations when supported by a gatekeeper committee such as Executive Committee of the Criminal Justice Group.
5. The stratifying process should encourage the Executive Committee of the Criminal Justice Group to identify those inmate groups that might be channeled to non-incarceration programs. The selection criteria of those to be moved to alternative programs should then be developed and supported by the Criminal Justice Group. I.e., this decision-making cannot be the sole responsibility of the Sheriff's Department. Development of specific release/alternative criteria through a broader base of key gatekeeper officials is essential to the future success of controlling the jail's population
6. **The Sheriff's Office, with support from the Criminal Justice Group as a whole, is the appropriate agency to take the initiative to indicate members of the prisoner population available for alternatives to jail.**
7. **By definition, a crowded jail must violate its custody classification system to function.** The improved classification system must be supported by available beds to locate inmates in the appropriate supervision status. Crowding remains the central issue; even supported by a good classification system, the system necessarily fails during severe crowding.
8. **Removal of a large number of low minimum security inmates would eliminate crowding, out-of-county rentals, and most classification problems.**

IV.2 Recommendations

1. Stratify the Minimum Classification Jail Group

The Sheriff's Office should further improve the classification system by stratifying or defining subgroups within the minimum security population, aiming directly at creating far more opportunities for alternative sanctions. Within this low minimum security group, usually comprising more than half, the Sheriff's Office should define those that are eligible for immediate

movement to electronic monitoring or supervised release and identify those eligible for:

- Huber or work release,
 - release on electronic monitoring,
 - various day reporting and work programs, and
 - other forms of release.
2. **Once formulated, the criteria should be approved and adopted by the Criminal Justice Group to ensure that the Sheriff is not politically isolated, as he is presently threatened in most release policy deliberations.**
 3. **The Sheriff should seek the support of the Criminal Justice Group in the establishment of population capacity limits for each jail facility (“caps”). County government should publicly support the implementation of capacity limits for each of the jails.**

The Executive Committee of the Criminal Justice Group MUST take a leadership role in establishing a hard number capacity limit and must sanction a response when the jail approaches that limit. No jail can operate efficiently and provide a safe environment for inmates and staff if crowding exceeds a capacity that allows for classification to function properly. The NIC advises that a population that is beyond 80 to 85% of capacity exceeds the availability of unoccupied space and beds to properly place additional inmates in confinement of comparable or appropriate classification. The county must mutually determine the population level at which the classification system fails and consider acceptable points for determining capacity.

The Sheriff's Office should establish recommendations to be taken to the CJG for the purpose of approving the appropriate capacity for the jail system. This requires that the system establish a plan or method for maintaining the capacity. This may include movement of remaining low security inmates to alternative programs outside of the jail and early release with sanction, based on criteria developed in conjunction with the CJG to achieve population controls. All systems have the responsibility to establish capacity limits and develop control mechanisms, but few have the political strength to fully develop such controls as suggested. Those systems that have capacity limits and control mechanisms, without a broad local political foundation, are usually forced by federal courts and consent decree to achieve these ends.

Several systems, led by Multnomah County (Portland, Oregon), have developed “matrix release” plans that continually grade each inmate according to established criteria approved by criminal justice system

representatives and in particular, the updated support of the courts. Bernalillo County (Albuquerque, New Mexico) developed a matrix system but implementation was blocked by the lack of court support. In that system, the county hired a judge to review all inmates and determine those who were eligible for release. Ultimately, the Bernalillo County system fell under a consent decree that mandated specific elements for controlling the inmate population and improving programs and services. Dane County must work closely and aggressively with the CJG and obtain approval from the court to develop such methods of managing the inmate population.

Each county government has the responsibility to establish capacity limits and develop control mechanisms, but only some have the political ability. The systems that have capacity limits and control mechanisms benefit as a result.

4. Sheriff's staff announced changes to the classification system, but interviews conclude that few people understand the significance and importance of the changes in classification made by the Sheriff's Office.

The Sheriff's Office made these changes without a significant increase in cost or resources. The enormous impact on the potential for future delivery of jail services and programs should be recognized.

The Sheriff should make available additional summary and description of this major change and the county administration should distinguish and support the dramatic improvements.

The Sheriff issues daily reports summarizing the inmate population. These are quality reports, representing an excellent example to be followed by other jails. But they can be improved as the Sheriff identifies issues and information that other agencies can benefit from.

The distribution of 60% minimum security population strongly demonstrates the likelihood that most of the jails' low security population could be sanctioned through other methods outside of the jail.

The Sheriff's Office should show distributions within that minimum security group, indicating further potential for identifying segments of the population to be moved from the jail.

5. Increase the Use of Citation and Release

The jail population is understood to be a factor of the number of admissions to the jail and their length of stay. Understanding this basic factor is crucial to begin real management of the jail population.

A major factor of inmate population management is the control of admissions by law enforcement. Dane County must initiate an effort to monitor and control law enforcement's discretionary use of incarceration in lieu of issuing citations. The Executive Committee of the Criminal Justice Group should request copies of all law enforcement agencies' written policies on the use of citations in lieu of arrest and then see coordinate implementation of common policy for all law enforcement officers in reference to this critical issue. The policy should clearly indicate that low-level offenders must always be cited in lieu of incarceration "unless" certain specified public safety concerns are at issue (which is basically the State law). Once the policies are standardized countywide, a method for monitoring all arrests should be defined accordingly because without enforcement of the policy, it will have no impact on the jail's population.

The Sheriff's Office should take a leadership role in managing the policy formulating process and related monitoring practices with the support of the Executive Committee of the Criminal Justice Group. The Sheriff's Office should be given authority by the consensus of the Executive Committee and by an order by the Court, if possible, and guidelines should be established to release detainees in instances when law enforcement fails to follow the policy.

As an ultimate remedy to this issue, failing compliance by local law enforcement, the county should first develop and circulate, and then implement if needed, a booking fee or charge back system to enforce the citation policy.

6. The County should develop in-custody and out-of-custody work programs to implement a graduated method of moving successful offenders through less restrictive and more effective sanctions.

The work programs should involve meaningful work that benefits the community, keeps inmates active to avoid idle time, and teaches offenders new skills. Many communities have been very successful in implementing work programs. Clark County in Vancouver, Washington started with an in-custody program, moved to an out-of-custody program, and has continually expanded the program to encompass new activities. The program started with inmates working at the local dump to assist in processing of trash. Then they began to salvage various metals from the trash and appliances or machines dumped by haulers; these materials

were sold to metal recycling companies. The county then started the out-of-custody program by ordering offenders to report to a location to which they were transported by county vehicles to work sites, including the dump and nonprofit organizations. Nonprofit locations were selected to avoid controversy with organized labor. The program then developed to employ offenders in a nursery for growing plants, which was followed by landscaping teams which used the nursery materials. Most programs collect some fees that cover costs and equipment.

Boulder County, Colorado maintains a weekend work program which orders offenders to appear at designated locations to work during the day on Saturday, sleep in a warehouse that is unsecured with packaged meals supplied by the jail kitchen, and then work again on Sunday before being released. The program often exceeds 150 working offenders. The warehouse is rented one night per week at minimal cost and a single supervisor monitors attendance.

Yakima County, Washington also maintains a very active and effective work program for minimum-security offenders. The county contracts with agencies to provide services and labor, with crews to be supervised by jail staff. The program continually upgrades its equipment to include tools, trailers with portable toilets, and all necessary equipment to complete a task.

Lane County, Oregon started employing effective inmate work crews 18 years ago. Inmates go home at night in exchange for working during the day, and are restricted to working along roadways, clearing brush, performing litter pick-up, sweeping, cleaning bridges and overpasses, etc. The entire program is funded by dedicated road dollars. The County Public Works Department benefits by not having to hire and pay a work force to accomplish labor intensive tasks which otherwise would not get done. The program runs 150 people at any one time. Five deputies, one sergeant and one office assistant manage the program. The county also manages a forest work camp that is partially funded by Federal Title II and III dollars. This program consists of about 100 inmates, and operates six days a week. The county contracts with and obtains funds by completing work projects for various agencies and public entities like trail building, painting schools, clearing brush, etc.

- 7. Dane County representatives should develop clear written statements of goals and objectives prior to implementation and seek the support of the Criminal Justice Group prior to full development of work programs.**

The goal statements will ultimately guide the development of the work program and the parameters for implementation.

Typically, a county will go through the following steps:

- Seek input from other counties with successful programs.
- Develop an initial written concept.
- Develop additional cost estimates.
- Develop a statement of cost and fees to be charged.
- Seek approval of appropriate agencies and representatives.
- Develop written policy and procedure.
- Identify the data to be collected by the program.
- Identify reporting methodologies.
- Identify the methods of evaluation.
- Seek appropriate funding.
- With funding approval, developing a purchase plan.
- Identify staff to manage and work the program.
- Identifying training needed for staff.
- Identifying training needed for participating inmates.
- Develop the training curriculum.
- Implement a training program.
- Assign staff to seek contracts.
- Negotiate contracts for services, and implementation date.
- Implement the program.

- 8. As with any program or services for inmates, there should be an evaluation component that measures success and failure.** Inmates who refuse to work are returned to jail, failures are punished, and accountability is strong.

To be successful, the evaluation effort should be independent. Objective review is critically dependent on the data collected by program administrators.

Dane County Prisoners in Contract Counties

Dane County is housing in excess of 100 inmates per day in other counties' jails and pays a per diem rate of approximately \$65. Sheriff's staff transports inmates to and from these jails on a daily basis, to move new inmates to outside holding and to return others for court appearances or release. The number of inmates transported and housed at other jurisdictions continues to increase and is an alarming indicator of the importance of system management. The use of out-of-county housing must be viewed as a temporary solution to crowding problems. The primary issue is managing the system and available beds more effectively.

The movement of inmates to other jurisdictions is a serious burden on the resources of the Sheriff, and clearly creates staffing problems. The following table summarizes the movement of inmates to out-of-county housing on a

contract basis. During 2006, the Sheriff's Office transported 6,436 inmates to other counties and logged nearly 27,000 hours of deputy time for those transports.

The following table represents those inmates housed in other counties on April 2, 2006 at each of the counties contracting with Dane County. The summary shows that 42 medium security inmates, 79 minimum security inmates and 19 maximum-security inmates were housed outside the county. Prisoners with special needs were also included in the group.

Table 16: Inmates Housed in Other Counties							
Security Classification	Fond du Lac	Lafayette	Sauk	Shawano	Waupaca	Winnebago	Grand Total
Institutional Classification							
Medium							
General Population			5			9	14
Medium Behavior							
General Population	2		11	1	1	12	27
Special Needs Medical			1				1
Minimum							
General Population	9	4	28	2	4	28	75
Special Needs Mntl Hlth			2		1		3
Special Needs Medical						1	1
Maximum							
General Population	1		5			6	12
Maximum Behavior							
General Population			3			4	7
Grand Total	12	4	55	3	6	60	140

ILPP conducted a sample review of the inmates held in other counties on April 3, 2007. The sample size was 124 of the 148 housed on that date. Only 11 inmates of this population had a single charge. All others had multiple charges with one inmate having 34 charges. There were 690 charges for this population of 124 with an average of 5.6 charges per inmate.

The charges consisted of felony, misdemeanor and lower-level offenses. Most inmates were charged with multiple levels, as shown in the following tables. With the multiple levels of charges, some inmates were sentenced on some charges and un-sentenced on others. Of this sample, 93% of charges were pretrial status, and 45% of the charges (not individuals) were sentenced. Probation or parole violations were charged on 60.5% of the inmates and 13% were being held on hold for other jurisdictions.

Table 17: Distribution and Status of Charges	
Felony	78.2%
Misdemeanor	68.5%
Other	78.2%
Status of Charges	
Pretrial	92.7%
Sentenced	45.2%
Probation/parole	60.5%
Holds	12.9%

Table 18: Number of Charges Per Inmate

Charges/Inmate	Number of Inmates	Total Charges
1	11	11
2	26	52
3	18	54
4	15	60
5	10	50
6	14	84
7	6	42
8	1	8
9	6	54
10	4	40
11	2	22
12	2	24
14	1	14
15	1	15
16	2	32
18	1	18
22	1	22
26	1	26
28	1	28
34	1	34
Total	124	690

Minimum security inmates accounted for 55% of the population, maximum-security accounted for 13% and medium security consisted of 31.5%. The following tables present the breakdown by categories including behavior problems.

Table 19: Categorical Breakdown

Maximum	8.1%
Max-Behavior	4.8%
Medium	12.1%
Med-Behavior	19.4%
Minimum	55.6%

Table 20: Number of Out-of-County Inmates by Category

Pretrial	53
County Prearrest/Probation or Parole Hold	3
County Pretrial	27
County Pretrial/Hold	5
County Pretrial/Probation Hold	18
TOTAL	53
Probation Parole and PSI's	
Probation/Parole Violation	33
Probation/Parole Violation/Outside Hold	2
Presentence Investigation	27
Presentence Investigation/Hold	1
TOTAL	63
Sentenced	
Sentenced with Huber	1
Sentenced with Huber/Probation Hold	1
Sentenced with Huber/Huber Revoked	8
Probation Sentence Work Release Revoked	11
State Prisoner In transit	1
Sentenced/Outside Hold	9
TOTAL	31

Litigation brought to stop out-of-county transports is usually based on the selection process and provision of inmate rights. The selection process is often viewed as violating the constitutional rights of the inmate population. Some argue that the decisions made to select inmates for movement are discriminatory. Dane County logically follows the trend of any jurisdiction facing the decision to transport inmates, by developing criteria that select those inmates who tend to stay in jail for long periods of time, face court dates in the future, tend to be sentenced, and are without health or mental health issues. Sentenced inmates who have violated terms of work release or work programs are often selected for transport. Nonetheless, in Dane County, most inmates tend to be pretrial defendants. The Sheriff should seek system verification and support for the criteria and selection process that assigns inmates to out-of-county beds.

Many jurisdictions refuse to hold contract inmates classified as high security, and most require immediate return for inmates who become behavioral problems in the contract jail. Dane County is fortunate in that local jurisdictions are willing to accept high-security inmates.

Contracting inmate days is a form of bed expansion that creates additional problems for the system and complicates the assessment of system changes, while greatly increasing cost and deferring the basic choice of system improvement or bed expansion.

The practice temporarily relieves some pressure on jail crowding, but generally cannot be viewed as a long-term solution. The cost is just too great in terms of system management and financial responsibility. Contracting inmate days can only be seen as a temporary solution to making difficult decisions about system restructuring to manage or expand the number of available beds. Due to the independent nature of the multiple agencies involved in the criminal justice system and the true lack of a systems approach to implementing change, the easier answer is often contracted beds.

Dane County government resists out-of-county contracting due to budget constraints, while the Sheriff resists out-of-county contracting due to limited resources and problems created by the need to schedule and transport movement. Courts, prosecutors, and defense attorneys resist out-of-county contracting due to increasing time commitments, which tend to slow case processing and ironically, increase crowding.

Housing inmates in contract beds violates the principle of community-based corrections that is fundamental to the Dane County jail structure. A major impact is avoiding capacity limits and expansion of bed space and costs beyond what is provided for. Once an inmate is transferred to another county, another inmate often takes his or her place. It merely expands the number of people in-custody.

Defendants' families and treatment providers would correctly argue that the inmate population suffers the most because of the difficulty of maintaining family contact and visiting.

Success of inmates, in terms of re-adapting to society and recidivism, is related to maintained familial relationships, so further separating them by transporting to out-of-county correctional facilities is detrimental, increasing the likelihood of poverty, drug relapse, and criminality¹³.

Since the inmates most qualified for transport in Dane County tend to be those on pretrial status, the practice complicates the inmate's defense and case preparation. Defense attorneys already face a difficult task in effectively communicating with inmates housed in the Dane County Jail. Such contact is complicated by the transfer of inmates to other counties. Defense attorneys argue that out-of-county housing impedes the defense process and delays case processing. The Sheriff's Office must have sufficient notice to return inmates in a timely manner. Unless adequate staff is dedicated and assigned to inmate

¹³ Children: Unintended victims of legal process, Flat Out Inc. and the Victorian Association for the Care and Resettlement of Offenders, June 2006

movement, the Sheriff is likely to face difficulties in meeting court schedules. The Dane County Sheriff's Office reports that the number of staff, and vehicles fall short of the transportation needs, resulting in higher use of overtime.

Transportation of inmates to other jurisdictions also reduces the inmate's opportunity to take advantage of meaningful Dane County programs. Inmates moved out-of-county typically get fewer programs and services, in part because the rich program and service formula of Dane County is not usually included in rental rates.

ILPP's assessment of transportation included a brief review of the staffing assigned to the jail and transportation. Staffing problems that can only be solved by an independent and thorough staffing analysis emerged. Understanding the complexities of shift work, seven day a week operations, and 24-hour coverage is difficult and requires sufficient time to review the issues in an open and constructive study.

The continuing use of overtime to fund positions is destructive to the management structure and employee morale.

Identifying the appropriate number of staff, to accommodate the duties associated with the Sheriff's Department and the jail should be a priority.

The cost of outside contract housing is expensive and can be expected to get more expensive. In states where contracting flourishes, jails with available beds soon fill and market prices increase. Sheriff's departments travel much greater distances to find available beds, increasing the complexity and cost.

Dedicated staff must be assigned to manage the accounts, maintain scheduling, repeatedly call for available bed space, and transport inmates. Coverage should not be expected to continue indefinitely with existing staff and overtime.

An objective evaluation should occur to analyze the difference in costs between maintaining out-of-county contracts and building new jails. ILPP's review of costs suggests that prior reports seem to discount true transportation costs, increasing rental costs, problems with rehabilitation, operational costs, and growth.

IV.3 Findings

1. Contracting of jail beds effectively increases the number of beds and incarceration cost.

The use of out-of-county housing while maintaining work-release beds that are only used intermittently is not cost-effective. Substantial numbers of inmates could be moved from work-release housing to electronic

monitoring and supervised release, and many could be released altogether.

Placing pretrial inmates out-of-county violates their presumption of eligibility for work-release privileges. It would be impossible for an out-of-county inmate to maintain their employment.

The placement of inmates in other jurisdictions puts inmates at some distance from counsel, especially the public defender, but also prosecution, detectives, and other officials who have an interest in the cases.

IV.4 Recommendations

- 1. The county should make a strong and immediate commitment to a methodology for solving future system capacity problems.**
- 2. The Sheriff should submit recommended selection criteria and process for review by the Criminal Justice Group.**

The committee should then verify, validate, and support the selection process for out-of-county transports.

- 3. The Sheriff should, if later needed, develop an independent and objective review of the staffing requirements for the safe transportation of inmates to out-of-county locations.**
- 4. County administration and the Sheriff should jointly reassess the true cost of contract housing versus implementing alternatives to incarceration and/or new construction.**

Staff should consolidate information and develop cost options to achieve a consensus. The value, the complexity, and the importance of this critical information require joint assessment with reporting to the CJG. It would be reasonable to consider involvement of an outside facilitator to assist in this product.

- 5. Dane County should take strong and immediate steps to eliminate housing inmates out-of-county.**

The findings developed by ILPP conclude that significant changes can be made to the justice system that would result in the elimination of out-of-county housing. The implementation of alternatives to incarceration appears to have expanded the number of inmates in the system rather than carefully selecting those who would be in the jail. Given the opportunities found in the revised classification plan, and with the support

of the criminal justice system in redefining the criteria and use of alternatives, the county could realize a larger than 200 inmate reduction of the jail's population.

6. Implement a major shift of inmates from work-release to electronic monitoring and supervised release.

Several Dane County staff members assume peripheral responsibilities for monitoring the jail's population, but no one has specific responsibility to earnestly make a systematic and thorough evaluation of the components driving jail crowding. Intermediate sanctions and alternatives to incarceration, while rich in Dane County, do not seem to be satisfying or controlling the growing number of inmates. These programs tend to "broaden the net" suggesting the question of program evaluation and testing of outcomes for program objectives.

7. A new Dane County funded manager should be hired and assigned to monitor the jail's population, seek full implementation of this report's recommendations, and seek the elimination of out-of-county housing.

This manager should be responsible for maintaining detailed and accurate definitions of every inmate in custody. The definition should include current status, future status, future critical events, risk and program needs, case status, judge assigned, prosecutor assigned, probation and parole officer assigned, public defender or defense attorney assigned, and meticulous detail concerning the factors requiring the incarceration. The manager should track all court events and medical, program, and mental health care needs to ensure satisfaction.

8. The Sheriff's Office, the County Executive's Office, and the CJG should establish a capacity limit for the existing incarceration facilities.

Prior to establishing such a capacity limit the participants should review the needs for available beds for classification. For instance, female beds cannot be used for male prisoners. So even when female beds are open, the beds are not available for new male prisoners. The same is true for various classifications, including special watch and medical mental health needs beds.

9. The Sheriff's Office should develop a statement that recommends a capacity limit for the jails and submit that to the Criminal Justice Group for approval.

Staffing Review

ILPP considered the issue of staffing authorized for the jail, and understandably found that the issue is far too complex for a definitive answer as to the adequacy of existing authorizations.

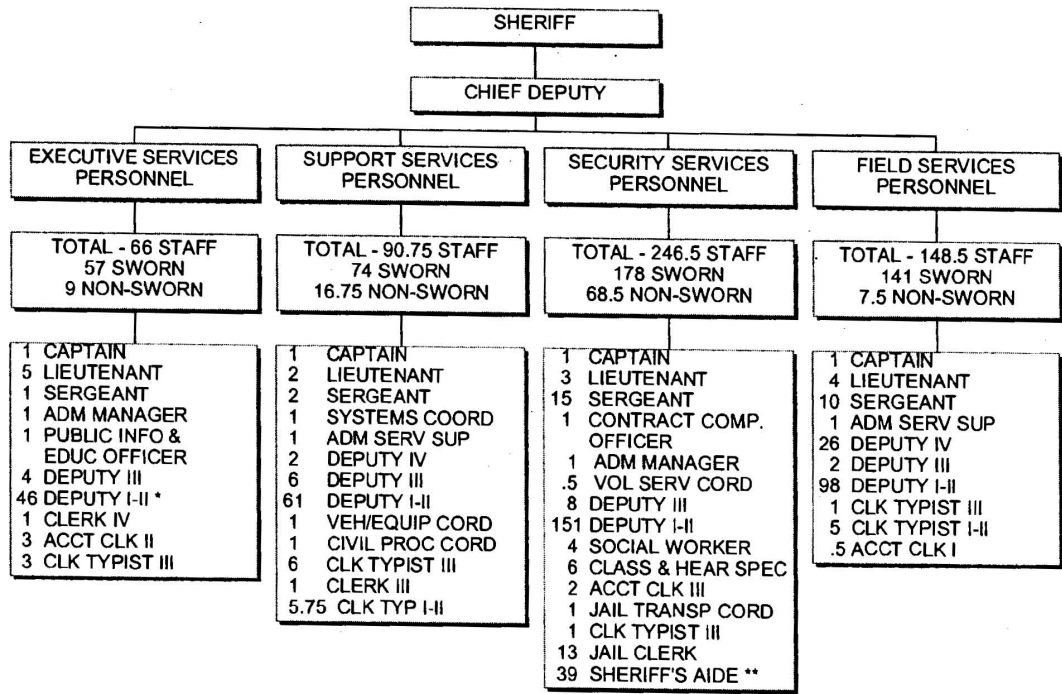
There is no independent analysis of the Sheriff's Department staffing requirements for the jail. The Sheriff's staff has developed numerous internal reports and submitted yearly requests for increases in staff since the Public Safety Building opened in 1994, when the last major reorganization occurred.

In January of 2006, the National Institute of Corrections, Jail Division provided a national expert to conduct a week long training workshop for development of a staffing analysis, which was attended by 14 staff, including the Sheriff and supervisors. The NIC, the national agency created by Congress in 1974, provides technical assistance, training, and higher education classes for the field of corrections. Following that workshop, the Sheriff entered into a detailed analysis of the staffing requirements for the Dane County jail system and issued a 48 page report.

Apparently, no response to that report was provided and the Sheriff notes that since 1994 the responsibilities of the jail have changed dramatically, which has allegedly resulted in an increase in workload that has not been rectified by the addition of staff. During the preparation and transition to the Public Safety Building, the staffing plan was modified and implemented to accommodate work-release in the Public Safety Building, with a major component being that work-release inmates would move through the building unescorted.

Since that time, conversion of work-release to pretrial detention has resulted in the need to escort prisoners throughout the building. Prisoners are escorted for medical services, program activity, release from custody, visiting, attorney-client conferences and to court, resulting in additional requirements for staff to perform the movement function. The new building has complicated the path for moving prisoners from cell blocks to court as staff must pull inmates from multiple cellblocks in two central jails and move through a convoluted series of elevators, hallways, and passages to arrive at secured court holding spaces on each level of the courthouse, where Sheriff's Office staff also serve as court security.

**PERSONNEL ORGANIZATION CHART
EFFECTIVE APRIL 1, 2007**



Authorized sworn supervisory staff	48	Non-sworn supervisory Staff	4
Authorized non-supervisory sworn staff	404	Non-sworn, non-supervisory	97.75
Total sworn staff	452	Total non-sworn staff	101.75

Totals Sheriff's Department Staff

Includes Jail

Supervisory	52
Non-Supervisory	501.75
Total Staff	553.75

Totals Jail Staff

Supervisory	20
Non-Supervisory	225.5
Total Staff	245.5

Jail staff pointed out that approximately 90 staffers have been added to the Sheriff's Office in the last ten years, but note that only minimal staffing has been dedicated to the jail. Sheriff's Office staff are concerned that the population increased dramatically since the opening of the Public Safety Building, and increases in security needs have not resulted in an influx of additional staff. This staff may be needed if the jail population continues to rise as a result of system inefficiencies.

The Sheriff's Office staff report that the relief factor is not fully understood nor compensated for in previous allocations and requests. The Sheriff's staffing analysis report of 2006 details posts, positions, estimated shift relief factors, and a request for 40 additional staff to meet their needs. The staffing request amounted to \$2,600,000.

IV.5 Findings

1. **The Sheriff's staffing analysis provides substantial detailing of the needs of the organization, given a consistent rise in jail population. Dane County has been hesitant to act without first examining the system and exhausting alternative sanctions.**

Selecting the appropriate number of staff to manage a jail population is a difficult and complex process that requires a good handle on potential population trends and jail alternatives by county administration.

With current transportation issues and changes in population that may require changes in the number of staff, a staffing study is needed. Given the static number of jail deputies over the years, current staffing requests seem reasonable for the purpose of managing crowded jails and out-of-county transport. However, the issue is a system that is unable to effectively manage. A staffing study should follow implementation of recommendations included herein. It may suggest higher or lower staffing levels in various areas, for more efficient and safe staff allocation.

2. **Dane County should develop an objective of reducing the jail population by 250-350 in six months, which would effectively eliminate the need for additional staffing.**

Reduction of the prisoner population will reduce or eliminate the jail staffing issues.

IV.6 Recommendation

1. **Conduct an independent staffing analysis**

ILPP recognizes the importance of these critical decisions and recommends that the County participate in a complete analysis of the staffing requirements for the jail to rectify the dramatic differences articulated by current staffing levels and staff requests from the Sheriff's Office. ILPP suggests that an independent staffing expert:

- conduct an objective review of each post and position within the Sheriff's Office;
- evaluate the use of overtime used to replace positions that are not authorized;
- evaluate or consider the number and type of inmate movements initiated by courts, transportation to other jurisdictions, and internal movement.

Of course, the critical component of any staffing analysis concerns several factors including the use of overtime, the shift relief factors, the number and type of posts needed in the jail and the supervision model in place compared against the inmate population and its classification. Support staffs are critical components to the success of an agency and oftentimes, civilian staff can replace as well as supplement security staff.

Jail Needs Study

This audit of jail crowding and system management needs was not intended or conducted to be a jail needs assessment study or a study to define the needed or required future bed capacity for the County. During the study, discussions were held with a variety of officials to determine future capacity requirements and to determine a methodology for achieving the needed bed capacities, both in replacement beds for those considered inadequate or inefficient, and for the possibility of net new beds at some time in the future. Clearly, if the county cannot implement case processing changes and a jail population management plan that reduces dependency on incarceration, the county may well need to build additional net new beds.

The county has implemented many alternatives to incarceration with the apparent intent to divert prisoners from the jail. However, these efforts have not made the necessary impacts to eliminate serious crowding and out-of-county housing due largely to the unmanaged nature of the overall system.

1. Initiate Jail Planning Study

Once recommendations from this study have been implemented, Dane County should initiate a jail planning study consistent with the recommendations of the National Institute of Corrections (NIC) for development of new and replacement jail facilities. NIC recommends the Total System Planning Model and offers a free program, "Planning of New Institutions" (PONI) to aid counties in the planning process. This program is designed for four-person teams from jurisdictions that plan to construct a jail, are ready to take control of the project, and are willing to engage in a major planning effort. Team members must have key policymaking and decision-making roles in the new jail project. The team must include the sheriff or director of corrections, the jail administrator, a county commissioner or county supervisor, and the county executive or administrator. If the jurisdiction has an architect, project manager, or criminal justice planner under contract for the project, he/she may be included as a fifth member of the team at the jurisdiction's expense.

This 32-hour program familiarizes participants with all aspects of the new jail planning process and helps them develop a team approach to planning. Most jurisdictions will have the opportunity to plan only one jail over a long time period. Stakeholder involvement throughout the planning process is crucial to the success of the planning effort and, ultimately, the successful construction and operation of any new jail, whether replacement or net new beds.

Decisions made at the start of a planning process will affect the remainder of the project. This program does not teach participants how to design a jail. Instead, it teaches the importance of in-depth planning before initiating jail design. Concepts are taught through case studies, allowing participants to get "hands-on" experience in planning methods. The program focuses on the critical elements of planning a new facility, including collecting and using data, pre-architectural programming, site evaluation, project management, and determining staffing needs and available resources to fund them before decisions are made.

Although criminal justice planners and architectural firms have the technical expertise to plan and design the new jail, the jurisdiction will operate that jail long after they are gone. Therefore, it is important that the jail is designed to meet the operational and space needs of the jurisdiction and the agency that will operate it.

2. Jail Population Analysis System (JPAS)

The Jail Population Analysis System (JPAS) discussed earlier in this report is a necessary element in any jail planning, in that it will trace changes in jail occupancy levels to changes in the number of bookings and in the lengths of stay of a wide variety of inmate subtypes.

Facility Planning

This next summary is based on a 5-step program set up by the National Institution of Corrections in the Planning of New Institutions Program.

Need assessment is the first step in the program. There are several things to take into consideration during this step.

- **Bed Space:** Because of the few numbers of females in jail, usually little consideration has been given to privacy within female inmate space and to having enough beds available for peak admissions of females. By analyzing average daily population for females and calculating the peaks, planning can then account for increased female populations.

- Programming: Secondly by calculating average length of stay for females and also examining the charges they are admitted for, jail administration can plan for implementation of programs that would be useful to their female population.
- Other Patterns: Finally patterns of arrest versus booking of females should be compared to that of males. If female rate of booking is much lower than that of males, this should be considered because it may mean an increase in that rate for females when more space is added for female inmates. Also by examining average daily population by charge, predictions can be made to the number of beds needed in each security unit.

The next step in the program is Pre-Architectural Programming. This gives the facility planners the opportunity to examine the needs for each kind of space before the architect gets involved.

- Classification: Because of the small number of female inmates, keeping each classification category from mingling with other categories presents a challenge. (In the past, females were often treated as a classification of their own.) Sub-dayrooms are one possibility that can be developed to keep classification groups separated.
- Population: Fluctuation in the number of inmates can pose a problem if there is overflow during peaks. Developing flex housing allows for space that can be occupied by either male or female inmates depending on the needs of the facility at the time. Co-ed housing is also an option to be researched. However, consideration of privacy is an issue that often surrounds and prevents most facilities from implementing it.
- Special Female Needs: Usually females use available medical facilities more often than males, so placement for easy access for female use should be considered. Half-doors on toilets and showers that allow for both security and privacy for females are recommended. Visiting rooms should also be planned accordingly so that co-ed visiting may occur, but be easily accessible so that females need not walk through male inmate areas. Also consideration of possible future court ordered contact visiting for females with small children should be considered. Program rooms should be centrally located so that female and male inmates can make use of them.
- Equal Access: Because work programs within the jail are available for those posing low security risks, evaluation should be made for each program to indicate co-ed or single sex participants. Pre-planning can be made to keep these areas separate if necessary for single sex workers in each area.

- Supervision: Taking into account that privacy in a female dorm is important, areas should be observable, but allow for some privacy as well.

Finally, the Design step allows for the actual placement and allocation of spaces for each room and area within the jail. Each space needs to be considered carefully so that space is not wasted and does not become redundant in an inaccessible area. Described below are a few things to consider when beginning this phase.

Layout of the housing unit is essential. Both dayroom and inmate cells must be easily observable by jail staff. However, as discussed in the Pre-Architectural Planning, privacy of female inmates is essential when male staff works in or near the housing unit. Contending with issues relating to female classification, flex space could be a possible solution. Bi-level housing with doors that can be locked to separate the two areas has been implemented in the past. Co-ed housing for minimal security inmates is another alternative as well.

Program areas and visiting rooms as well as the routes to these locations should be easily accessible for females. Open routes are necessary to allow easy passage of inmates, but also must enable separation of female, male and different classification groups. The booking area has this same problem, but open areas with a few private holding cells is usually adequate.

There are many difficulties and challenges to housing female inmates. However with proper planning and careful consideration, jail facilities can offer adequate programs and housing for females.

The above material on jail planning is set out in this report to address the comments of a number of persons who cannot envision the County not needing to build new and replacement beds at some point in the future. ILPP, however, cautions that it would be a mistake of the highest order for the County to consider new or even replacement beds until the substantial number of the major recommendations set out in this report area are in place. This is because implementation of this study's basic program of recommendations will more likely than not help to curb some of the current jail bed demand and eliminate the apparent need for new beds.

V. Adjudication

The responsibility for funding Wisconsin courts is divided between the state and the counties. As a result, judicial salaries and benefits and some associated personnel are funded through the state general appropriation. The state's share of the cost of operating the Dane County Circuit Court for the current fiscal year is approximately 45 percent of the total budget.

For administrative purposes the Wisconsin's Circuit Courts are divided into ten judicial districts, according to Wisconsin Supreme Court Rules. Each district has a Chief Judge who is responsible for the administration of judicial business within the district, including personnel and fiscal management. The important administrative duties include the responsibility for judicial assignments, case management, establishing policies and rules, and working with the Director of State Courts on matters of statewide concern.

The Wisconsin Supreme Court provides some structural support to District Courts through the assignment of a District Court Administrator. The District Court administrator for Dane County Circuit Court (whose responsibilities also encompass the much smaller courts in Rock, Green and Lafayette Counties), is located at the Dane County Circuit Court in Madison. According to the current Court Administrator, her duties regarding case management are limited to providing each judge and commissioner with a biannual set of reports showing age of pending cases, age at disposition, and a caseload summary. These reports include comparisons of each court's activity with statewide case processing standards. Only the Chief Judge is provided with a more extensive report that includes the case activity of all courts in the District.

The Court Administrator, who is also responsible for training court staff and coordinating court reporters, has begun training court staff on how to use the database to generate individual case activity reports, which shows the last event, days since the event, and the next activity.

The Dane County Circuit Court is a single level trial court. It has 17 full-time judicial staff, including seven judges assigned to the civil division, six judges assigned to the criminal division, and four judges assigned to the juvenile division. Court personnel include administrative staff (34) and court reporters (17). Dane County also employs 11 court commissioners who are assigned ancillary functions including all arraignments. One judge is assigned to drug treatment court (adult) and the duty judge assignment is shared. Judges are elected to six year terms and are appointed by the Governor to fill vacancies pending election.

The history of the Dane County Circuit Court is somewhat distinct from other jurisdictions in that it shows a strong tradition of initiating programs that have had significant positive impact on the entire criminal justice system. Judges in the Dane County Court are well aware of the vital role of the court in regularly analyzing and helping to solve system wide issues.

Consensus driven decision making has led to creative problem solving for the benefit of the public. Two important examples are the Court initiated supervised release program, including the first electronic monitoring program in the County, and the MOU signed by the Court establishing a Criminal Defense Project for the appointment of attorneys to fill in the gap in representation for indigent persons. This unique program allows persons who are not eligible for representation by the State Public Defender (under income standards which have not changed for over two decades) to have representation in criminal matters. The attorneys who participate in this program are experienced and well regarded in the legal community.

Representation for persons who qualify for court appointed counsel is divided among the Office of the State Public Defender, private counsel assigned through that office, and attorneys who are members of the Criminal Defense Project.

Local Rules and Procedure

At initial appearance, according to the Dane County Circuit Court Local Rules, a trial judge and a preliminary hearing judge (in felonies) are assigned by a random draw, with certain exceptions. From then on, judges control their individual calendars and set dates as needed for each case. Judges share all types of criminal cases equally except drug court cases which are specially assigned. Juvenile cases are assigned exclusively to judges within the juvenile division. The Chief Judge receives a 25 percent caseload reduction and the drug court judge receives a 10 percent caseload reduction to accommodate their special assignments.

When Judges rotate assignments, open cases follow the judges to their new assignment, e.g. from the civil division to the criminal division or vice versa. Consequently, a judge may have criminal matters scheduled on a calendar with a civil jury trial. Likewise, a motion on a criminal matter may have to be inserted into a civil calendar if the judge assigned to the case has rotated out of the criminal division. All the court calendars appear to be congested with judges working hard to keep backlogged calendars moving while meeting the demands of special motions, writing decisions, reviewing proposed orders, and conducting trials that often take longer than anticipated.

In felony cases where a defendant is bound over for trial or waives his/her rights to a preliminary examination, arraignment follows. Defendants are advised of the charges against them and their Constitutional rights. However, defendants are

not ordered to return to court on a specific date nor advised of their future court dates at their arraignment. Approximately two weeks after arraignment, the court clerk notifies the defendant by mail of his or her future court date(s), including the trial date. These dates are set without consultation with the District Attorney's office or defense counsel. Continuances and multiple appearances by defendants and settings are common and do not seem to be restricted by court rule. Reported reasons for continuances are the absence of counsel (yet to be appointed by the Public Defender), lack of discovery or incomplete discovery, and calendar conflicts that were not accounted for when initial dates were set without consultation with counsel. Challenges to notice and proof of personal service also contribute to delays. Waiver of preliminary hearing and waiver of personal appearance at arraignment are common practice, which makes notice dependent on the court knowing the defendant's most recent address. (Court rules require that the defendant keep the court informed of his/her current address.)

After arraignment and prior to trial, standard practice includes a pretrial or settlement conference, mandatory or voluntary, to encourage early disposition of cases and improve public safety. In Dane County Circuit Court, all misdemeanors are assigned a mandatory pretrial. However, misdemeanor pretrials are not usually scheduled until weeks and sometimes months after the Initial Appearance/Arraignment. This delay has a direct impact on public safety by reducing the likelihood of prompt sanctioning of criminal conduct and weakening the deterrent impact of a criminal sanction. In the stated written opinion of the Dane County District Attorney, this is the "single greatest cause of delay" for misdemeanors.

Regarding felonies, Dane County Circuit Court Rules provide for District Attorney pretrials (which have been abandoned by the District Attorney) and for "final pretrial" at which time an offer is made and/or discussed. The court is not involved in pretrial hearings. The absence of expectations that the "final pretrial" will be the date at which settlement occurs contributes to a culture where District Attorney, defense counsel, and the court expect that most cases will not be settled until the day of trial, at which time the best offer for settlement is expected to be made by the District Attorney.

Access to a court for the purpose of setting pretrial motions can be delayed due to statutory and procedural issues. Timely access to court for certain pretrial motions directly impacts the jail population. Hearing motions to set aside a bench warrant ("a body only bench warrant") for failure to appear in court and motions to reduce bail and enter pleas is dependent on the calendar of the judge who was originally assigned to that defendant, not the nature of judicial relief requested. Motions to quash a bench warrant and/or set bail (according to defense counsel) await disposition of the underlying matter, which results in the defendant remaining in-custody until that date or until the motion can be set on the court's calendar, which may require 3-4 weeks to accommodate notice to the

victim(s). Defense attorneys complain about the difficulty they encounter in obtaining access to judges resulting, in their opinion, from the design of the “new” courthouse, which puts criminal judges on multiple floors where ready access is inhibited by the presence of an outside receptionist and a waiting area.

Trial and sentencing follow standard procedures. Pre-sentence reports may be ordered by the court and/or waived by defendants in felony cases. By local rule (207), the pre-sentence report (PSR) shall be filed within 45 days of the court’s order and sentencing shall occur as soon as possible thereafter. Setting the date for sentencing as the date for receipt of the PSR would reduce time of disposition and enable the inmate who has been held in-custody to apply for jail work release programs or be transported to state custody.

National court management shows that the majority of the information required for pre-sentence reports has likely been collected over the course of the case, e.g., prior criminal history, police reports, social history. Therefore, continuances on account of a late probation report should be based on circumstances beyond the control of the probation officer. Continuances granted to attorneys should be based on a good cause standard where the recommendations include new evidence or considerations relevant to the sentence. For those defendants who are facing incarceration, public safety is negatively impacted by delaying the imposition of the necessary sanction.

Sentencing on misdemeanors occurs at the time of conviction or guilty plea. Analysis of the jail population shows that 92 percent of the sentenced inmate population was convicted of misdemeanor offenses, which includes 30 percent sentenced for public order offenses and 32 percent for driving while intoxicated related offenses.

Statewide judicial standards were recently adopted by the Dane County Circuit Court to track the disposition of felonies and misdemeanors, with the “goal” of speedier disposition. The number of felonies charged during the past five years in Dane County has remained relatively stable (3027 in 2002 to 2948 in 2006) and the misdemeanor caseload has declined (5344 in 2002 to 4186 in 2006.) From June-December, 2005, the first period when data was collected statewide on case disposition, neither Dane County Circuit Court nor any other Circuit Court met the statewide goals. For felony matters, 62 percent of the felonies in the Dane County Circuit Court were disposed of within 180 days rather than 90 percent, the established statewide standard. The average of all other Wisconsin courts was only slightly better at 63 percent. Regarding misdemeanors, the goal was for 95 percent of the misdemeanor cases to be resolved within 180 days. In Dane County, 69 percent were resolved within 180 days. The average for all other courts was 80 percent.

Many recommendations set forth in this chapter have been implemented in other jurisdictions. For a listing of some of those jurisdictions, see the chart included in the Action Plan.

V.1 Findings

1. **The Circuit Court is characterized by overworked judges attempting to balance the rights of defendants and the demands of the general public, in the face of congested calendars and multiple demands on their time.**
2. **Data on the movement of criminal cases has recently been available to the Court.** As of yet, the utility of Judicial Performance Measures and/or Standards has not been sufficiently endorsed by the court to allow it to benefit from the data being generated or use the data as guidance in making decisions which impact public safety.
3. **Continuances impact court operations, management of the court, as well as jail overcrowding.** Involving the local criminal bar, the District Attorney, and the Public Defender in reviewing local rules offers a forum for revising Local Rules that will promote early disposition of cases and work towards shifting the culture of the court towards early disposition.
4. **Improving timely access to the courts for pretrial motions and dispositions would reduce the court caseload and jail population without sacrificing public safety.**
5. **Scheduling pre-sentence reports beyond 45 days for defendants who are in-custody needlessly delays sentencing in the majority of cases and contributes to court backlogs and jail overcrowding.**
6. **The Office of the District Attorney has broad responsibilities including the representation of County Department of Human Services in civil proceedings (CHIPS) involving allegations of abuse and neglect.** Such representation requires complicated preparation and is impacted by strict federal and state laws and regulations which directly effect funding of social services. Due to the specialized and civil nature of this area of law, national best practice is to assign agency representation to agency lawyers or county counsel.

V.2 Recommendations

1. **Adopt Trial Court Performance Measures for misdemeanors and felonies that elaborate on statewide standards and reflect improved use of limited public resources.**

Judges in all courts face multiple responsibilities. Enforcing evolving state laws while responding to the changing needs and realities of the local community can present challenges to court structure and authority that distract from case management. The Wisconsin Legislature, like many, has routinely amended its criminal law and sentencing to emphasize a punitive approach, restricting judicial discretion. Statistical analyses of the statewide jail population over the past five years show the impact of changes in state law and sentencing practices, specifically changes in drunk driving laws, mandatory arrests for domestic disturbances, and lowering of the age of an adult for criminal purposes from 18 years of age to 17. Courts rightly feel that they are at the mercy of such changes and find it challenging to identify effective management tools that are consistent with the judicial role and within the court's jurisdiction.

In Dane County Circuit Court, due to a number of factors including those above, the time for disposition has been gradually increasing, as evidenced by data extracted from the Circuit Court statistical reports¹⁴. In Dane County in 2006, the median age of misdemeanor cases at disposition, for example, was over 50% longer than the statewide average and the median age of criminal traffic cases at disposition was approximately 36% above the state average¹¹.

The median age in 2006 for disposition of a misdemeanor in Dane County was 135 days; the state median was 86 days. The median age for disposition of a criminal traffic offense in 2006 was 108 days for the state, and 147 days in Dane County.

Over the past three years, felonies statewide have been taking slightly longer in reaching disposition statewide and Dane County has followed that pattern. This data suggests that the number of felony matters and attendant delays that might be logically associated with the severity of the offenses, along with correspondingly high bail and probation and parole holds, are not the source of the calendar and jail congestion. Rather, the delay in timely disposition of misdemeanor cases and criminal traffic matters more directly contributes to lengthy calendars, less time to hear matters, the perception that the court is less accessible to resolve issues, more pressure exerted on support staff and unnecessary delays for low level offenders. With a jail population that is 65 percent minimum security, prioritizing the disposition of misdemeanor cases and criminal traffic cases offers significant opportunity to systematically avoid overcrowding.

As evidenced by its history, the Dane County Circuit Court bench has the experienced and committed judiciary necessary to undertake a critical examination of the criminal justice system and its role in solving problems.

¹⁴ <http://www.wicourts.gov/about/pubs/circuit/circuitstats.htm>

Additionally, resources are available from wide range of excellent sources, including the National Center for State Courts.

One example of such resources is the National Center for State Courts' **THE TEN CORE MEASURES** model. This model affords a well established and tested set of measures for courts to use in objectively reviewing their performance and assessing how well they meet internal and public goals. **THE TEN CORE MEASURES** are: 1) access and fairness, 2) clearance rates, 3) time to disposition, 4) age of active pending cases, 5) trial date certainty, 6) reliability and integrity of case files, 7) collection of monetary penalties, 8) effective use of jurors, 9) court employee satisfaction, and 10) cost per case.

Some of these measures are already reflected in the data collected by the statewide standards process initiated by the Supreme Court in 2005. Clearance rates, time to disposition, age of active pending caseload and trial date certainty are key indicators of areas in which changes in court rules and practice can have immediate impact on reducing court congestion and the resulting overuse of jail beds. **THE TEN CORE MEASURES** model offers a structure and mechanism for using already collected data, expanding queries in existing databases, and collecting specifically tailored data. This methodology can generate useful information immediately and increasingly with more use, over time.

2. Adopt a calendar management system that emphasizes flexibility, accountability and timely use of available judicial resources by instituting a master calendar for all routine criminal matters.

The random assignment of criminal cases to individual judicial calendars may have served the needs of Dane County in previous years and in the previous courthouse, but that model does not allow for the full and timely application of judicial resources under the current demanding conditions. A master calendar system allows direct control of system wide case flow, across all calendars. While some major cases raise a peculiar set of issues better handled by early, single assignment to a single judge, such as multiple defendants in a major crime or where there is a child victim, the master calendar flexibility works best in routine property and drug felonies. There is no absolute best assignment system, since the local legal culture dictates more of the outcome than an assignment system, but a system that needs to reduce the number of appearances per disposition is ripe for a master calendar for the vast majority of cases.

The role of Chief Judge in a modern, metropolitan court is challenging and requires the effective use of a wide range of resources which may be more familiar to business management than to those occupying judicial chambers. The duty of the Chief Judge to supervise case and docket

management implies the authority to take appropriate steps to move cases efficiently through the judicial system, ensuring justice through timely resolution. This includes monitoring the status of court dockets, and implementing improved methods and systems for managing dockets, as well as soliciting from individual judges their needs for resources. (SCR 70.19) The assignment of judges, the allocation of cases and caseload, and the maintenance of a system that effectively manages caseload are express duties assigned to the Chief Judge by the Supreme Court. The Chief Judge is also responsible for fiscal management of the Court which requires working with other branches of government to identify policy and procedural obstacles to ensure efficient operation and obtain and maximize resources.

With the broad authority delegated by the Supreme Court to the Chief Judge comes the implicit duty to exercise that authority within the context of the public budget and resource constraints. Reliance on previous budgets and allocations, for example, is not sufficient justification for continued and unexamined expenditure of public funds. The court depends upon the adequacy of funding for support services and personnel. The limited nature of public funding for courts and court systems demand that the Chief Judge, in his administrative capacity, make decisions on expenditures, even of the most mundane nature, based on a comprehensive vision of what the budget permits and what best represents the public interest.

The Supreme Court has delegated to the Chief Judges “the full administrative power of the judicial branch subject to the administrative control of the Supreme Court.” SCR 70.20 provides that the Chief Judge may order that his or her “directives, policies and rules” be carried out; sanctions are also provided for by this Rule. The collegial culture of the Dane County Circuit Court has allowed it to assume a leadership role in solving seemingly intractable problems over the past 20 years. Creating a vision of where the Court needs to be in the next 5-10 years represents a different kind of challenge.

Future court dates should be set at arraignment in the presence of all counsel, with calendars in hand, and of defendants, unless defense counsel has filed a waiver of appearance and can commit to the client’s calendar. Ordering the defendant to appear at a specific pretrial and trial date would avoid objections to notice and continuances associated with failures to appear. Such certainty of future court appearances also stresses the importance of timely case preparation and reinforces the reality to the counsel and to the defendant that the case will be brought to trial if not resolved within a specific time frame. This would also significantly reduce, if not entirely eliminate, the problem of continuances attributed to calendar conflicts. In a system where the vast majority of

defendants are represented by appointed lawyers, it would allow attorneys to better use their time and judges could enforce a “good cause” standard for continuance. In addition, the DA could be held accountable for appearing timely and prepared or assigning replacement counsel prior to the appearance if needed.

The current Court Administrator and staff are ideally situated to assist the Chief Judge to develop and manage a case management master calendar system. The current Court Administrator was employed in the same capacity in the past in Bucks County, PA, where she did master scheduling work. Bucks County is quite similar to Dane County in terms of population size and the number of judges that the Court Administrator there supports. The full utilization of the Court Administrator resources, under the direction of the Chief Judge, would greatly enhance the capacity of the Chief Judge to establish a system of efficient case management.

The National Center for State Courts for a modest contract amount is available to provide technical assistance to the Court to assist in this effort. The Center would also provide training and assistance to the Court Administrator. This type of role for the Court Administrator at the direction of the Chief Judge would greatly enhance the capacity of the Chief Judge to establish a system of efficient case management.¹⁵

3. Adopt and enforce a standing discovery order.

The Court should convene discussions with the District Attorney and all defense counsel regarding practices associated with obstacles to timely discovery with a view to adopting a standing discovery order which could be incorporated into Rules of Court. Such discussion would likely open the door to discussion on other court efficiencies.

One particularly relevant principle of standing discovery orders is that discovery should be automatically provided at or before the preliminary hearing. While prosecutors are often concerned that the preliminary hearing will become a lengthy “fishing expedition,” national experience is to the contrary. When discovery is available prior to the preliminary hearing and the DA is prepared to discuss a plea, a significant percentage of cases are settled prior to the preliminary hearing. This may require a change in the legal culture, but it reflects a recognition that earlier settlement of cases results in a saving of personnel time and associated court costs, as well as jail beds in many instances. The ability to receive and transmit written documents electronically should greatly facilitate timely production of discovery. Clear, simple electronic document

¹⁵ A full job description for the Court Administrator is available in the Appendix.

practices governing service and exchange of documents and records, should be explored and local rules adopted or modified to accommodate acknowledgement of receipt.

4. **Assign all cases involving arrests on warrants for failure to appear (FTA's) "body only bench warrant" to the duty judge within 24 hours of arrest where the arrest does not occur on a weekend or court holiday.**

Although all jurisdictions struggle with finding time for such motions, and appearances, assigning these cases to the duty judge's designated afternoon calendar allows sufficient time for notice to counsel as well as an opportunity for the defense to present evidence of any good cause for the failure to appear to a judicial officer. This avoids unnecessary incarceration and over use of jail beds when bail might be reinstated. Rules that require prompt notification via e-mail and/or fax by the jail to the duty judge, the District Attorney and counsel of record can facilitate the process.

5. **Establish a standing committee of the Circuit Court composed of all criminal judges, the District Attorney, the Dane County Public Defender, and private defense counsel. The committee should meet at least twice a month, to discuss case management and monitor the jail population.**

The Chief Judge has the authority under SCR 70.19 (l) (d) (f) to appoint court committees and establish policies and plans. The agenda of this committee should be as broad and as narrow as necessary to both monitor case management and respond to specific irritations. The regular agenda should also include tracking compliance with the case processing standards. Reports showing (at minimum) the daily jail population, number and type of complaints filed, dispositions of cases, length of time between filing of Compliant and Disposition, dismissals at different stages of proceedings, and continuances should be generated at least twice a month and distributed to all judges, the District Attorney, County Public Defender, Sheriff, and defense counsel representative(s).

6. **Local Rules of Criminal Procedure should be reviewed and revised as necessary to expand procedures for speedy disposition of cases.**

Rules for expediting calendars should be continually re-examined. Some practices which merit review are the following:

- a. Exceptions to the victim notification requirements should be crafted for specific circumstances. Victims' rights statutes in Wisconsin contemplate "reasonable" attempts by the courts to keep victims

notified of hearings and afford victims the opportunity to participate in the hearing and/or object to a continuance. Notice is to be provided at least 10 days prior to the court hearing at the last address made known to the court. Unless further defined by case law, such language would seem to allow courts to adopt local rules not inconsistent with the intent of state law.

- b. Expanded use of technology should be considered, e.g., email notice of motions and waiver of appearance.
- c. Notice requirements for motions should be flexible and reflect type of relief requested. For example, motions which require the taking of evidence or the production of third party witnesses appropriately require 21 day notice and possibly, opportunity to file a formal response. Other Rules should provide that notice may be waived upon a declaration. This approach would avoid the practice of motions for bail reduction calendared three-four weeks away, resulting in credit for time served pleas.
- d. The practice of “Imposing of Staying Sentence” should be expanded for generalized use on certain felonies and all misdemeanors. This will allow the defendant to begin serving a sentence upon waiving his/her rights to a hearing on the probation violation. Sentenced inmates are immediately eligible to apply for the HUBER and other release programs.

Dane County judges are very proud of having expanded the use of alternative incarceration programs, and of the measures they have taken to solve system wide problems over the years, such sentencing is consistent with this tradition. Current practice, which requires the defendant to appear before the sentencing judge affords the defendant the opportunity to present mitigating evidence which might impact the sentence ultimately imposed. If coordination between probation, the jail, and the courts could be improved so as to set a fixed appearance date (for example, no later than five court days after arrest), the current practice might benefit defendants.

- e. A rule establishing mandatory pretrial hearings should be enacted with requirements that both prosecution and defense be fully prepared, that defendants appear in person, and that requests for continuance be filed in writing with a compelling reason standard. The current system which calendars a “Final Pretrial” does not seem to have significantly motivated settlement, given a court culture that assumes that the “best offer” will be made on the day of trial. Multiple judges observed that “We could have some impact on the jail population and calendar congestion if we reduced the number of cases that were sentenced to

CTS. It takes 60 days to get DA and defense attorney together to talk about cases that are obvious CTS cases.”

The Key Elements of an Effective Rule of Court is available at the following website:

[Http://www.ncsconline.org/D_Research/Documents/Res_JudInd_Element_sofaRule_final2.pdf](http://www.ncsconline.org/D_Research/Documents/Res_JudInd_Element_sofaRule_final2.pdf)

- 7. In matters where a pre-sentence investigation (PSI) is required by the court, the court should schedule the sentencing hearing 45 days after conviction.**

The statutory provision that allows Probation 45 days to complete the pre-sentence investigation allows ample time, except in extraordinary cases, for preparation of the report, and service on the parties and the court. For in-custody defendants, 30 days is the norm in most metropolitan court systems and statutory in many states. The current practice in Dane County of setting sentencing 60 days after the conviction seems excessive when technology is available to expedite service, and continuances can be granted as needed in special cases. Setting specific and firm future dates at the conclusion of each phase of the proceedings reinforces a culture of accountability on the part of all participants in the criminal justice system.

- 8. Employ Dane County Circuit Court Rules authorize community service in lieu of a payment of a fine. Community service is a valuable alternative to confinement and repeated processing for failure to pay fines. As such, it is a cornerstone of successful “restorative justice” programs for adult as well as juvenile offenders.**
- 9. Meaningful work programs require a mechanism to report whether the community work or service is completed, to the court or the court’s designee. Commonly, probation departments enter into an agreement with community service centers or volunteer centers to provide acceptable referrals, some supervision and a reliable mechanism for reporting back to the probation department.**
- 10. Endorse the recommendation to transfer the responsibility for abuse and neglect cases (CHIPS) cases from the Office of the District Attorney to the Corporation Counsel.**

Chips proceedings are civil in nature and require active involvement by counsel in a wide range of ancillary activities and specialized training, including training in mediation, multidisciplinary treatment teams and federal regulations. Both the National Council of Juvenile and Family

Court Judges Resource Guidelines for Improving Court Practice in Juvenile Abuse and Neglect Proceedings and the American Bar Association, Center for Children and the Law, which are considered the leaders in establishing standards of practice in this area of law, have designated broad based knowledge in these areas as essential to competent representation. Both entities strongly support assigning representation of social services agencies to agency counsel and away from the District Attorney.

The proposal recently drafted by the Dane County Department of Human Services to shift representation to the office of Corporation Counsel is supported by the eight present and past Dane County Circuit Court Juvenile Court Judges. Many large counties in Wisconsin have already moved ahead to this model of representation and it reflects the national direction. Judge John Albert's report that the Dane County Circuit Court is meeting district guidelines for completing CHIPS cases consistent with state and federal law (ASFA) only 43% of the time should be of serious concern to the County because of the direct implications on the County budget as well as on the well being of the children and families of Dane County. Transferring these responsibilities from the Office of the District Attorney would also free up ADA staff for other assignments, thereby reducing overall caseload.

11. With the broad authority delegated by the Supreme Court to the Chief Judge comes the implicit duty to exercise that authority within the context of the public budget and budgetary restraints.

Reliance on previous budgets and allocations, for example, is not sufficient justification for continued and unexamined expenditure of public funds. The court depends upon the adequacy of funding for support services and personnel. The limited nature of public funding for courts and court systems, demand that the Chief Judge, in his administrative capacity, make decisions on expenditures, even of the most mundane nature, based on a comprehensive vision of what the budget permits and what best represents the public interest.

Public Defender's Office

Dane County's Public Defender's Office is a branch of the Office of the State Public Defender. The Office of State Public Defender Trial Division (SPD) has 36 offices located within 13 regions, providing criminal representation including probation and parole revocations and representation in specified civil matters, e.g. termination of parental rights, contempt of court and civil commitment. By statute, the SPD is also responsible for representing juveniles subject to delinquency and abuse and neglect proceedings. The Assigned Counsel Division, which is also located in Madison, provides support services to certified

private attorneys appointed in SPD cases. Monitoring the appointment of private counsel and ensuring that they are properly trained is a significant responsibility of the Dane County Public Defender. The Madison office of the SPD has 23 attorneys and contracts with private attorneys on hourly rates (\$40/hr) and according to fixed fees in certain matters. The Public Defender's Office in Dane County reports an average of 800 interviews per month. Fortunately, despite the high caseload, the Dane County Public Defender's Office has been largely stable and has an office structure that ensures experienced representation.

The Public Defender statute in Wisconsin was enacted relatively recently and resulted from a plan that created a formula which subsidizes lawyers in private practice as well. This approach may be an objective reflection of the generally rural character of most of the state. Public Defender salaries are linked to the state funded district attorney's salaries; apparently the District Attorneys have not been effective in persuading the Wisconsin Legislature to increase their salaries.

Eligibility for PD services is set very low and has not been raised since 1976. Legislative efforts to raise the "means test" have been unsuccessful. As a result, Dane County has established its own court appointed counsel list. This list is named the Criminal Defense Project (CDP), and it includes 12 lawyers. The County contracts through an annually negotiated Memorandum of Understanding (MOU) to represent defendants who do not qualify for State Public Defender services, but who also cannot afford legal counsel. This group includes persons charged with both misdemeanors and felonies. The Dane County court seems comfortable with this local initiative, which supplements the State Public Defender's Office. Attorneys on the CDP list are certified by the Public Defender's Office and the Public Defender has the responsibility for managing the project in terms of qualifications, training, and supervision as needed.

Attorneys for the Public Defenders' office are well regarded by the court and prosecutors and private defense counsel. There were no complaints expressed by either the courts or private attorneys about the Public Defenders Office. In fact, there were a large number of compliments about the dedication the low turnover and professionalism of staff attorneys.

From court observation, it appears that the Public Defender's Office in Dane County is not adequately supplied with what would be considered, in most jurisdictions, to be minimal technology support, e.g. video cameras, digital cameras, scanners, etc. The State Public Defender employs a statewide dedicated computer system (EOPD), which due to confidentiality concerns has not been integrated with the courts or other criminal justice system elements. Discussion about how the Public Defenders and other defense counsel might be able to gain access to criminal justice data systems without threatening the confidentiality of the attorney client relationship could prove useful to the overall efficiency of the Dane County Circuit Court. (Please see the section on Information and Technology in Chapter III for further discussion of this issue.)

VI. District Attorney's Office

The Dane County District Attorney's Office is the second largest prosecutor's office in Wisconsin, with 32 prosecutors, scheduled to shrink to 30 during 2007¹⁶, which is approximately the level of staffing of two decades ago. The County has attempted to mitigate this by adding more paralegal staff. The quality of the prosecutors in the office is seen as high, turnover is low and demand for positions there is quite high. The existence of an important law school in Madison, the relatively cosmopolitan setting of the city, and the good working conditions are all seen as attractive to prosecutors throughout the region.

The office filed about 7,700 cases in 2005, approximately 400 more than in 1996. About 3,000 of these were felonies. Dane County was an early innovator in deferring prosecution (taking a plea, monitoring a defendant, and dismissing charges when the program is successfully completed).

The office is generally not seen as ideological or political and there is little of the friction that sometimes exists among the prosecution and the courts, law enforcement and the defense bar. A strong office culture of decentralized management, self-reliance and individual responsibility has evolved.

These strengths put the District Attorney's Office in a good position to deal with the problems it faces, both internally and within the local criminal justice system. It has been losing control over its resources, but through intelligent management has the basic tools to regain control over its criminal justice workload.

Two significant issues stand out, one internal and the other in its role in the flow of criminal cases in the county. First, the office does not have enough prosecutors to keep doing what it has been doing, and additional prosecutors seem unlikely in the foreseeable future, although the influx of paralegal staff should help. The office will have to find ways to cope with the growing workload, and this report suggests a number of them.

The second issue is that, as a result of the interaction of multiple agencies described below and elsewhere in this report, criminal case processing in Dane County takes an excessive amount of time. In 2006 only 62 percent of felony cases were completed in six months, far short of the 90 percent goal for District 5. Misdemeanor cases were completed in only 69 percent of the cases, far short of the District 5 goal of 95 percent and significantly less than the statewide average of 80 percent. Many of the recommendations in the report are designed

¹⁶ According to information provided in a questionnaire sent to the office, the office presently has 29 full time prosecutors and 3 part time, equaling 30.5 full time equivalent positions. Two of these positions expire later this year, leaving 28.5 FTE positions including a few temporary special prosecution appointments. This effectively amounts to no growth in 10 or more years, since there were 27 FTE positions in 1996, approximately what it was in the 1980s.

to help remedy this problem of overlong case processing. Both are issues that have to be addressed, either through additional resources or by new management approaches. The analysis in this chapter assumes that only limited additional resources will become available, and that optimal management will be needed to deal effectively with these major issues. Everyone in the office, from senior (and elected) officers to clerical personnel, has been remarkably dedicated to working harder; attention will now have to be given to better managing the workload.

The recommendations below address the need to improve business practices in the office by utilizing the prosecutor's data system to manage case flows, systematizing case intake, becoming more cognizant of the effects of office procedures on other agencies downstream and improving communication with them, and taking advantage of the new e-signature rule the state is about to adopt to move cases much faster. Many recommendations set forth in this chapter have been implemented in other jurisdictions; for a listing of some of those jurisdictions, see the chart included in the Action Plan.

Workload

Officials throughout Dane County perceive the District Attorney's Office as overworked.

Though the purpose of this report is not to systemically assess the dynamics of DAO workload, figures can certainly be marshaled to support this perception. During the past decade for which figures are readily available (1996-2005), Dane County population is up over 15%, law enforcement personnel are up over 21% and Madison Police Department arrests are up by over 76%. Until 2003, the prosecutor's office had expanded by over 25% due to new federally grant-funded positions from the Clinton years.

That quasi-parity with growth in the rest of the system has collapsed. In the past 4 years, the grant-funded positions have expired, leaving a net gain of 11% as of the spring of 2007. Two more positions are scheduled to be lost during the remainder of 2007, although the County sought to help offset this by adding paralegal staff, which will mean the office has expanded in over the decade by just one prosecutor position (4%) and in effect, the office has remained about the same size.

Because the number of Assistant District Attorneys (ADAs) largely determines the number of cases that can be handled (without changes in the process), it is not surprising that the number of criminal filings increased during the same decade by about 5%, whereas during the period of grant-funded staff increases (2003), the number of filings had increased by almost 14%.

In short, law enforcement has expanded at five times the rate of the DA's Office, and arrests feeding into the office grew by 15 times the DAO's growth. Though the latter figure does not necessarily paint a complete picture of the disparity because much of the growth is in lesser crimes, it nevertheless illustrates significant growth in the part of the system feeding into the DA's Office, while the number of prosecutors remains static. Every case referred to the DA's Office needs to be reviewed; increased time rejecting cases takes away from handling cases accepted.

Stated differently, cases referred to the office have certainly grown, but the number of cases filed has only grown slightly because cases that could be filed are limited by the number of ADAs available to file them. There is a real growth in workload, but most of it cannot be handled under current processes. Thus, the workload growth appears as more cases not being filed.

The office does not keep statistics on cases referred by law enforcement. It says it lacks the staff to do so, even though the numbers are available from the office's management information system, which is relatively new to Dane County. Even though it is beyond the scope of this study to aggregate the figures needed to compare cases *referred* to the DA by law enforcement with cases *filed* by the DA, it is useful to compare the disproportion between the number of *arrests* and the number of *prosecutors* to handle them, which tells the same story. Despite a significant increase in law enforcement officers to make arrests and send them to the DAO, criminal filings have ended up static because the number of attorneys to handle them has remained static.

The criminal justice system can be visualized as a mechanism with a fixed capital investment unit that can only handle a fixed number of cases. That investment unit is a courtroom staffed by a judge, a prosecutor, a defense attorney and attendant non-lawyer staff. The number of trials that can be held in that courtroom is fixed by the number of court days in the year. More cases can be handled only if more defendants plead guilty, or if the number of staffed courtrooms is increased. With a fixed number of prosecutors, the other components can be expanded, but no more cases will flow through the system. Thus, although the number of jury boxes in Dane County has almost tripled (from about six to 17) in the new courthouse, the number of prosecutors is essentially the same, and the number of criminal cases filed has only slightly increased.

As a jurisdiction moves from a smaller, more easily managed criminal justice system to a larger, more complex system, more resources have to be devoted to managing the complexity. A prosecutor's office must develop new techniques for screening and processing cases, weeding out cases that no longer should be prosecuted or that it lacks resources to prosecute, and expediting those cases that are charged. The Dane County DA's Office has done its best to continue prosecuting the cases it has traditionally prosecuted, despite the growing

imbalance between referrals and resources. The ability to absorb that kind of workload is finite.

The office has recently experimented with an expedited case processing technique by scheduling fairly large groups of defendants charged with operating a vehicle with a revoked driver's license (unless it involves Operating a vehicle While under the Influence, or OWI). One of the judges has agreed to give group advisements of rights, and pleas are taken and fines imposed on the spot. Over 100 cases were disposed of this way in an early effort. This program is a model, and provides a guide to similar efforts.

In addition, growing numbers of cases are being declined for prosecution, something obviously driven by the disparity between referrals and ADA positions.

In 1990, funding for the attorneys in the office moved from the Dane County budget to the State of Wisconsin, though most support and clerical funding remained with the county, leaving a hybrid of state and local funding. Successive governors, of both parties, have failed to include new funding for local prosecutors in the state's budget. The county, having finally obtained relief from having to fund the attorneys in the prosecutor's office, is not seen as likely to again start funding more prosecutor positions, undercutting the now established principle that this is a state function, not a local one. Current federal administration is unlikely to make additional funding available.

The office must then find ways to effectively screen cases that can be handled otherwise, or that are of a lower priority for prosecution. In addition, it will have to expand policies, procedures, and programs for faster processing of cases. Both of these topics will be discussed in the next subsections.

VI.1 Workload Findings

- 1. District Attorney staffing has not kept pace with growth in the county nor in the rest of the criminal justice system, although the County has funded some paralegals.**
- 2. Additional positions are not likely to be funded by the federal, state or local governments.**
- 3. The office can avail itself of techniques to manage its workload based on the assumption that no or few new additional attorney positions will be forthcoming.**

VI.2 Workload Recommendations

1. **Retain an executive manager.** The DAO should retain an executive manager to be funded by the county, to assist it to improve case management processes and get better information.
 - Better processes, as discussed below, would include moving cases much faster by using electronic reports, giving quicker discovery, initiating early plea practices, regulating time standards, especially in felony cases, and systematically screening out cases that can no longer be prosecuted, while nonetheless developing adequate alternatives for addressing those cases, and their public perception and public safety implications. Each of these would have a significant impact on timely justice and jail beds. For example, if time to disposition of in-custody felony jail admissions were reduced by 10 days, it would save 1,000 bed days for every 100 felony bookings. Doing so would reduce the average daily jail population by 2.7 people for each day of the year. These figures will be larger if the time to disposition is reduced by more than 10 days, or for more than 100 felony bookings per year, assuming of course that felony bookings typically result in felony filings.
 - Information needs include quantifying the volume and kinds of cases that can no longer be prosecuted because of budget shortfalls (the net difference between the cases referred by law enforcement and cases filed); doing differential comparisons with other, similar counties, and seeking grants and other funding proposals for specific kinds of assistance from the county, state and federal governments. The executive manager position would likely cost about \$150,000, but would save many times that amount both in more effective management of the office's limited resources, and in producing additional revenue streams to fund programs the District Attorney and the county wish to support. For a more extensive discussion of the need for an executive manager, see Management Structure, below.
2. **Conduct a formal workload review.** Immediately undertake a workload review to determine which lower-priority work should be eliminated or shifted to non-criminal venues. A time limit should be placed on this review, and a concrete series of decisions should be made by the District Attorney and his chief assistant, using the services of an executive manager (see below). Intake issues should be reviewed, as well as methods for more effectively disposing of cases in a timely fashion, including office time standards.

- 3. Expand Use of Non-Attorney Personnel.** Although there is unlikely to be much opportunity for growth in attorney staff, and because it is in the interests of the county to help the District Attorney's Office become more efficient, prosecutors should be reserved for those occasions where direct prosecutorial functions require an attorney's actions. In any event, the Office should continue to aggressively appeal to the State to increase the number of attorney staff.

Just as most traffic cases are now handled by non-attorneys, many misdemeanor cases could be handled by non-attorneys, subject to policies adopted by the District Attorney and review by an ADA. For example, many retail theft cases should be handled by the expanded paralegal staff. For cases that are not diverted (see deferred prosecution unit recommendation below), the preparation of charges, provision of discovery and preparation of plea documentation should all be done by clerical and paralegal staff, subject only to final sign-off by a prosecutor at the end. See also, Executive Manager, below.

Case Intake

A prosecuting attorney's work is concentrated in two periods of activity: at case intake, when bond conditions are set, diversion determined, use of specialized courts considered, evidence preliminarily evaluated and charges made; and at disposition, when new evidence and defense input is considered, and a final decision made. The less a case is handled in between, the better the quality of information at either decision point and the clearer the applicable policies at each time, the more efficient the process.

Diversion is a technique of identifying cases that do not need the full processing of criminal justice, and can be diverted from the system at the front end, rather than going through the entire process and the expense that entails. A defendant who qualifies for diversion will typically be "diverted" from the criminal justice system by not having charges filed by the prosecutor in exchange for a formal written agreement that the defendant will report for some minimal supervision for a specific period of time, and if no new crimes occur during that time, charges will not be filed, or charges will be dismissed, or some lesser disposition will result. The expense of pretrial proceedings is avoided in this exercise of prosecutorial discretion, which is controlled by the DA. Diversion is a very widespread practice throughout the nation, and has become an essential element of managing workload in busy urban prosecutors' offices. Diversion saves the DA and other downstream criminal justice agencies time if it effectively avoids criminal prosecution where unnecessary. It likewise wastes the resources of downstream agencies when people who should not be put into the system are needlessly swept into it. Such individuals can be given "summary diversion," which simply tracks them for some period of time, and charges are filed only if a new arrest occurs, at which time the older charges can be considered.

Dane County has two forms of diversion: drug diversion and “deferred prosecution.” Drug diversion takes low and medium severity cases involving a drug-using defendant without a prior record of violence or a significant non-drug criminal history who admits the crime and wants to be diverted. Some cases will be charged but not adjudicated, others will have charges dismissed, others will be reduced from a felony to a misdemeanor, and still others will get a stipulated probationary sentence. Originally a grant-funded program, it has written criteria and a small number of prosecutors (3) decide who gets drug diversion.

The more general deferred prosecution program, by contrast, has no written criteria governing its use, and this kind of diversion can be permitted by any ADA prosecuting a misdemeanor or felony, i.e. about 20 prosecutors. In theory, any crime can result in diversion, though in reality significant violence, sexual assaults and high profile crimes are unlikely to get deferred prosecution.

The office has had a well-regarded, county-funded program of assessment, supervision and monitoring defendants put into the program, processing about 900 referrals a year with about 650 under supervision at any given time. Anecdotally, the seriousness of cases under supervision has increased over time. The number referred by ADAs to the program has remained static (between 900 and 1,000) for almost 20 years. The office keeps no statistics comparing how many cases go through this program with how many cases are potentially eligible for it, but the significant growth in arrests and static numbers in the program suggests that the additional arrests are resulting in decisions not to file charges rather than sending the growth through the deferred prosecution program.

Some defense attorneys maintain that there is significant variation among ADAs in what kind of a case will get deferred prosecution, though persistent counsel could call a supervisor and get a decision not to defer prosecution reviewed.

Generally speaking, a Dane County defendant with no prior criminal history who will plead guilty and take responsibility for the crime can sign a deferred prosecution agreement, and if no new crimes occur for the specified time, have the case terminated without a resultant criminal conviction.

VI.3 Diversion Findings

- 1. The District Attorney lacks a clear written policy for which “deferred prosecution” cases should be diverted and which could be summarily diverted, without additional program requirements. This has resulted in inconsistent referrals, prosecution of cases that should be diverted and some over-referrals (cases that should summarily be diverted).**
- 2. No objective risk assessment screening tool is in use, although such has proven useful in many other settings.**

- 3. Drug court referrals include too many low-risk offenders. While there are written criteria for drug court, no evidence-based screening tool is in use, resulting in excessive use of downstream resources for low risk offenders.**

VI.4 Diversion Recommendations

- 1. Initiate Pre-Diversion (Summary Diversion) Screening.** Review deferred prosecution and drug diversion cases to determine which should not be brought into the diversion system by notifying the defendant that he will be charged only if another crime occurs by a specified date, such as within one year, or within one month prior to the expiry of the statute of limitations for the crime.

A practice of not initiating diversion for defendants who are at such low risk of re-offending that formal diversion is not worth the effort is particularly important in a large college town with lots of first time experimenters in new-found freedoms. If five percent of misdemeanors were summarily screened out, it would result in a significant savings in caseload work (about 240 cases) for misdemeanor prosecutors, who are presently overworked.

Likewise, some resources could be freed up for supervision and monitoring of more serious cases that could be taken out of the adjudication system and put into the deferred prosecution system. Use of a formal, objective screening instrument would be valuable in doing this screening, which could be done by non-attorney staff, subject to review by an experienced prosecutor.

- 2. Uniform Deferred Prosecution Screening.** Centralize diversion screening in the District Attorney's office and use a "quick risk screening tool" to match offenders to the best intervention option. There are many options available for the low risk offenders who are diverted from formal prosecution. Using a quick risk assessment tool can give decision makers a good sense of an offender's likelihood of being rearrested. One good public domain risk scale is the Federal Salient Factor Scale (attached). This scale has only 6 factors to score. Based on risk level, offenders can be matched pretty well to diversion options including no treatment or intervention, educational treatment program, and other appropriate treatment. First time, low risk offenders typically do not need more intensive intervention in order to avoid further arrest. The exception would be those first time offenders with substantial drug/alcohol problems or serious mental health problems. The criminal justice research indicates that aiming intensive intervention at low risk offenders can even increase recidivism.

3. **Diversion Unit.** Create a unit to review and keep current with standards for prosecutorial diversion and offender risk assessment tools, staffed by non-attorneys, subject to an attorney's final review and decision. This unit should screen out all lesser offenders
4. **Drug Court.** Screen for Drug Court using the Federal Salient Factor Scale and an appropriate drug-use screening tool prior to making any referral to the Drug Court. Target higher risk offenders with more serious substance abuse problems for the Drug Court. At this time, screening and assessment is done after referral to the Drug Court. ILPP is recommending that this be done before referral so that lower risk/lower need individuals can be referred to less intensive intervention programs. Further, ILPP recommends that the Drug Court educational track be eliminated and that offenders needing education as a diversion option be sent to any local agency that provides this option.
5. **Pretrial Bail Conditions.** The District Attorney requests imposition of specific kinds of pretrial bail conditions at the initial appearance/arraignment of defendants who are to be given bail. The DA's requests are usually honored by the magistrate presiding over these proceedings. As a matter of good practice, the ADA requesting bail conditions should utilize one of the many available "quick risk" assessment systems available to assure that only evidence-based conditions are sought.

Charging of Crimes

Charging of crimes in a consistent fashion usually relies on some combination of two management techniques: following a documented policy for how various kinds of criminal conduct should be charged, or having a small number of experienced prosecutors conduct initial or very early review and charge cases. The method that has evolved in Dane County is entirely the latter; there is no policy documentation of charging or indeed of other office policies. Most felonies are charged by the head of the felony division, a senior and well-regarded trial attorney. Drug and domestic violence felonies are charged by small groups of attorneys who communicate well on their specialized kinds of charging policies. Most misdemeanors are charged by another senior and well-regarded trial attorney.

There is a clear consensus that there is no general bias toward overcharging of crimes in Dane County. However, specific exceptions were observed. Defense attorneys noted that domestic violence cases, even misdemeanor ones, routinely also receive a false imprisonment charge, making the case a felony. This charge is almost invariably dismissed at plea, but still results in more time in jail due to a higher bail, or lower likelihood of a signature bond, and obviously adds to the average length of stay. Domestic violence cases are often also accompanied by

a disorderly conduct charge, with the same results. Retail theft (shoplifting) is routinely charged as a misdemeanor of over \$35, rather than as a citation offense or a case handled through diversion.

Law enforcement generally seems to be happy with the work provided by the office. Individual Assistant District Attorneys are assigned to all major cases, and recent, highly publicized cases were handled quite professionally by the office, with extensive efforts made to assure good search warrants were issued, extradition was facilitated, and there was coordination with in-county, in-state and out-of-state law enforcement and prosecutors' offices.

Likewise, "undercharging" of crimes does not seem to be a problem; law enforcement seems reasonably content with the procedure for charging crimes involving altercations with officers, a source of friction in many jurisdictions.

The method utilized by the Dane County District Attorney's Office of using senior prosecutors to file charges, will typically suffer from one defect: because the person filing the charges is not the person taking the plea (or going to trial), there can be a significant difference between the way the charging attorney and the disposing attorney view the case. This problem can be ameliorated if there are mechanisms in place to assure consistency in deciding which pleas will be accepted (see plea management, below).

Observation of the First Appearance calendar before the magistrate leads to the conclusion that many of the weekend arrests that constitute the week's biggest calendar are not charged until Tuesday, with the result that many minor offenders are kept in jail for at least an extra day. In the recent past, most of these cases were charged by Monday afternoon.

VI.5 Charging Findings

- 1. The level of charging in Dane County seems generally appropriate, but domestic violence cases, particularly misdemeanor cases, and retail theft cases are being overcharged.**
- 2. Charging crimes has drifted so that extra days are now being taken to file charges, resulting in extra days for large numbers of jail inmates before they can receive a signature bond or other release decision.**
- 3. The individuals who charge cases are different from those who make and accept plea offers, resulting in inconsistencies in dispositions and delays as the defense seeks to wear individual ADAs down.**

VI.6 Charging Recommendations

1. **Accelerate charging decisions by one or two days.** Receipt of electronic arrest reports, and other workload management efforts, should permit a return to the practice of charging cases within about two days of arrest. If all felony defendants were charged a day earlier, and most could receive a pretrial detention hearing a day sooner, thousands of days of jail time would be saved. This would affect most of the approximately 3,000 felon cases and almost 5,000 misdemeanor cases. This recommendation alone could result in the single biggest impact on jail populations.
2. **Review domestic violence and retail theft charging policies.** Charging of crimes should be based on what is supported by the facts and what would be expected to result in disposition of the case. Adding charges that are then routinely dismissed is a practice to be avoided. Excluding retail theft cases that are better handled through diversion or civil proceedings (like citations) is likewise a better practice. A conscious review of a sampling of cases would help the office periodically adjust its policies.
3. **See Plea Management, below.**

Discovery

By comparison with national practices, discovery in Dane County is most often produced to the defense attorney fairly late in the process, usually some time after arraignment for misdemeanors and after the preliminary hearing for felonies. In the large majority of cases, the only document needing discovery is the arrest report. Significant number of cases will have lab tests (drugs and OWI, for example). A much smaller number of cases will have additional investigative materials. Discovery is left up to each individual ADA. Most routinely request clerical staff to send discovery upon arraignment (misdemeanors) or following the preliminary hearing (felonies), but others delay until closer to the time a case will be scheduled for pretrial, and some defense counsel contend that a few ADAs wait for a call from the defense attorney or even force a motion for discovery to be made. There is no office policy on the subject.

Wisconsin law does not expressly require discovery in felony cases prior to preliminary hearing, though the issue is pending in a case before the Supreme Court. Thus what appears to be late discovery by national standards is simply normal practice in Wisconsin. But whether required by criminal procedural law or not, there is no question that not giving discovery in all felony cases until after the preliminary hearing, and delaying even further in some cases, has a big impact on how quickly cases are processed and on jail populations.

There is little point in delaying discovery, and the strong historical trend nationally has been toward early, complete discovery. In the case of Dane County,

consistent, early release of discovery would significantly improve the flow of criminal cases, and would accelerate the release of prisoners who are now serving more time than they would had their cases been timely processed.

Prosecutors, judges and defense attorneys alike agreed in interviews that a fairly large proportion of inmates are released for “time served” upon entry of a plea. That suggests that case processing delays are responsible for keeping a number of inmates longer than they might otherwise serve. One of those delays, though far from the only one, is the failure of the prosecution to produce early discovery.

There was some concern in interviews that production of discovery before the preliminary hearing in felonies might lead to longer preliminary hearings. As currently conducted, those hearings often have little meaning because the defense is unprepared, lacking discovery, to challenge a weak case. In many jurisdictions, preliminary hearings can serve as a catalyst for inducing early pleas. The defendant can see that the officer and victim are going to show up, that they are in fact going to tell what happened and that there is little point in waiting additional months only to plead moments before trial. More importantly, it creates an opportunity for the defendant’s counsel to go over the process and what is going to happen.

VI.7 Discovery Findings

- 1. There is no express policy governing production of discovery by the prosecution to the defense in Dane County beyond what is required by the discovery statutes.**
- 2. Later discovery results in significant delays in the criminal process, with the likelihood that a significant number of defendants serve more time in jail than they would if their case was processed in a more timely way.**
- 3. The release of discovery in felonies shortly after a defense attorney is known would significantly expedite case processing, even though not strictly required by law.**
- 4. The release of discovery in misdemeanors shortly after arraignment would significantly expedite case processing.**
- 5. The use of email to produce discovery whenever possible would significantly expedite case processing.**

VI.8 Recommendations

1. **Email.** The District Attorney should immediately begin maintaining email directories for defense counsel in Dane County, and when possible for defendants who are not represented by counsel. It should be expected that the routine method of corresponding should be by email rather than by traditional U.S. mail. Moving to electronic correspondence will dramatically improve case readiness timelines.
2. **Prompt Discovery Rule.** The office should promptly adopt a policy for producing a copy of the primary discovery documents (arrest and possible laboratory reports) in electronic form via email to the defendant's attorney within a short time after charges are filed and an attorney is appointed. Similarly, a procedure should be developed for either emailing or USPS mailing the discovery documents to the pro per defendant at an early time.
 - While there is not now a legal requirement that discovery be given before the pretrial hearing in felony cases (though the issue is pending before the Wisconsin Supreme Court), such a practice is not prohibited and is indeed the better practice. Though there is some fear that more evidentiary pretrial hearings would be demanded if discovery was given earlier, this is likely only in cases where the evidence will be tested in any event, and the impact would be ameliorated by revised DA's pretrial and clear plea offer policies, as described above.
 - The production of discovery should be routinely done by clerical and paralegal personnel in the office; delay in production as instructed by the assigned ADA should be the exception for a specific reason rather than the rule. That is, an ADA should expect that discovery will be produced by the staff, and only in those occasional cases where it needs to be delayed should the ADA have to take action.
3. **Discovery in In-Custody Cases.** It is especially critical that attention be given to discovery in in-custody cases, even when a hold is the primary reason for custody. Expediting these cases will significantly reduce average length of stay.

Case and Plea Management

Effective management of pleas is essential to the efficient management of a prosecutor's office. Since defendants overwhelmingly plead guilty, and because there is a fixed number of trials that can occur in a given time period due to the fixed number of staffed, jury-ready courtrooms, most of a DA's work is done in pleas.

Good plea management can be obstructed by prosecutors who overcharge, a problem not apparent in Dane County. Pleas can be delayed by lack of an early procedural opportunity for the prosecutor to get together with the defense attorney to discuss the case and an appropriate disposition. Less obviously, pleas can be delayed by individual prosecutors who become more willing to give a better deal as trial approaches. A defense attorney who knows that certain prosecutors are trial-averse quickly learns that delay works to the client's advantage and the best deal of all is right before a scheduled trial. No good defense attorney will recommend an early plea to the client in such a scenario. If, on the other hand, the defense bar knows that the deal won't get better past a certain point, absent some startling new factual development, pleas will crystallize around that point.

Repeated events in processing a case that do not advance the final decision ("continuances") in the case are a source of enormous cost. Each participant must prepare for such events, which may involve:

- Pulling and reviewing a case file;
- Checking a statutory or case reference for clarification;
- Calling a witness, looking for an evidentiary document;
- Consulting with a colleague about a point related to the case; and
- Making notes in preparation for the hearing.

These steps may be repeated for both attorneys, with similar time-consuming steps being taken by the judge. Likewise, support personnel such as bailiffs, court reports, clerks and clerical staff in the prosecution and defense offices all have work involved. The defendant may have to be transported from and back to the jail, a costly effort. In short, a continuance is an exceptionally costly event that contributes nothing to justice.

Limited data seems to be employed on the extent of continuances in Dane County, but there was widespread agreement that it is rare to get the defense attorney, the prosecutor and the judge together at the same time as initially scheduled. Most judges expressed resignation to this fact of life in Dane County justice, and are willing to settle for seeing the attorneys sometime during the same half day or even the same day the matter was scheduled. The impression was given that cases are not infrequently rescheduled because of conflicts that have the attorneys appearing in multiple courtrooms at once.

Case processing takes an excessive amount of time in Dane County. During 2006, almost 40 percent of felony cases took more than six months. The goal for District 5 is to complete 90 percent of cases within six months, but only 62 percent was achieved.

Abandonment of a former long-standing practice of conducting a “DA’s pretrial” has had a deleterious effect on case processing. A DA’s pretrial consisted of a prosecutor meeting with counsel from a group of upcoming cases, providing discovery, and discussing appropriate disposition. While few pleas were actually taken at a DA’s pretrial, it served to get discovery to the defense, to resolve potential discovery issues and to facilitate communication between prosecution and defense over a potential plea. The practice was abandoned in recent years as prosecutorial staff declined. The result is that most defendants now go to the final pretrial hearing without a clear idea about what a realistic plea might be.

While the DA’s office was quite good at achieving consistent *filing* of criminal charges, it was much less effective at getting consistency in *guilty pleas*. Individual prosecutors naturally vary in their inclination to go to trial, with some willing to try any case any time because of their zest for trial work, and others who view trials with great trepidation or as a waste of resources that can be avoided by getting a plea. Some prosecutors become known for never or rarely going to trial, and for being more and more willing to take a plea as time goes on. The result is that defense attorneys learn to delay serious bargaining until the last possible minute, and to delay cases as long as possible in hopes of the best deal. Another consequence is great variation in dispositions: one prosecutor will be very clear about not reducing charges while in similar circumstances another might find weaknesses in the case and therefore a reason to reduce the charges. Both the defense and judges remarked on significant variation among ADAs in their sentencing recommendations. Such variation increases delay, can be viewed as unjust, and encourages gaming of the system. Both judges and defense attorneys agreed that this problem is noticeable in Dane County.

Continuances are not caused only by the attorneys not being ready. Frequently, the arresting officer or the victim witness are also not timely available. There is a dearth of data on this subject, but PROTECT should be able to help with these issues and federal funding is often available, especially for victim-witness issues.

VI.9 Case Management Findings

- 1. The Dane County District Attorney’s office has no clear policy guidelines governing how long a case should take to be processed to disposition.**
- 2. The process of growing workload without compensatory resources has led to more time spent on cases and less on managing the workload, and a reasonable feeling of being overburdened without relief in sight.**
- 3. There is significant inconsistency in plea dispositions, depending more on the individual ADA involved than on good policy or the factual variation in the cases.**

4. **The lack of a coherent plea offer policy contributes to the delay of cases in court, as defense attorney maneuver to wheedle the last possible, best offer in a case.**
5. **The lack of a clear plea offer policy contributes to continuances of cases in court, also resulting in delay.**
6. **The DA's office has inadequate management information on delays caused by lack of availability of victim witnesses and arresting officers.**
7. **Case processing in Dane County takes an excessive amount of time. In 2006 only 62 percent of felony cases were completed in six months, far short of the 90 percent goal for District 5. Misdemeanor cases were completed in only 69 percent of the case, far short of the District 5 goal of 95 percent and significantly less than the statewide average of 80 percent.**

VI.10 Case Management Recommendations

1. **Electronic Arrest Reports.** The DAO should promptly begin receiving arrest reports in pdf format from all LE agencies in the county capable of producing electronic documents.
 - Electronic arrest reports should be passed on through PROTECT to CCAP so they are available to appropriate criminal justice users downstream in the case process. Individual prosecutors who prefer to read the documents on paper could print them for their own use or working file, but the official file should be the electronic one maintained in PROTECT.
 - The pdf copy of the arrest report should be emailed to the defense attorney/defendant at the appropriate, but early, stage of the proceeding (see Discovery, above).
 - In addition to a pdf of the arrest report, the electronic data fields of the report should be transferred electronically to PROTECT using the XML standards adopted by the State of Wisconsin, and this information should form the basis for the case records maintained in PROTECT and passed on to CCAP (see the chapter on information technology).
 - Electronic arrest reports will trim the time needed to process a case by five or more days, with a potential for a concomitant reduction in total case processing. For in-custody felony cases this could mean a significant reduction in ALS.
2. **Other Electronic Documents.** Besides the arrest report, the District Attorney should begin using other common documents in an electronic format, such as lab reports and crime or other investigative reports. In

almost all cases, these will have been produced electronically by the originating agency, and should be emailed or otherwise electronically transmitted by that agency to the DA's office. This will greatly accelerate the readiness of the DA's file for prompt decision-making, and after an initial transition stage of hybrid files, will simplify record-keeping and maintenance.

3. **Time Standards.** Categorize cases and adopt time standards for processing each case category to assure consistent and timely dispositions.
 - The time standards should make appropriate distinctions between in-custody and non-custody cases, and misdemeanors and felonies should be subdivided into realistic groups for processing purposes. The time standards should include a deadline for accepting a plea based on an office-approved plea offer, except when significant new factual information develops and a plea offer reduction is approved by a supervisor.
 - The time standards might call for a schedule like delivery of discovery within five days after initial appearance/arraignment, a DA's pretrial (see below) or a plea offer within 12 days, preliminary hearing or dispositive motions within 20 days, and other events as scheduled by the court.
 - The time standards should be entered into PROTECT, and the Executive Manager (see below) should monitor all cases for compliance with the standards. The resulting case management information should be used to adjust the time standards so they are both timely and effective, and do not place useless or burdensome time frames on ADAs handling the cases. The two critical standards are the release of discovery and the scheduling of a DA's pretrial/final plea offer events.
 - For in-custody felony cases, this could mean a reduction in ALS of up to 30 days, either because of excessive time served or because of transfer to state prison. As described above, if time to disposition of in-custody felony jail admissions were reduced by 30 days, it would save 3,000 bed days for every 100 felony bookings. This would reduce the average daily jail population by 8.2 people in each day of the year. These figures would be larger if the time to disposition were reduced by more than 30 days, or for each felony booking more than 100 per year, assuming of course that felony bookings typically result in felony filings.

4. **Revised DA's Pretrial.** The DA should consider revamping and reinstating its former DA's Pretrial practice to:
 - Within a fixed time after arraignment (not the pretrial hearing), such as 10 days, providing discovery and giving defendants represented by counsel a plea offer.
 - Some days later, a hearing should be scheduled for discussion of the case between counsel and a judge should be available for taking pleas at that time. If potentially dispositive motions are to be made, they should be set then.
 - No reductions in the plea offer should be permitted after the DA's pretrial unless they are approved by a supervisor *and* significant new factual information develops or a dispositive evidentiary motion has been granted. In short, if the plea is not taken at the DA's pretrial, it should be expected that the case will be taken to trial absent a dispositive motion.
 - A new and better-defined plea management policy as briefly described here will necessarily entail a period of testing by defense counsel, and a transition period with disruption to court schedules as new practices get worked out. But after implementation, it should produce more consistent justice, less variation in pleas under similar circumstances and shorter times to disposition, with attendant effects on jail populations and system effectiveness.
 - For in-custody felony cases, this could mean a reduction in ALS of up to 10 days, either because of excessive time served or because of transfer to state prison.
5. **Disposition Standards.** Even if the DA's pretrial is not revived, the office should develop a means to assure more consistent plea offers, and better manage plea reductions once an offer is made. Straightforward policies for when and how plea offers get made and how they can be reduced will produce better results, bring more consistent results in similar cases, shorter times to disposition, better managed court calendars and better usage of limited jail space. This will have a distinct, although difficult to calculate impact on ALS.
6. **Monitoring Standards.** Non-attorney staff should be assigned to monitor and facilitate time frames to charging, discovery, plea offers and final disposition. Obstacles can be identified early, brought to the attention of management and worked out on an ongoing basis.
7. **Manage Witness Availability.** The DA's Office should gather management information on delays caused by lack of availability of victim witnesses and arresting officers. These factors often delay cases, and integration of PROTECT with the law enforcement databases should be pursued to maximize office and witness availability.

Relationships with Other Agencies

Law enforcement expressed generally favorable views of the professional services received from the prosecutor's office. Likewise, the defense seemed to respect the professional conduct of the ADAs. Judges acknowledged the mounting staffing difficulties of the DAO, but expressed some frustration with the inability to get both prosecutor and defense attorney to appear on a case at the same time.

VI.11 Relationships Finding

- 1. While the DA's Office enjoys commendable relationships with other agencies, in particular law enforcement agencies, more active management is needed to assure efficient case processing and to avoid unintended consequences of prosecutorial decisions.**

VI.12 Relationships Recommendation

- 1. The District Attorney's office should participate in a Criminal Justice Group's Executive Committee that will ensure smoother functioning of criminal cases as they move from one agency to another, consistent and just criminal justice policies, and punishment policies that are within the resources of the various agencies in Dane County.**

Management Structure

Lawyers are not often known for their management skills. The skills required of a good trial lawyer, the *sine qua non* of a prosecutor's office, rarely produce managers who are simultaneously good at making the system work well as a whole. Law school focuses on teaching through individual cases rather than emphasizing system efficiency. A primary tenet of the criminal law is the duty to the individual client. Micro-focus rules over macroeconomics.

One manager in the prosecutor's office, in the context of discussing resources, boldly said that there was no supervision, no formal policy and no training in the Dane County District Attorney's Office. That view is overly bleak. In fact, most of the prosecutors attend an annual continuing legal education conference of several days that is structured around prosecutors' needs. Most felonies are filed by a single prosecutor and misdemeanors by another, providing *de facto* management consistency in the charging of crimes. Prosecutorial units are adequately sized to encourage communication and common approaches, though the workload issues have kept people so busy that strategic management has suffered. Cooperation in the office is good.

But there is no written policy documentation, little management information that would serve to facilitate understanding of the management needs of the office, and virtually no effort given to looking at the office as a whole and how it fits into the larger scheme of the local criminal justice system. There is a sense that as other parts of the system grew, everyone in the DA's office just "pedaled harder" to get their cases out. With the loss of the federally funded positions, it is time to step back and look at what else should be changed, including the management structure and resources.

VI.13 Management Structure Findings

- 1. The District Attorney's office has outgrown its informal, highly individualistic management style.**
- 2. The lack of focused management contributes to its difficulty in managing its workload and to longer case processing times than called for under District 5 standards, or would occur under better organized management.**
- 3. Better focused management structures would result in better case processing times, reducing costs for downstream criminal justice agencies, both in programs and in jail stays.** Again, any reduction in average length of stay by jail inmates would result in a corresponding reduction in the daily jail population, court caseload, and prosecutor workload, as suggested by examples cited throughout this report.

VI.14 Management Structure Recommendations

- 1. Executive Management and Case Processing.** The office should retain an in-house executive manager, or retain regular outside executive management consulting services, to be funded by the county, to assist it with developing:
 - a policy for adjusting its workload to its ability to process the cases, giving appropriate priority to cases of greatest concern to the local community and the office;
 - appropriately structured management and supervision of its employees, including regular employee reviews, training, and policy guidance for assuring consistent plea dispositions;
 - management information that would enable it to better portray its budget needs, such as comparing the volume and kinds of cases that can no longer be prosecuted because of budget shortfalls (the net difference between the cases referred by law enforcement and cases filed); and
 - grant proposals for specific kinds of assistance from the county, state and federal governments.

VII. Jail Release Programs:

Bail, Bond, Bail Monitoring Program and Other Front End Release Options

In 2006, 16,682 bookings were processed by the Dane County jail. Under existing statutes, the Sheriff must accept everyone brought to the jail by local law enforcement. A review of those currently in the jail using an NIC inmate classification scale and the ILPP jail profile indicates that the majority of jail inmates are “minimum security” individuals. The Jail Inmate Population Custody Status Report for April 9, 2007 identified 509 inmates charged as misdemeanants, 23 in jail for non-criminal matters, and 25 booked on civil process/local ordinance and county ordinance violation. This data certainly suggests that there are significant opportunities for the expedited release of many individuals from the booking area.

In confronting the problems of jail overcrowding, Dane County has utilized an impressive array of diversion and deferral programs. ILPP certainly recognizes these efforts. Below, ILPP offers options to enhance and improve on these programs. When properly implemented, these recommendations will reduce jail use while providing for improved community protection and reducing offender recidivism, and thus have a major impact on public safety.

Periods of jail incarceration are important sanctions that take offenders off the streets for relatively short periods of time. At some point, however, offenders return to the community and present a continuing challenge to law enforcement. Jail incarceration alone can be an effective punitive sanction but does little to rehabilitate or redirect offenders. That is why the jail sanction must be carefully managed and combined with effective programming and supervision in the community, to make jail more effective, and to make managed use of the jail contribute more to public safety.

Bail: Using a bail schedule published by the Wisconsin Judicial District, the Sheriff’s Office has authority only for releasing those booked on misdemeanors. Additionally, they can release inmates booked on non-criminal matters who can post monies owed on underlying citations. They have no authority to release inmates with felony charges or to issue signature bonds. This means that anyone released by the Sheriff’s staff must post some cash bail or other monetary amount (citation). Many cannot do so and must wait until they can be scheduled for arraignment court, where most receive a signature bond and are immediately released. First Appearance Court hearings that set bail or arrange release typically occur one to three days following booking.

Prior to releasing anyone on bail, the Sheriff’s staff reviews criminal history information relative to previous bail action (wants/warrants) and prior criminal history and assigns a booking number that follows the immediate case. If the individual qualifies for release and can post the bail, no further intake processing

is done (e.g. medical and mental health review, classification). For those who cannot make the bail that is set, a full intake occurs. All of those with felony charges must wait to be scheduled for First Appearance Court to arrange release or have bail set.

In March 2007, there were 1,410 bookings (some of these were duplicate bookings). Of these, only 37 individuals made immediate bail and did not need to go through the entire intake process. Note that a few more individuals made bail later, but before First Appearance Court.

In a 2003 National Institute of Corrections report prepared for Dane County, consultants reported that 87% of all intakes making First Appearance Court were released on signature bond. Data prepared in 2006 by the Sheriff's staff indicates that 52% of inmates are released by day three and 22% between day four and day ten. In the ILPP tracking sample, 74% of the releases on signature bond occurred within 24 hours, with the majority going through the entire booking process because the Sheriff has no signature bond authority.

The ILPP tracking data indicated that ALS for bonds set between \$100 and \$400 was four days. For cash bonds of \$500 to \$1,000, it took six days for release and for bonds set at \$1,500 or higher, ALS was 19 days. It is important to note that if the Sheriff had signature bond authority, the ALS for these offenders would be significantly reduced.

Bail Monitoring Program: The Court Division operates the Bail Monitoring Program (BMP) with a 4.5 FTE staff. Consultants were impressed with the work done by this unit, as was the commissioner who holds first appearance hearings and sets release conditions. This unit accepts referrals from the commissioner and assesses the detainee's circumstances and risks to determine if release under some level of supervision with stipulated release conditions would be appropriate. Their findings are sent to the judge/commissioner and a second hearing is set to consider release under BMP supervision. No actuarial risk assessment is done by BMP staff at this time. If screening and bail assessment using validated risk tools occurred at booking rather than after the First Appearance Court hearing, felony releases of appropriate defendants could occur more quickly.

The current capacity of the BMP is 75 with the ability to place 30 individuals on EM as part of the BMP. Data provided to ILPP indicates that the BMP has been underutilized for more than one year. This unit maintains contact with all participants and provides verbal reminders of all court hearing dates and times. If individuals fail in the program, BMP staff offers to seek reinstatement of any cash bail if they report to court. Staff indicates that 80% of their violators turn themselves in to avoid bail forfeiture and the issuance of a warrant. FTA rates per se are not kept, although the BMP does track the total number who fails in the program each year (see below).

Failure to Appear (FTA) Rates: No FTA data is routinely collected to help in determining how well any bail or release program is working. Effectively managing FTA rates is a critical part of any release program and an important aspect of ensuring public safety. To attempt to get a sense of FTA rates and issues, ILPP reviewed the data that is available as well as a 1999 Dane County study. First, the BMP does collect some data. This is reported below for the year 2006.

Found “not acceptable”	97 (28%)
Rejected the program	20 (6%)
Posted bond	34 (10%)
Succeeded in program	67 (20%)
Failed in program	63 (18%)
Other	60 (18%) ¹⁷

The Sheriff’s Office provided data for April 14, 2007. On that day there were approximately 105 individuals in jail on bench warrants, including two for non-support. These individuals were booked on other charges, but also had bench warrants. The bench warrant population was a bit less than 10% of the jail population.

In 1999, a bench warrant study was done for Dane County by pulling a random sample of 180 people with bench warrants. One conclusion from this study was that “about 10% of people (as opposed to booking episodes) coming into the jail failed to make court and had bench warrants issued.”

When bail warrants are issued, the court sets bail between \$1,000 and \$5,000. This makes it likely that those eventually picked up on the warrant will not be able to post bail and must wait for First Appearance Court to receive either a signature bond or have the bail lowered.

Violation of Probation and Parole Holds: Almost every individual that ILPP consultants talked with identified the “holds” initiated by the Department of Corrections as a major contributor to jail overcrowding. A Sheriff’s 2006 Average Jail Inmate Population Report indicates that the average daily probation/parole (P/P) hold population was 162. Some ongoing effort is being made by the Sheriff and DOC to reduce this number. DOC indicated that P/P holds have been reduced from a high of 291 in January 2007. However, DOC counts P/P holds somewhat differently by including those serving jail time who also have holds. The Sheriff’s staff counts only those who have not been sentenced. Per the Sheriff’s staff, this number has not changed significantly over the past four years. On May 8, 2007, there were 168 straight P/P holds.

¹⁷ Includes case settled, bail modified, plead in, hold, pending, etc.

The Sheriff sends DOC a list of inmates every two weeks that includes only those inmates with no new charges. Missing from the list are the P/P holds with felony, misdemeanor or non-criminal charges, and the number of days served on “hold” status by each inmate. As the number of offenders with P/P holds in jail increases, face-to-face meetings between the Sheriff’s Office staff and DOC representatives occur to try to identify inmates who can be released by lifting a hold.

DOC is about to lease 55 beds from other counties to pull down the number of holds in Dane County. DOC is also providing staff to process these out-of-county inmates through the parole revocation appeal process. Certainly these efforts are to be commended. DOC also operates a day reporting center with a capacity of 355. This serves as an alternative to violation of probation actions.

ILPP looked at what was slowing the revocation review and appeal process. A Probation and Parole agent has ten days to review any arrest of a P/P offender and decide whether to pursue a formal revocation. Unless offenders waive their right to a revocation review hearing, the Division of Hearings and Appeals has 50 days to conduct a revocation hearing and render a decision. Probation and Parole staff indicate that these hearings are now taking as long as 120 days. If the hearing officer sustains the revocation, the offender has ten days to appeal. The agent then has ten days to complete a revocation packet for the court. The Supervisor then has five days to review the packet and the regional office has an additional five days to review the packet prior to submitting it to the court. Once the packet is submitted to the court, the judge schedules a sentencing hearing. System players say that the judicial sentencing hearing takes two to four weeks to schedule. For cases where offenders waive their right to the hearing, it still takes 20 days for the packet to be prepared, reviewed and delivered to court if everyone completes work in a timely manner. DOC indicates that time frames for preparation and review are set by DOC policy.

Some of those interviewed, including DOC staff, reported that it was not unusual for the offenders with holds to be released for “time served” when they finally reached the sentencing court. Some indicated that the process of handling revocations was so long that some offenders served more time in jail than would likely be imposed for the underlying offense.

It is important to note that DOC manages 4,700 cases in the region. Excluding interstate compact and mental health (NGIs) offenders, there are 3,081 felony cases and 1,495 misdemeanor cases.

Many recommendations set forth in this chapter have been implemented in other jurisdictions; for a listing of some of those jurisdictions, see the chart included in the Action Plan.

VII.1 Findings

1. **The inability of the Sheriff to be able to release anyone on signature bond slows the release of many minimum security inmates pending court processing. This and other delays, noted below, contribute to jail crowding.**
2. **Additional front end release options are needed to contain overcrowding and use jail space more efficiently.**
3. **The Bail Monitoring Program operates after first appearance rather than at the front end, thus delaying release.**
4. **The length of time offenders wait in jail to have DOC revocation decisions made and acted on is excessive.**
5. **The delay in holding revocation review hearings needlessly absorbs jail beds in an already overcrowded jail system and keeps some inmates in local detention beyond the time they might serve on any underlying new offense or technical violation. (This is also likely a problem experienced by other Wisconsin counties.)**

VII.2 Recommendations

1. **Provide the Sheriff with authority to issue signature bonds.**

On April 9, 2007, there were 48 individuals in jail for non-criminal, civil process/local ordinance, and county ordinance violations in addition to many misdemeanants who were unable to make cash bail and who were waiting to appear in First Appearance Court.

If the courts agreed, the easiest way to give the Sheriff authority to utilize signature bonds would be through a court order issued by the presiding criminal court judge. The judge could grant this authority with or without identifying specific criteria for such decisions.

Another option would be to sponsor state legislation granting this authority. If this was pursued, the County might want to include language that would grant the Sheriff additional authority to release lower level felony offenders using signature bonds and/or setting a cash bail amount. These additional release options will be of significant help in reducing the jail population.

It is noted that the many individuals held in jail are eventually released via signature bond by the Commissioner. Giving the Sheriff the authority to issue signature bonds at the front end would expedite this release process

and save jail space and very significant resources in the early days of managing inmates. In making these release decisions ILPP recommends that a risk of recidivism scale be used (e.g. the Federal Salient Factor Scale or other instrument validated for this use). In addition, a thorough review of the criminal history information including any past FTAs would be necessary. In commenting on the draft report there were some concerns about this option. Such processes are used successfully in a great many other states and communities including California, Oregon and Washington. Additionally, local authorities in setting up such a process could well limit the types of offenses that could be considered for release by the Sheriff.

Comment was also received indicating that local law enforcement should be utilizing cite and release more frequently. ILPP certainly agrees with those comments which have been addressed earlier.

2. During periods of jail overcrowding, consider requesting special release orders issued by the presiding Chief Judge.

Many jurisdictions in partnership with the court have arranged releases via court order. One option is a five day early 'kick' for sentenced inmates without jail disciplinary problems. Another option is a weekend 'kick' for sentenced inmates that permits release on Friday for those scheduled for weekend release. This last option helps clear beds for weekend arrests.

At the time this report was being prepared, the State of Wisconsin was debating a bill (HB 4725) that would provide sheriffs with emergency release authority. Such legislation would give the Dane County Sheriff needed release authority when the County jail reached capacity and would likely override the need to implement the above recommendation for court orders.

Comments to the draft report included concern about this option and the threat to the community that early release might present. The option is suggested for use during times of serious overcrowding and can be tempered through the use of a risk assessment with lower risk offenders being considered first along with those whose release date is near. Those high risk offenders and those whose jail behavior has been problematic should be excluded from the release group. Also, it can never be overlooked that 63% of the jail population is minimum security, and are therefore by definition considered by the Sheriff Office as not dangerous.

To stay within jail capacity limits, many jurisdictions follow an early release plan. Examples are Multnomah County, Oregon; Los Angeles, California; King County, Washington; and Bernalillo County, New Mexico. In Bernalillo County a pro tem judge has been appointed with power to

modify conditions of release, authorize work programs in lieu of jail incarceration, and dismiss fines/fees or convert them to time served. While ILPP is not specifically recommending the Bernalillo County model, it is offered as an example in containing jail populations.

- 3. As an interim action, consider establishing a revolving bail fund to assist indigent defendants in posting bail. At the time a defendant borrowed from this fund, a repayment schedule would be established. County collections staff would be tasked with collecting on any non-payment event. (The County would be “money ahead.”)**

Comments to the draft report questioned the manpower that this option would require. While creating and managing such a fund might take some time, that time spent with the overall objective of relieving crowding and related overtime would be extremely cost effective.

- 4. Move the BMP function to the booking area and institute a pretrial release program. The staffing needs of this option would need to be determined.**

Dane County needs a pretrial release program that operates at the front end in the booking area that targets those booked on felony charges. An NIC study done in Dane County identified this need and provided some excellent resource references to help guide the County in developing such a program.

When pretrial programs reach their full potential, they play a key role in the effective administration of justice. Key elements of successful pretrial programs include objective risk assessment, pretrial reports with verified information, objective bond/bail recommendations, court date notification, pretrial supervision as necessary, and an absconder unit.¹⁸

An important component of pretrial release decisions is the use of an objective risk assessment instrument. One excellent instrument was developed and validated by the Virginia Department of Criminal Justice Services. It uses nine variables to predict a defendant’s risk and assigns points to each risk factor. Their risk scale factors include: Charge type, Pending Charge(s), Outstanding Warrant(s), Criminal History, Two or more Failure to Appear Convictions, Two or more Violent Convictions, Length of Current Residence, Employed/Primary Child Caregiver, and History of Drug Abuse.

¹⁸ Mahoney, Barry and et.al. 2001. Pretrial Services Programs: Responsibilities and Potentials. National Institute of Justice. Washington, D.C.

The Virginia scale is one of many that Dane staff may want to review. A similar instrument is used in Kentucky. Philadelphia uses a slightly more complicated instrument. The Pretrial Services Resource Center (PSRC), a nationally recognized nonprofit agency, is an excellent source of information and provides technical assistance to jurisdictions setting up pretrial programs.

Good risk scales assist greatly in determining appropriate candidates for release while responding to the need for public safety and protection.

5. Track FTA rates and develop policies and procedures to reduce current FTA occurrences.

The Pretrial Services Resource Center (PSRC) can assist with these issues. One very effective method used by the BMP as well in many other jurisdictions is frequent telephonic reminders of every court hearing. This can be done very efficiently using an automated telephone calling system. At some point, anyone released on signature bond, bail or under BMP supervision should be added to the telephonic reminder system. Such systems are inexpensive and used routinely by agencies needing efficient reminders for individuals with appointments. ILPP recommends that BMP be the lead agency in implementing this system. Comments from staff indicated that one community agency as well as the BMP does routine personal reminders to defendants out on bail and that they preferred this method. While these personal reminders have great benefit, as volume increases, the automatic reminders will increase efficiency.

As part of the calling system, a means to change any scheduled court date should be clearly identified to respond to unavoidable conflicts.

An automated call system similar to that recommended above is in use in Multnomah County, Oregon.¹⁹ This is an impressive system that is also connected to half of the courtrooms where a defendant's phone number along with the court date, time and location is downloaded into a notification program that automatically (via phone call) reminds a defendant of the next court date.

Comments to the draft report noted disappointment with the narrow range of options dealing with bench warrant arrests. The above recommendations along with those in the Adjudication section dealing with immediate notification of the next court date to any offender appearing in court, will have an immediate and positive impact on reducing FTAs and the number of bench warrants issued. Also, when time to adjudicate cases

¹⁹ Contact person in the Multnomah County pretrial unit is Lori Eville 503-988-4755

is shortened, fewer FTAs occur. Recommendations throughout this report confront this issue. The suggestions included here have been of significant help in many jurisdictions in reducing FTAs.

6. Establish a speedy process to handle all DOC revocation matters where offenders waived their right to a formal hearing.

One option discussed with DOC would be to schedule court sentencing hearings 25 days from the date the offender signs the waiver of hearing notice. This would be done without the revocation packet being completed and forwarded to the court. During the 25 day period, the P/P agent would complete the packet, submit it for review and forward it to court. DOC indicates that these packets are done in a timely manner, so few (if any) court sentencing dates would need to be re-scheduled because the revocation packet was not available. If courts are willing to consider this option, the two to four week delay in scheduling court hearings after the revocation packet is completed and thoroughly reviewed could be eliminated, along with associated continuances.

ILPP also recommends a similar process for those cases where the hearing officer sustains the revocation. That is, schedule the sentencing hearing once notification is received that the revocation is sustained, and the packet preparation and the review process begins.

In reviewing the draft report, one judge stated that common practice is to schedule sentencing for about 60 days after conviction (i.e. about 2 weeks after a PSI should be received). If the sentencing hearing was scheduled at the 45 day period, the sentencing could be reached earlier and free jail space. In discussions with DOC, staff indicated that their reports are sent to court in a timely manner. Many other jurisdictions follow this practice.

7. Revise the list of parole and probation holds that is provided to DOC to specify all holds including: no new charge, non-criminal matters, ordinance violations, misdemeanor charge, and felony charge. Also include the number of days in jail for every offender on the list. Submit the list to DOC regional management every week.

Under an existing agreement, DOC management reviews the Sheriff's list of "holds" every two weeks. The existing list includes those offenders in jail with no new charge (i.e. technical violations including noncompliance). Adding the additional information listed above can assist the Sheriff and DOC in their reviews.

The Sheriff should also set benchmarks for reasonable length of stays based on the underlying offense. When those in-custody on holds hit the

benchmark, a face to face meeting with DOC to consider removal of the hold status should be initiated.

8. **The Sheriff should establish a priority system to determine which VOP offenders to release first if or when the jail becomes severely overcrowded.**
9. **Join any other impacted county and petition the State to adequately fund the DOC revocation review process to ensure that all revocation hearings are conducted and findings communicated within 50 days as stipulated under existing law.**

The Sheriff's Post Booking Release Options and Issues

This section will discuss two release programs that can be initiated following sentencing, CAMP/STAR and Pathfinders/CAMP.

The CAMP/STAR program is under the immediate supervision of the Sheriff, while the Pathfinder program is operated by a contractor under the supervision of Human Services.

The Custody Alternative Monitoring Program (CAMP) was combined with the STAR program in 2005. Participating inmates are released from jail custody into the community. CAMP now uses GPS electronic bracelets. CAMP targets only **sentenced** inmates, provides community supervision and includes drug/alcohol testing. A recent Sheriff's report indicated that jail diversion programs evaluated 2,445 candidates in 2005 and accepted just **16%** of these inmates. The Sheriff's Staff also reported a 91% success rate.

A Pathfinder's program was added in 2003. This is a treatment program that requires participating inmates to enter and complete a 30 day in-house treatment program followed by home monitoring under CAMP with continuing treatment.

Several studies and reviews have recommended significant expansion of the CAMP/STAR programs. ADA for CAMP and Pathfinders, however, has decreased significantly since 2001. The failure of CAMP to have more of an impact on jail bed use is of great concern.

Table 21: CAMP/STAR and CAMP/Pathfinders Program Participation				
Year	CAMP/STAR		CAMP/Pathfinders	
	ADA	Participants*	ADA	Participants
2001	56.67	680	n/a	n/a
2002	55.46	666	n/a	n/a
2003	54.20	650	4.70	33
2004	52.75	633	6.20	74
2005	35.65	428	5.38	65
2006	37.48	450	4.76	57

* Annual number of participants is rounded off for comparison purposes.

The Sheriff’s staff indicated that they needed statutory authority to permit CAMP/STAR program participants to gradually move to less intensive community supervision, including periods without electronic bracelets. This would occur after the offender complied with all program requirements and had stabilized in the community.

Additionally, the Sheriff operates a work release program from the Huber Center where **sentenced** inmates work or go to school in the community and return to the center at night. Several local studies and reviews have called for an expansion of CAMP to include most of these WR participants. Proposals have suggested moving work release participants from in-custody status to community supervision at some point during their sentences. La Crosse County has moved its WR participants to community supervision with EM and Wood County is considering doing so. As discussions in Dane County focus on this option, the need to efficiently utilize jail space must be balanced against public safety needs and the public’s desire to exact punishment proportional to the offense, as well as the longer term goal of reducing recidivism through community based treatment and supervision.

VII.3 Findings

- 1. The Sheriff’s Office has played an important role in reducing jail overcrowding with the implementation and management of the CAMP/STAR programs.**
- 2. CAMP/STAR programs appear to be underutilized given the classification of the inmate population and the ILPP tracking and profile data.**
- 3. With a change in the screening process and additional options to enhance community supervision, there are opportunities to increase the number of participants in CAMP.**

VII.4 Recommendations

1. **Screen sentenced inmates for CAMP using the recently implemented NIC classification system. Then make those inmates who are classified as 'low minimum' presumptively eligible for the program.** This new process should permit for exceptions and respond to public safety needs. However, ILPP recommends that any exception be approved by a Sergeant. Further, the Sheriff should consider using an objective actuarial risk screening tool to determine the risk of recidivating while under the Sheriff's CAMP supervision.

While ILPP finds the existing screening for CAMP to be reasonable, this is a subjective assessment. It is recognized that when making CAMP release decisions, the Sheriff's staff must balance jail overcrowding against the important issues of appropriate punishment (confinement), public protection, and recidivism reduction. An actuarial risk tool like the one recommended for pretrial offenders above can predict the amount of risk to the community far better than a review of an offender's criminal history and pending charges alone. This approach should lead to more eligible CAMP candidates than the present process.

The Sheriff, in addition to making some offenders CAMP eligible upon sentencing, has reviewed offenders for release following a period of incarceration. This is a very effective way to encourage good behavior while in jail and another indication of the Sheriff's willingness to control the jail population without risking public safety. ILPP recommends that those classified as minimum security using the new classification system, and not released to CAMP at the front end, be considered as presumptively eligible for CAMP during the last 30 days of their sentence with exceptions made as outlined above. The following recommendation is made to strengthen the supervision of CAMP to handle more inmates.

2. **Positively consider funding a day reporting center and/or a community work program to enhance the control and retributive aspects of CAMP. Fund these programs with savings from decreases in jail population. Track CAMP participant numbers closely and defund these programs if the CAMP populations do not meet target levels.**

A day reporting center will provide a place for unemployed CAMP participants to spend the day, get drug tested, and engage in educational programming. Should additional funding become available, this center could provide drug education and treatment. One option to reduce costs is to co-locate the center with an existing contract program.

Several staff who spoke with ILPP indicated that a community work program was needed. One added that one problem with initiating such a program was concerns for liability should injuries occur. There are many models for community work efforts including purchase of insurance policies to cover the costs of injuries. In many programs, the participants cover the cost of this coverage with enrollment fees. Another option is for a public agency, such as a state highway department, to supervise highway anti-litter crews or pay the County costs of supervising a crew for them.

Community work programs are particularly helpful in dealing with concerns of the community by extracting appropriate levels of punishment for offenders leaving jail prior to the end of their sentences. Even employed offenders can work on days off on anti-litter type activities. Work programs can also be utilized in lieu of shorter jail sentences. For many low to moderate risk offenders, doing work in the community can be a far more significant punishment than spending time in jail where food, clean clothing, television and a clean bed are provided at taxpayer expense and the inmate has no parallel obligations.

In King County Washington the Courts sentence offenders to work crews to perform supervised manual labor for various contracted cities and intergovernmental agencies. The program is designed to provide a diversion from jail for low level, low risk offenders and a visible restitution to the community. Offenders are sentenced directly to the program and can work off fines and regain their driver's license. A similar program is operated in San Diego, California where offender enrollment fees and contractor fees net over \$1,000,000 in off setting revenue. Another option for gathering information on offender work programs is through the California League of Alternative Sentencing Programs (CLASP).

3. Consider waiving CAMP fees for indigent participants and do not violate non-working participants for failure to pay fees.

ILPP appreciates the business focused approach used in the county to offset the costs of providing services. However, waiving fees for indigents is more cost effective than keeping these offenders in jail. Dane County also has an effective way to collect any unpaid fee through wage garnishment and tax intercept.

VIII. Community Based Treatment Efforts

Staff from the County Department of Human Services and treatment provider agencies were interviewed. All were skilled and knowledgeable about treatment needs and various evidence-based treatment approaches. The range of treatment options and continuum of services is quite impressive and rich in comparison to other jurisdictions. Staff appeared to have a commitment to providing quality care to all in need.

Although the staff is quite knowledgeable about mental health and substance abuse issues, there appeared to be a need to integrate criminal justice evidence based research with the existing knowledge base. The ILPP recommendations below are aimed at further reducing recidivism through the use of evidence based practices for the criminal justice populations. Numerous studies have shown that such practices have lowered recidivism from 20% to 70%.²⁰ The evidence-based research also identifies programs that work and those that do not.²¹ In an attachment to this report, ILPP has included two charts identifying the impact on recidivism of various correctional program approaches. Generally, those with strong cognitive behavioral approaches have a more profound impact on reducing recidivism for the offender population than those that do not include this type of program.

A recent paper published by the National Institute of Corrections²² concludes that "...there is a greater bang for the buck when high base-rate offenders reduce or end their criminality...and supervision and treatment resources that focused on lower-risk offenders tend to produce little if any net positive effect on recidivism." More information on evidence based practices for offender treatment is available in the National Institute of Corrections website (www.nicic.org).

Over the years, many programs have been added to the array of services provided in Dane County. During this time, some federal funding that helps to support local treatment programming has been decreased or has remained stable as populations at risk have increased. Since there is no single point of entry for offenders, the management of these programs has not been centrally coordinated.

²⁰ P. Gendreau and M. Paparozzi (1995). Examining What Works in Community Corrections. *Corrections Today*. 56 (8): 28-30.

²¹ S. Aos, M. Miller, and E. Drake (2006). Evidence-Based Corrections Programs: What Works and What Does Not. Olympia: Washington State Institute for Public Policy. AND S. Aos, M. Miller, and E. Drake. (2006) Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates. Olympia: Washington State Institute for Public Policy.

²² National Institute of Corrections. Eight Principles for Evidence-Based Practice in Community Corrections. The article can be found at this web address: <<http://www.nicic.org/ThePrinciplesofEffectiveInterventions>>

Drug Court: The ILPP program consultant talked with past and present Drug Court judges and Human Services staff about the Drug Court operation. There is a very high level of professionalism, commitment and support for this program. The last evaluation completed in 2003 indicated that the Drug Court was quite successful. Probably because the Drug Court started out with two tracks (traditional monitored treatment and education) and established the primary target as first-time, low-risk offenders, it appears that too many very low-risk offenders are diverted to this program. Research strongly suggests that doing very little with the lowest risk offender is probably the best option and that targeting the highest risk offender nets the greatest return on money spent.²³

Evaluation and Program Assessment Challenges: Dane County officials have displayed an impressive commitment to providing the best treatment programs possible. They have been progressive in understanding the need to fund analytical staff capable of collecting management data and intermittently evaluating program efforts. Studies on the Pathfinder and Drug Court programs are good examples of this effort. One problem, however, with studies that do not include an experimental model with random sampling is that care must be taken in interpreting the results. Random/experimental studies are costly and take at least two years of follow up tracking. These studies do answer the question of whether a randomly selected group who received treatment did better than another random group who did not receive the treatment. In the absence of such studies, jurisdictions turn to national research and apply practices proven effective elsewhere. Another important issue with the Dane County evaluations is that the risk level of offenders entering programs is not considered. Correctional research indicates that lower risk offenders will do well in any program, even without intervention. Agencies treating these low-risk offenders will show very low recidivism rates, even with poorly performing programs. Those agencies taking on higher risk offenders would be expected to have higher failure rates and higher costs per successful graduate. This would be true even with exceptional programs. This needs to be considered in setting outcome expectations.

²³ See above

Waiting List Issues: The Department of Human Services provided the following information on their mental health waiting lists:

Table 21: Mental Health Waiting Lists						
Service	2004		2006		2007	
	No. on List	Est. Wait Time	No. on List	Est. Wait Time	No. on List	Est. Wait Time
Comm. Support	71	4 Years	46	3 years	46	3 years
Medication Services	97	1 year	112	1 year	235	6-12 mo.
Case Management	82	2 years	111	2 years	112	2-3 years
Day Services	15	1.5 years	18	1 year	16	6-12 mo.
Work Services	48	1 year	25	6 months	23	6 months
Residential/Housing	75	2.4 years	68	2-5 years	80	2-5 years
Totals*	388		380		512	

* Crisis services are provided to individuals on the wait list who are deemed to be high need/high risk. These individuals 'generally' have had a recent involuntary hospitalization. Services include medication and limited case management.

The estimated wait time is reported to Human Services staff periodically by providers. The data above were collected in September 2004, October 2005 and November 2006. Since the wait lists are not centrally managed, wait time numbers are estimates.

Data provided on substance abuse treatment waiting lists consisted of sampling for four dates (July 1, 2006, October 1, 2006, January 1, 2007 and April 1, 2007). Only four agencies had waiting lists at one or more times in this sample (TAP, Drug Court, Hope Haven, and ARC Alternative Living). However, written comment from Human Services indicated that the typical wait time for most treatment was two weeks with longer delays for Drug Court (25% wait 65 days) and TAP (29% wait 58 days). Note that these times are for waiting to access treatment after being admitted to TAP and Drug Court.

In reviewing the draft report, staff questioned the meaningfulness of 'wait list' data indicating that these wait lists are managed utilizing a prioritization vs. a first come, first served model. Staff added that there is also some duplication in numbers with the same person on one or more waiting lists. While these concerns certainly appear valid, wait lists do give some general sense of service needs. The limited use of these 'wait lists' in helping to determine the real service needs in the community is one reason why a central point of intake is so necessary.

Mental Health Issues: Through an array of contracts, approximately 4,500 individuals are served annually. Services include ACT teams, medical assistance, employment services, and treatment. The Human Services budget also covers State hospitalization at a rate of \$800 to \$1,000 per day. At the time of the site visit, mental health staff indicated that there were about 30 individuals in the State hospital at any given time costing approximately \$2 million per year. A step down system with intensive community service in lieu of ongoing hospitalization has been discussed and is clearly needed. Such a program might be feasible using savings from reduced hospitalization. Simply reducing the number hospitalized by five individuals would generate \$4,000 to \$5,000 per day for community based services. When reviewing the draft, staff said that from January to June 2007, they averaged 10.68 people in the State hospital. Staff added that the DCDHS budget does not fully fund all local mental health costs. As long as these numbers remain very low, there is little savings likely to result from diverting any more hospitalized individuals back into the community. However, it is an option if these numbers increase significantly. It is also important to note that with a county the size of Dane, keeping these hospitalizations at 10-11 people is extremely impressive.

The jail, through a recently acquired medical contractor, evaluates all individuals who are booked. When the intake staff suspects that mental health issues are present, a referral is made to the jail ACT team and a psychiatric assessment is done within the next 24 hours. The ACT team determines whether medication is needed, what type of in-custody and exit treatment services might be needed and works on a release plan that includes, when necessary, housing. To allow for a more immediate release and community based treatment and supervision, ACT staff indicate that they would need more mental health treatment resources in the community and more community housing. Staff also indicates that a front end mental health screening is needed with information forwarded to the commissioner for consideration when making release decisions.

It is unlikely that any community can ever afford to provide services to all in need. Service prioritization appears to be high cost/high need/high risk offenders. However, as with substance abuse clients, wait lists and referral of offenders is not centrally coordinated. Therefore, actual prioritization utilized by providers isn't always known.

Many recommendations set forth in this chapter have been implemented in other jurisdictions; for a listing of some of those jurisdictions, see the chart included in the Action Plan.

VIII.1 Findings

- 1. Dane County is fortunate to have many staff with excellent knowledge of best practices in the area of substance abuse and mental health intervention.**

2. **Additional focus is needed on coordinating existing treatment efforts for the criminal justice client.**
3. **Existing provider contracts need to be strengthened and better quality control processes need to be added.**
4. **Performance indicators/outcome objectives that are established on purchase of service agreements are rarely challenged and, in most cases, not meaningfully tied to the real purpose of recidivism reduction.**
5. **While operating very effectively, the Drug Court could have a greater system wide impact by focusing on moderate to high risk offenders with serious substance abuse problems.**
6. **The jail ACT team does a very good job of quickly assessing those defendants with mental health problems and working with them during their incarceration period. However, additional mental health services are needed.**
7. **The County's focus on regular reviews of program outcomes and intermittent evaluations is excellent (in comparison to what ILPP finds in other jurisdictions).** However, the following recommendations will offer some practical information that might meaningfully assist these efforts.

VIII.2 Recommendations

1. **Develop a single point-of-entry into treatment programs for the criminal justice client using a provider who does not also operate a treatment program.**

The Dane County staff is quite capable of designing a single point-of-entry system for handling treatment issues. ILPP, however, offers some recommendations and comments below for consideration.

As envisioned, all system players (the Sheriff, DA, defense attorneys, courts) would refer any offender who might need treatment to a unit to do screening for treatment needs. Those with more significant problems would get a full assessment from unit staff. This unit would include 'risk of recidivism' screening, using a short form tool (like the Federal Salient Factor Scale). Referring agencies would be notified of the results of the unit's screening. This unit would make all referrals to specific providers and specific programs, based on their screening and/or assessment, and match an offender's need with the most appropriate treatment or education option.

This unit could also track time in treatment programs. Though not envisioned as an oversight criterion, ALS does drive cost and waiting list times and, for this reason, needs to be continually tracked. The unit would also control any waiting list and designate offenders who would receive service next and what agency would take them. As a central point of intake, unit staff would be aware of the number of offenders needing treatment and what type of treatment matches exist (e.g. no immediate need for treatment, educational intervention, short term treatment, long term outpatient treatment, and residential treatment). This cumulative information would permit better planning.

Several years ago the County did develop a draft proposal entitled “Coordinated Screening and Assessment of Defendants for Jail Diversion Programs.” The proposal targeted early intervention, screening, and assessment of defendants facing jail time or who may be candidates for jail diversion. This target appears too broad and this could drive up costs significantly. Nevertheless, the proposal was a start at some level of treatment and diversion coordination.

At this time, any reductions in treatment budgets are done across the board. With a single point-of-entry and case tracking, this unit could provide good data and help to prioritize reductions that best serve the community.

2. Strengthen treatment contract requirements (purchase of service agreements), consolidate contracts, and provide for better quality assurance.

Treatment contracts should require evidence-based intervention with offenders, including cognitive behavioral approaches. Under these contracts, the referral mechanism should be controlled by the County (see above). At this time, the County contracts with 18 substance abuse treatment agencies that operate 40 programs/contracts. They also contract with 16 agencies providing 40 mental health programs. This is too many contracts to effectively monitor. Human Services staff appears to recognize this and are beginning to attempt some contract consolidation.

Quality assurance should include periodic auditing of treatment, including participation in group sessions to ensure that requirements are being delivered. Case records should be reviewed to insure that treatment type and dosage matches any screening and assessment information.

As with jail overcrowding, a very important aspect of review is tracking the average length of stay in programs. The longer the stay, the longer waiting lists will become. Tracking this information and identifying trends (e.g. longer treatment periods) is critical to effectively managing limited

treatment slots. Although Dane County enjoys the participation of an excellent treatment provider group, improved oversight and stronger central control is needed to improve outcomes and more efficiently manage resources.

3. All Purchase-of-Service Agreements should add challenging performance indicators that relate to recidivism reduction and length of program service.

ILPP reviewed many of the existing purchase-of-service agreements. Some had no expectations of recidivism reduction. Others had very low recidivism reduction benchmarks. As referenced above, if programs like education are offered to low-risk offenders, the expectation for successful completions should be quite high and the goal of reducing recidivism more attainable. Programs dealing with high risk/high need offenders should have their goal of recidivism reduction reduced. Contracts should include, under target population, the offender risk level that will be referred.

Goals should also be included and monitored relative to the term of the program or the average length of stay in the program. With waiting lists cited as a serious problem, this is a critical area to focus on. Effective monitoring does not mean that Human Services lacks confidence in the provider's decisions; it simply provides more meaningful management information on which to base decisions and conduct meaningful planning.

4. Drug Court. Eliminate the Drug Court educational track, target higher risk/high substance abuse needs offenders for Drug Court intervention, utilize an actuarial risk/need assessment to guide effective case management activities, establish universal protocols for the aftercare component, and reduce the time it takes to get an offender into Drug Court and into a treatment program.

A basic principle of evidence-based practices is to prioritize primary treatment resources for offenders who are at the highest risk to re-offend. One other finding from the research is that focusing on lower risk offenders produces little, if any, impact on recidivism rates. The Drug Court judge has been phasing out the educational track and focusing on a somewhat higher risk offender. These efforts are lauded and do coincide with more recent research findings. The Drug Court screening group is also adding a risk/need tool to their assessment process. The tool is the Level of Service Inventory Revised (LSI-R) and will provide a list of offender specific criminogenic needs as well as a risk assessment. Criminogenic needs are dynamic risk factors that, when changed, lower the offender's probability of re-offending. Examples are: criminal personality, anti-social attitudes, values and beliefs, low self control,

criminal peers, substance abuse, and dysfunctional family. This is another very positive effort by the drug team.

In reviewing Drug Court operations, some concerns did emerge. There is no protocol for aftercare services. Although it might be necessary to permit some flexibility among providers in how they approach aftercare, it is a critical element in program success and it is essential to have, at least, basic protocols. A 6 month step down aftercare program is common practice in most Drug Court efforts. Also of concern was that there were three Drug Court case managers from different agencies providing services, which makes the consistency of interventions more challenging. Although there should be some room for creative approaches in confronting unique criminogenic factors, some uniform protocols are needed. Some discussion might also be helpful on whether Drug Court coordination might improve if a single agency provided all case management services.

5. Eliminate delays in identifying, referring, screening/assessing and accepting offenders into the Drug Court.

There are also some delays in identifying potential Drug Court candidates, getting them screened/assessed, getting them into Drug Court and then getting them accepted into a treatment program. These delays should be tracked and analyzed by Human Services staff to determine how to expedite the referral and acceptance process. The screening and assessment unit should be tasked with eliminating lower risk offenders from the drug court track and referring them to more appropriate diversion options (see central point of intake recommendation). Finally, priority should be given to drug court participants in accessing treatment upon acceptance to the drug court program. The court continues to target moderate-to-high-risk offenders with severe substance abuse problems, because they present a serious public safety risk and need immediate access to treatment.

6. Provide some discretionary funding (\$5,000) for the Drug Court team to pay for special needs.

Successful drug courts recognize the need to provide both positive feedback and rewards as participants meet program goals. Judges are not in a position to solicit gifts /tokens or manage fundraisers. A reasonable amount of money should be set aside in the drug court budget by Human Services staff to handle these needs.

7. Consider a one time evaluation of selected higher volume offender treatment programs using the Correctional Program Assessment Inventory (CPAI).

The CPAI is an instrument developed by a Canadian researcher that compares programs against best practices as identified in correctional research. The CPAI will also compare Dane County programs against similar programs in other jurisdictions that have been assessed using the CPAI. These assessments are done by the University of Cincinnati and can sometimes be funded through the National Institute of Corrections.

An example of the power of the CPAI is found in Oklahoma where the state evaluated 29 private and public programs offered to offenders.²⁴ They found that 91% of these programs scored as “needs improvement” or “unsatisfactory.” Once improvements were made in program operation, these programs were assessed again and 79% were rated as “satisfactory” or better. The CPAI provides a roadmap for improvement and is a very cost effective way to quickly look at programs to determine if they are effectively applying the research to reduce recidivism.

- 8. Add staff to the jail ACT program to provide front end (booking) mental health assessment with this information being made available to the Commissioner and Judges.** This will assist in making release decisions and improve community supervision efforts during any pretrial release period. Start with one staff scheduled during peak booking times and assess the impact this addition on associated jail bed days saved.
- 9. Consider implementing an ACT unit to assist police in handling the lower risk mentally ill offenders in the community without jail incarceration.**

For lower risk mentally ill offenders, other jurisdictions have found that fewer mentally ill individuals are incarcerated when police have other options like involving a mental health professional early in the process. This individual provides advice and makes referrals for medications, treatment and housing. Apparently Dane County had such a program some time ago, but eliminated it when they experienced State/Federal funding reductions. Cost of this activity should be compared with the cost of incarceration for the lower and moderate risk offenders who, without treatment and medication, tend to re-cycle through the jail.

- 10. As funding becomes available, add additional mental health treatment for the higher risk/higher need offenders.**

²⁴ Latessa, Edward. The Challenge of Change: Correctional Programs and Evidence-Based Practices. Criminology & Public Policy, Volume 3, Number 4. 2004. For more information on the CPAI, contact Edward Latessa at the University of Cincinnati (edward.latessa@uc.edu).

IX. JUSTICE SYSTEM ACTION PLAN

An action plan for Dane County's justice system is needed to prioritize the most important system changes from this study, recommendations that have been modified and tailored to Dane County, based on extensive comments on the draft report by system leaders.

These recommendations will have a strong direct or indirect impact on improving public safety, managing jail crowding, and improving the cost effectiveness of County and other funding streams. For these reasons, they are not merely intended to be suggestive. These are recommendations to be implemented.

The overarching objective is to establish better partnerships between interdependent agencies and to better manage increasing workload within available resources, to enhance public safety.

WARNING:

Previous Dane County studies reviewed for this project have often gone unimplemented, partly because “no one likes change.” Leaders of the justice system are comfortable in their *context*. The police are familiar with overusing the jail. Judges and the entire “legal culture” have “grown up” in a context of courtesy and delay; the defense has come to rely on this. The DA is familiar if not content with being overburdened by the way things work. The remaining elements of the system appear at ease with a context that is not disciplined by objective screening or best practice scheduling.

Changing this *context* means changing *meaning*, as new policies, procedures, and programs come into play. Change in jail use makes the police officer's work less simple, and perhaps less strict in appearance. The recommended new screening and scheduling changes for the Courts and DA create different decisions and require different values for case processing. Users of custody and programs change with evidence-based objective screening, and the meaning of the work of program managers and jailors is substantially altered.

All this change in *context* results in changes in *meaning*, and changes in *meaning* cause changes in *predictability* for the work routines of criminal justice leaders, managers, supervisors, and workers. The same decisions and routines are no longer available to make life at work well known and predictable. Losses in *predictability* cause a sense of *loss of control*, and they are therefore almost always *resisted*. This resistance to change has already been manifested in Dane County through quick claims that recommendations would will not work when most have worked well elsewhere.

The data set out in this final project report, on system performance as well as successful implementation elsewhere, suggests that the control that leaders perceived they have over their work is control over their own environment, not real control over public safety, or system performance

The real control is yet to come, and will arrive with implementation of the recommendations in this report, and the resulting *managed system*.

So, the warning is: Resistance to change will continue. This is why an ACTION PLAN is required, to schedule and organize efforts to implement the study's direction, and provide more accountability for all in the process of making clearly needed change.

The Action Plan

The new Executive Committee of the Criminal Justice Group is expected to lead the implementation of the recommendations, with the full support of the County Board and Executive.

If most recommendations are implemented in a rational, careful, and strategic manner, the results will be a “sea change” in solving crowding and budget problems. The ultimate result will be greatly improved public safety.

Report recommendations have been compiled into various tables to facilitate discussion and systemic planning. At the end of the action plan, most recommendations are tied to jurisdictions where they've been put into effect. Below, the most critical are analyzed for implementation issues.

Generally, the most important recommendations in the Action Plan include a detailed analysis of all or most of the following information:

Recommendation	A brief statement of the recommendation.
Objective	Supporting principle. E.g. improved public safety, reduction in jail bed demand, cost savings, etc.
Lead Agency	Agency or agencies with statutory and or administrative/operational responsibility.
Logistics	Implementation details and issues.
Costs	Estimated costs and other resource considerations, in general terms.
Pros/Cons	Policy benefits and disadvantages of the proposal.
Savings	Estimated savings or approximate impact, formulated conceptually.
Time Frame	Recommended timing (Stage 1, 2, 3, or 4). Stage 1: Implement immediately. These policy-oriented or fundamental changes are critical to the criminal justice system's efficiency and should happen now or as soon as possible. Stage 2: Implement shortly, within this next coming fiscal year. These recommendations require planning and/or regular funding. Stage 3: Implement after review and/or when funding is available. These are mid- to longer-range options. Stage 4: Implement after further review, over time.
Priority	Recommended level of importance A: Instrumental to public safety, critical in reducing crowding, and stopping significant wasted funds B: important, and C: very helpful and needed

Methodology for Costs and Savings

In the discussion of very rough costs and savings, the following general terms are used:

1. **“Minimal” cost:** No new staff or buildings are needed. The cost might involve some reassignment of staff time to new or alternate duties.
2. **“Indirect” or “Contingent” savings:** These savings result from the actions of the group, coordinator, etc., not from the mere establishment of the position or group. Also, most savings are dependent on the outcome of future findings, so they cannot be quantified more specifically than “major,” meaning millions; “substantial,” meaning hundreds of thousands, or “moderate,” meaning \$10K to \$100K.
3. **“Minor” costs:** Usually under \$10K.

PRIMARY RECOMMENDATIONS

Recommendation	Priority			Implementation Time Frame			
	A	B	C	Stage 1	Stage 2	Stage 3	Stage 4
Upgrade the current Criminal Justice Group by establishing an Exec. Committee and topical subcommittees, engaging an outside facilitator, and providing staff and agendas, etc.	•			•			
Establish a Jail Population Analysis System (JPAS).	•			•			
Establish managers in five areas, one a new hire, the others from within the current system, taking on different responsibilities.	•			•			
The three primary LE RMS systems should promptly begin to PDF documents for electronic transmission, under a collaborative protocol.	•				•		
The DA’s Office should fully use PROTECT functions to track LOS, whether an inmate is in custody, and primary reason for custody.	•			•			
The DA should use PROTECT to establish reminders and time standards for case processing.	•				•		
The DA should prepare for the advent of e-filing all necessary forms, and provide for electronic access in common useful locations.	•			•			
The courts should use the CCAP system reminders and enforcing best-practice processing standards.	•			•			
CCAP should generate daily reports for judges on in-custody cases, with LOS and information on overdue cases, as determined by adopted standards.	•				•		

Recommendation	Priority			Implementation Time Frame			
	A	B	C	Stage 1	Stage 2	Stage 3	Stage 4
The Chief Judge should exercise existing authority to adopt timeliness standards and enforce them among the criminal bench until they are achieved.	•			•			
The courts should adopt a rule governing discovery.	•				•		
The courts should schedule cases in CCAP for coordinated appearances of the DA and defense.	•			•			
Probation should revise its automation system to trigger review and presumptive release of holds on persons held for longer than guideline standards.			•			•	
Stratify the Minimum classification jail inmates.	•			•			
Formulate release criteria, and adopt with the approval of the Criminal Justice Group (CJG)	•			•			
Establish population capacity limits for each of the jails, with support of CJG and county government.	•			•			
Dane County should take strong and immediate steps to eliminate housing inmates out-of-county.		•			•		
Conduct an independent jail staffing analysis.			•			•	
Adopt Trial Court Performance Measures tailored to the Dane County Circuit Court.		•			•		
Adopt a calendar management system that emphasizes flexibility, accountability, and timely use of judicial resources.		•		•			

SECONDARY RECOMMENDATIONS

Recommendation	Priority			Implementation Time Frame			
	A	B	C	Stage 1	Stage 2	Stage 3	Stage 4
Establish a standing committee of the Circuit Court that meets at twice a month to discuss case management and monitor jail population.		•			•		
Conduct a workload review for the DA's Office.			•			•	
The DA's Office should adopt uniform deferred prosecution screening.		•			•		
The DA's Office should accelerate charging decisions by one or two days.		•			•		
The DA should maintain email directories for defense counsel in Dane County; communication should routinely occur by email.		•			•		
The DA should consider revamping and reinstating its former DA's pretrial practice.	•			•			
The DA should develop a means to assure more consistent plea offers, and better manage plea reductions once an offer is made.	•			•			
The DA's Office should initiate a pre-diversion screening to weed out cases that will not be charged.		•			•		
Provide the Sheriff with authority to issue signature bonds.		•			•		
Fund a day reporting center and/or community work program to enhance the control and retributive aspects of CAMP.			•		•		
Shift inmates from custody to work release.		•			•		
Move the Bail Monitoring Program function to booking; institute a PT release program.	•			•			
Develop a single point-of-entry system to handle treatment issues.		•				•	
Provide Drug Court with additional funds for evidence based treatments.			•			•	

ACTION PLAN FOR SELECTED AND MOST IMPORTANT PRIMARY AND SECONDARY RECOMMENDATIONS

- Recommendation:** Upgrade the current Criminal Justice Group (CJG) by moving all non-governmental stakeholders to an advisory committee, establishing a small Executive Committee of gatekeeper/ agency heads, and topical **subcommittees**, engaging an outside facilitator, and providing the CJG with management staff and agendas dedicated to generating data-based analyses that lead directly to decisions.
- Objective:** To provide oversight, direction, cost control, reengineering and management for the criminal justice system as a whole. Nationally, this policy planning approach is widely considered “best practice” for focus and impact on public safety crowding and budget.
- Lead Agency:** All criminal justice agency heads.
- Logistics:** Board and Executive order to formalize and modify current practice.
- Cost:** Minimal.
- Pros:** Fosters management of the criminal justice agencies as a system and will lead to profound overall system efficiencies and improved system effectiveness
- Cons:** Requires real cooperation and commitment from each criminal justice agency. However, this should not be a serious obstacle because there is already some amount of cooperation between agencies and a collective growing interest in improving the criminal justice system.
- Savings:** Actual savings in dollar amounts are difficult to quantify but are extremely large and inherent in inefficiencies that will be eliminated, resulting in improved system effectiveness.
- Time Frame:** Start immediately, Stage 1.
- Priority:** A.

Recommendation: Establish a Jail Population Analysis System (JPAS). Use existing data formatted to show the impact on bookings and average length of stay of various policies, procedures, and programs.

Objective: Puts existing data into a decision framework that can be immediately used to control crowding and many related problems.

Lead Agency: Sheriff and Executive.

Logistics: New reporting formats.

Costs: Minimal.

Pros: Allows real time population management through monitoring impacts of policies and procedures on various subgroups, particularly on average length of stay.

Cons: None.

Savings: Major over time; substantial immediately.

Time Frame: Start immediately, Stage 1.

Priority: A, Critical.

Recommendation: Establish vigorous new management in 5 areas, one a new hire, and the others moved and re-tasked. Two existing jail managers would be dedicated to population control, the existing Executive's IT Director to data-base integration development, the Court Administrator to the new case management approaches, the newly elected Court Clerk and Executive's justice specialist to support the Criminal Justice Group (with the Clerk on the Executive Committee), and one newly hired manager to the DA's Office.

Objective: **Jail:** Monitor jail population, constantly seeking case movement, and lower of average length of stay where appropriate. Seek full implementation of this assessment's jail recommendations and the early and complete elimination of out-of-county jail bed rental.

District Attorney's Office: Improve case management processes and obtain and employ better information on the volume and types of cases.

Information Technology: Move rapidly towards full system-wide data base integration and all related notices, sharing, calendaring, etc.

Courts: Establish master calendaring and prioritizing/scheduling categories of cases, and manage other recommended changes.

Criminal Justice Group: Through Executive Committee, directly manage change process and implementation of this study. Through the Advisory Group, provide information, monitoring, input and committee staffing. Through subcommittees, tackle particular problems that require time and deliberation. Through the appointed outside facilitator, ensure accountability. Through new established managers (Executive's justice system expert, and Court Clerk, also on Executive Committee), ensure databased and agendized meetings and regular decision-making.

Lead Agency: County Board and County Executive, Chief Judge, Sheriff, DA, and Court Clerk.

Logistics: Involves one hire by Executive with DA's input, and reallocation of positions and new emphases and/or assignments for current incumbents.

Cost: Minimal for all but one FTE at \$100,000.

Pros: Best practice and proven means of managing public safety, crowding and budget. Builds on what exists, with little cost.

Cons: Establishes a formal new layer of government and a new full-time position.

Savings: Should save \$3M or more in avoiding costs of out of county rentals, and substantially more over time in unnecessary construction and life cycle staffing of unneeded jail beds.

Time Frame: Stage 1.

Priority: A, Critical.

Recommendation: The three primary LE RMS systems should promptly begin to PDF documents for electronic transmission, under a collaborative protocol.

Objective: Integrate and standardize data flow between all justice agencies.

Lead Agency: Executive.

Logistics: Basic changes in creating an IT standard between agencies to facilitate easy electronic transmission of documents.

Cost: Depends on approach, but expected to be Minimal;

Savings:	Should result in significant and indirect savings by avoiding delay, errors, duplicate data entry, etc.
Pros:	Improves sharing of data between and among all justice agencies. Not all agencies need to agree on the same standard, have the same system or vendor, or implement the integration at the same time. As long as all the participating systems are equipped for electronic transmission of documents for information exchange, there will be a vast improvement in system efficiency.
Cons:	May require eventually training of staff to use database, simultaneously reducing data entry staff.
Time Frame:	Stage 2.
Priority:	A.

Recommendation: The DA, Courts, and Probation should use existing automation systems (PROTECT, CCAP, and Probation's MIS) to their fullest potential, per this report's separate recommendations, to schedule, remind, share, monitor, and more intensely manage all aspects of case processing (see individual recommendations).

1. The DA should use PROTECT to establish reminders and time standards for case processing.
2. The courts should use CCAP system reminders and enforce best-practice processing standards.
3. CCAP should generate daily reports for judges on in-custody cases, with LOS and information on overdue cases as determined by adopted standards.
4. The courts should schedule cases in CCAP for coordinated appearances of the DA and defense.
5. Probation should revise its automation system to trigger review and presumptive release of holds on persons held longer than stipulated by guideline standards.

Objective: Obtain and use currently available information to improve all aspects of case processing, prioritizing in custody cases, schedules, notices, timely information sharing, etc. to lower average length of stay, avoid wasted time, and maximize resources system-wide.

Lead Agency: Executive, DA, Courts, Jail and Probation.

Cost: Depends on course of action, but Minor to Moderate.

Pros: Improves sharing of data between and amongst the agencies and case participants, reducing unnecessary workload due to duplication, unjustified delays, etc.

Cons: May require some training.

Savings: Major, over time.

Time Frame: Stage 1.

Priority: A.

Recommendation: The DA should prepare for the advent of e-filing all necessary forms, and provide for electronic access in the office, courtrooms, law enforcement offices, etc.

Objective: Increase efficiency in data filing and transmission. Faster screening by all agencies will result from faster delivery of necessary forms.

Lead Agency: District Attorney's Office.

Cost: N/A.

Pros: Faster processing, saving staff time, energy, and jail beds.

Cons: Requires accommodating change in familiar patterns.

Savings: Reduced workload, costs and crowding.

Time Frame: Stage 1.

Priority: A.

Recommendation: The Chief Judge should employ existing authority to directly adopt timeliness standards and enforce them among the criminal bench until they are achieved.

Objective: To enforce timely processing of cases to alleviate and eventually eliminate the culture of delay.

Lead Agency: Courts.

Cost: Minimal.

Pros: All or a significant majority cases will be processed in a timely manner, and use of all resources, system-wide. Jail bed demand will be reduced in favor of a norm of moving a case towards disposition with every appearance.

Cons: Resistance by judges unwilling to challenge each other or instigate change after years of familiarity with the current culture.

Savings: Substantial; cases will be process faster and reliance on jail and the resources and time of all involved will be reduced.

Time Frame: Stage 2.

Priority: A.

Recommendation: The courts should adopt a rule governing discovery.

Objective: Improve case disposition.

Lead Agency: Courts, DA, and Defense.

Cost: None.

Pros: Elimination of continuances related to lack of discovery, earlier transmission of plea offer, earlier opportunities for case disposition.

Cons: None.

Savings: Significant savings in terms of jail bed days as a result of fewer continuances. Earlier case disposition allows the transfer of defendants to the most appropriate custody setting if a custody sentence is imposed.

Time Frame: Stage 2.

Priority: A.

Recommendation: Stratify the Jail Minimum Security classification group.

Objective: Reduce Jail crowding and improve classification in and out of the jail.

Lead Agency: Sheriff's Office/Jail, with the direct support of the Criminal Justice Group's Executive Committee.

Cost: None.

Pros: Results in minimizing the use of inappropriate and unneeded custody, in favor of work benefiting the community and programs enhancing public safety.

Cons: Major change will result in resistance, and the occasional crime that would have, in any event, been committed after custody, will draw some criticism to the system.

Savings: Significant.

Time Frame: Stage 1.

Priority: A.

Recommendation: Formulate release criteria, and adopt with the approval of the Executive Committee of the Criminal Justice Group (CJG), and commit strongly to the methodology for solving future system capacity problems.

Objective: Reduce Jail crowding.

Lead Agency: The Courts and Sheriff. .

Cost: None.

Pros: Results in major jail bed savings by effecting more releases earlier in the judicial process and reducing the incarceration of minimal risk offenders.

Cons: Although major change may result in resistance, implementation will later result in strong support.

Savings: Significant.

Time Frame: Stage 1.

Priority: A.

Recommendation: Establish population capacity limits for each of the jails, with support of CJG's Executive Committee, the CJG, and county government.

Objective: The County needs to translate this study and this action plan into a series of steps to be taken, based on population caps and various levels of crowding. Decisions about policies, practices and programs, and eventually facilities should be planned system-wide, in advance.

Lead Agency: Sheriff's Office/Jail, Courts, and CJG.

Cost: Minimal.

Pros: Removes the onus for diversion, release, and alternatives from law enforcement agencies and places them in a system-wide framework. This will improve budgeting and long term planning.

Cons: Any plan to provide for those now incarcerated, without newly constructed beds, will meet with some resistance from those stakeholders invested in new beds, as well as some sub-groups and interest groups of citizens of various persuasions

Savings: This recommendation has the potential to divert large expensive construction projects and resulting staff budgets for beds that are not now needed. Staff budgets are anticipated to be enormous over the life cycle of the facility. Thus, the savings are major.

Time Frame: Stage 1.

Priority: A.

Recommendation: Dane County should take strong and immediate steps to eliminate housing inmates out-of-county.

Objective: Bring all out-of-custody inmates back to Dane County's jail to enhance public safety through improved programming to prevent recidivism, and provide for better use of all system and county resources.

Lead Agency: Sheriff Office/Jail, Executive Committee of the Criminal Justice Group, and the County Executive and County Board.

Cost: Minimal to Moderate for various programs and monitoring devices, etc., and costs of staffing changes and training.

Savings: \$3-4,000,000 annually in staffing, rental, transportation and costs of prevented crime from inmates disadvantaged prior to their return to the community.

Pros: Greatly enhanced public safety and economies, plus elimination of mechanism that undermine system efficiency in favor of constant expansion of jail beds.

Cons: Rental of jail beds is a pattern requiring will power and perseverance to reverse.

Time Frame: Stage 1.

Priority: A.

Recommendation: Adopt a calendar management system that emphasizes flexibility, accountability, and timely use of available judicial resources.

Objective: Create a more efficient method of dealing with immediate calendaring and the use of judicial and related adjudication resources.

Lead Agency: Courts, DA, and Jail.

Cost: Possible Technical Assistance contract with the National Center for State Courts, estimated at \$15,000-50,000.

Pros: Will lead to better allocation of limited court resources, and cost savings throughout the system.

Cons: Requires cooperation and coordination among judges, and other individual agencies.

Savings: Significant.

Time Frame: Stage 3.

Priority: B.

Recommendation: The DA should develop a means to ensure more consistent plea offers, and better manage plea reductions once an offer is made.

Objective: Establishing guidelines that demonstrate that traditional plea bargaining with indicated sentences can save monies without serious risk of diluting punishment.

Lead Agency: District Attorney's Office and Courts.

Cost: Moderate.

Pros: Should move cases through the system more quickly, and reduce congestion and crowding in the courts and jail.

Cons: Some resistance to change.

Savings: Significant.

Time Frame: Stage 1.

Priority: A.

Recommendation: The DA's Office should initiate pre-diversion screening to weed out cases that will not be charged.

Objective: Screen out minor and inappropriate cases earlier and more effectively.

Lead Agency: DA and Human Services.

This screening should be designed in partnership with Human Services. At best, a single para-professional should be able (with written protocols) to do all screening on a timely basis and download the data to the duty DA, who would make final decisions.

Costs: \$50,000 for a new para-professional split between Human Services and the DA.

Pros: Lowers workload and results in more appropriate outcomes, and favorably impacts public safety priorities, crowding, and efficient use of resources.

Cons: Involves a new position.

Savings: Substantial.

Time Frame: Stage 2.

Priority: B.

Recommendation: Provide the Sheriff with authority to issue signature bonds.

Objective: Lessen the number of cases that appear before the court by giving the Sheriff more authority over minor offender cases pretrial.

Lead Agency: Court and Sheriff.

Cost: Minimal.

Pros: Free court time by giving the Sheriff more discretionary authority to release minor non-violent offenders. Decreases the court's caseload.

Cons: Modestly impacts the Sheriff's staff and temporary losses in efficiency due to training.

Savings: Contingent.

Time Frame: Stage 2.

Priority: B.

Recommendation: Fund a day reporting center and/or community work program to enhance the control and retributive aspects of CAMP.

Objective: Provide an effective alternative to expensive custody for persons requiring some controlled supervision, programming, and real punishment.

Lead Agency: Sheriff's Office.

Logistics: If day reporting can be linked to what State Probation is already doing, add one SY for a Monday-Friday Program. A work program should require one Sergeant and two deputies to start. An impact evaluation of the work program should be done by the Sergeant. These programs depend on the system's ability to select people in custody instead of expanding the number of people in the system.

Costs/Savings: When system can truly shift in-custody prisoners to the programs, there should be a substantial reduction in cost of services. This program should cost less than \$10 per day per individual, given that sufficient numbers can dilute the cost.

Pros: Provides real punishment and likely public safety gains with low cost, reduces crowding, and saves resources.

Cons: The occasional crime while on the program will result in attacks on the concept that will need to be defended by data and system-wide support.

Time Frame: Stage 3.

Priority: B.

Recommendation: Shift inmates from custody to work release.

Objective: Provide real punishment at lower cost with more benefits to the community by maintaining or obtaining new inmate employment.

Lead Agency: Sheriff.

Logistics: Program depends on beds available. It is estimated that one SY will be needed for each additional 25 participants. Before adding staff, however, the County should review the number of participants in comparison to what was budgeted when the WR program was initiated. It has been underutilized. Staff should be doing field checks, monitor checks, screening, etc.

Costs/Savings: This will require additional staffing; SYs depend on numbers. Not much cost savings result when switching from detention to WR. WR necessitates expenditures on beds and supervision, as in a jail setting. The proposed staffing should include a clerk

when the numbers reach 35-40 participants. The added burden of checking prisoners in and out each day requires additional resources and field supervision necessary to make the program effective. This is costly. The real value would be switching work release offenders to home detention with field supervision. Costs of facilities and staffing could be decreased.

Pros: Better use of resources, more benefits to the community from employment, taxes, rehabilitation, etc.

Cons: The occasional walk-away of a minor offender will require coordinated defense of the program.

Time Frame: Stage 2.

Priority: B.

Additional Recommendations

Recommendation	Priority			Implementation Time Frame			
	A	B	C	Stage 1	Stage 2	Stage 3	Stage 4
The County should require law enforcement (LE) vendors to comply with GJXDM standards by January 1, 2009.	•				•		
The Sheriff's Office should produce PDF copies of arrest reports, in lieu of paper reports.		•			•		
The Sheriff's Office should work with Spillman to ensure that current and full information is produced in XML format for CCAP and PROTECT.		•			•		
Adopt an internal procedure to assume early release of discovery to the defense, and use email to transmit discovery when possible.		•			•		
CCAP should integrate with Spillman to permit current and cumulative custody data in CCAP.		•				•	
Courts should receive a daily report of all case over local guidelines for case processing.		•			•		
Judges should be provided with a monthly timeliness comparison of their cases with cases of other local judges.		•				•	
At least quarterly, courts should review with the Chief Judge their progress in case processing, until guidelines are substantially achieved.		•			•		
The Courts should make CCAP available for counsel and the bench, and PROTECT available for the DA at the prosecution table.			•			•	
The Courts should provide a printer in each courtroom to give defendants notice of future hearings prior to their departure.			•			•	
CCAP should integrate with Spillman and New World (and Global if possible) to report case status, dispositions, and the coordination of officers.		•				•	
CCAP should create a series of local use fields for individual court systems to use as they determine.			•			•	
Governance of CCAP needs reexamination; give de facto users a greater role in deciding features.			•			•	
The Public Defender should set up systems for receiving electronic discovery and promptly distributing it to the assigned APD/attorney.		•			•		
The Public Defender should set up an electronic system to promptly assign defense counsel and logging this information into PROTECT ²⁵ and CCAP.		•			•		

²⁵ NLADA Guidelines for Legal Defense Systems in U.S.

Recommendation	Priority			Implementation Time Frame			
	A	B	C	Stage 1	Stage 2	Stage 3	Stage 4
Probation officers should have access to criminal history and custody status information.		•			•		
Better convey purpose and importance of new classification system to Sheriff's Office staff.	•			•			
Develop in-custody and out-of-custody work programs to implement continuum of sanctions, and seek CJG support prior to full implementation.			•			•	
Create an evaluation component for inmate work programs, like that of other programs and services.			•			•	
The Sheriff should provide selection criteria and review process for out-of-county transports.		•			•		
If needed, an independent and objective review of staffing requirements for safe transportation of out-of-county inmates should be developed.			•				•
Implement a major shift of inmates from work-release to EM and supervised release.			•			•	
The Courts should enforce a standing discovery order with the DA and defense.			•			•	
Assign cases involving arrests for failure to appear (FTA) to duty judge within 24 hours of arrest.		•			•		

JURISDICTION RECOMMENDATION TABLE

In response to the draft report, many comments indicated fear or uncertainty about various recommendations, generally claiming that recommendation could not work, were unprecedented or untried, or impractical, and/or that they was risky or highly uncertain in terms of likely results.

To deal generally with these comments, and to provide a “jump start” to the Criminal Justice Group’s Executive Committee, research was conducted to identify at least one or several jurisdictions where the recommendations were already in effect, had been tried, and/or they were evaluated, or have proven successful. In most cases, there are many more jurisdictions that are effectuating the recommendations, but research depends on published articles, or professional associations’ lists. So, for example, the National Center for State Courts keeps a database on new and best practices, but the National District Attorneys Association has only just begun such an effort.

The following chart is the summary of that research, connecting the reports’ many recommendations to actual prior implementation elsewhere, although the list is only a beginning. There are a great many more counties that are reengineering their systems, but have not published their work.

The primary reasoning in this material is to suggest that “if it can be done and done with positive and safe impact in elsewhere” it can certainly be done without real fear of harm in Dane County. The underlying issue here is fear of change, and holding on to traditional processes that are not efficient.

Jurisdiction Recommendation Table

Systems Recommendations	County in which the Practice Has Been Implemented
Establish a Jail Population Analysis System (JPAS).	San Mateo Co., CA Jefferson Co., CO.
JPAS monitors program progress and completion of objectives.	San Mateo Co., CA, Multnomah Co., OR, Jefferson Co., CO
Upgrade current Criminal Justice Group (CJG)	Stearns Co., MN, Jefferson Co., CO, Allegheny Co., PA
Strengthen Four General Areas	Allegheny Co., PA
Improve certain basic business practices.	Allegheny Co., PA
Discover and emulate best practices.	Multnomah Co. OR Allegheny Co., PA
Strengthen planning, management and information sharing system wide.	Allegheny Co., PA
Improve system wide communication, cooperation, and coordination.	Allegheny Co., PA
Strengthen CJG group or committee	Sedgwick Co., KA, Greene Co., MO, Douglas Co., NE Somerset Co., PA Orange Co., FL Palm Beach Co., FL
Inmate Tracking Analysis Recommendations	County in which the Practice Has Been Implemented
Dane County justice system officials need to work as a team to manage the justice system workload.	Stearns Co., MN, Multnomah Co., OR, Prince George, MD, Boulder, CO, Salt Lake, UT, State of Washington Allegheny Co., PA

Dane should establish a JPAS that traces changes in jail occupancy levels to change in number of bookings and lengths of stays.	Multnomah Co., OR San Mateo Co., CA and Jefferson Co., CO Allegheny Co., PA
JPAS monitors program progress and completion of objectives.	Multnomah Co., OR San Mateo Co., CA and Jefferson Co., CO
Information Technology Recommendations	County in which the Practice Has Been Implemented
The County should require all law enforcement vendors to comply with GJXDM standards.	Basic business practice
All departments should begin producing pdf copies, prepare for advent of electronic filing, and electronically transferring information to other departments	Practice is used in a great many places
Sheriff's Office should work with Spillman to assure current and cumulative information on defendant's custody status is produced in XML format for CCAP and PROTECT.	Los Angeles Co., CA Systems Integration Project Yakima, WA, Waukesha, WI, Spartanburg Co., SC, and Hennepin Co., MN Systems Integration Project.
Three primary LE RMS systems in Dane County should produce pdf'ed report documents to be electronically transmitted to DA's office.	Basic business practice
DA's office should work with PROTECT to assure that appropriate fields are included.	Basic Business Practice
DA should use PROTECT to adopt time standards for processing each case category and establish ticklers for critical events.	Phoenix, AZ Allegheny Co., PA
DA should adopt internal procedure assuring early release of discovery to the defense and use e-mail to transmit discovery.	Madison Co. ,TX Basic business practice
Courts should utilize the CCAP system to set up ticklers for case processing	Basic business practice
CCAP should integrate with Spillman.	Spartanburg Co., SC
CCAP should begin generating daily reports for judges on in-custody cases.	Basic business practice

Courts should receive a daily report of all cases over case processing guidelines.	Basic business practice
Judges should receive monthly timeliness comparisons.	Basic business practice
Courts should have quarterly review on progress in case processing.	Basic business practice
Lead criminal justice judge should be given explicit authority to adopt timeliness standards.	Basic business practice
Courts should make screens for CCAP and wireless network available for CCAP on counsel's tables and for the bench, and for PROTECT for the DA at the prosecution table.	Basic business practice
Complete process of making printers available in each courtroom so clerks can print relevant notices.	Basic business practice Livingston Co., MI
The courts should adopt a rule governing discovery.	Madison Co., TX
Courts should begin scheduling cases through CCAP.	Basic business practice
CCAP should integrate with Spillman and New World.	Spartanburg Co., SC
CCAP should create a series of local use fields for individual court systems.	Allegheny Co., PA
The Public Defender should have an electronic system for assigning and logging the APD or contract attorney on a case into PROTECT and CCAP.	Basic business practice
Probation officers should have Spillman and New World terminals.	Basic business practice
Probation should revise its automation system to trigger review and presumptive release of holds on persons held longer than guideline standards.	Basic business practice
Sheriff's Office	County in which the Practice Has Been Implemented
Stratify the Minimum Classification Jail Group.	Lexington, KY and Orange Co., FL
CJG support for Sheriff	Stearns Co., MN and Jefferson Co., CO

County government should establish and publicly support capacity limits for each of the incarceration facilities.	Multnomah Co., OR Bernalillo Co., NM and Knox Co., TN
County should develop in-custody and out of custody work programs to implement a graduated method of moving successful offenders through less restrictive and more effective sanctions.	Clark Co., OR, Boulder Co., CO, Larimer Co., CO, King Co., WA, San Diego Co., CA, Lane Co., OR, and Yakima Co., WA California League of Alternate Sentencing (CLASP) is an association of all California public service work program managers.
Dane County representatives should develop clear written statements on program goals prior to implementation and seek the support of the CJG.	Stearns Co., MN, Multnomah Co., OR, Mecklenburg Co., VA, and Allegheny Co. PA
There should be evaluation components measuring success and failure of programs.	Mechlenburg Co., VA
County should make a strong and immediate commitment to a methodology for solving future system capacity problems.	Stearns Co., MN and Allegheny Co., PA
The Sheriff's Office should provide recommended selection criteria and process for review by the CJG.	Marion Co., OR
The Sheriff should develop, if later needed, an independent and objective review of the staffing requirements for the safe transportation of inmates to out of county locations.	Greene Co., MO., and many counties renting beds.
County administration and the Sheriff's Office should jointly reassess the true cost of contract housing versus new construction.	Nacogdoches Co., TX and Rock Co., WI
Dane County should take strong and immediate steps to eliminate housing inmates out-of county.	Nacogdoches Co., TX and Rock Co., WI
Implement a major shift of inmates from work-release to electronic monitoring and supervised release.	A number of FL counties have made this commitment: Broward, Orange, Hillsborough, St. Lucie, etc.

The Sheriff's Office should conduct an independent staffing analysis.	Jefferson Co., CO, Adams Co., CO, and Greene Co., MO
The Sheriff's Office should develop a statement that recommends a capacity limit for the jails and obtain support for the limit from the CJG.	Boulder, CO
Managers should monitor jail populations, seek implementation of recommendations and seek to eliminate out-of-county housing.	Marion Co., IN Livingston Co., MI
Adjudication	County in which the Practice Has Been Implemented
Adopt Trial Court Performance Measures for misdemeanors and felonies that meet statewide standards and reflect improved use of limited public resources.	Hartford Co., NY and Hennepin Co., MN
Adopt a calendar management system that emphasizes flexibility, accountability and timely use of judicial resources by instituting a master calendar for all routine criminal matters.	Hennepin Co., MN Basic business practice
Adopt and enforce a standing discovery order.	Madison Co., TX
Assign all cases involving arrests on warrants for failure to appear (FTA's) "body only bench warrant" to the duty judge within 24 hours of arrest where the arrest does not occur on a weekend or a court holiday.	Allegheny Co., PA
Establish a standing committee of the Circuit Court composed of all criminal judges, the DA, Public Defender, and private defense counsel to meet at least twice a month, to discuss case management and monitor the jail population.	Allegheny Co., PA
Local Rules of Criminal Procedures should be reviewed and revised as necessary to expand procedures for speedy disposition of cases.	Greene Co., MO

Employ Dane County Circuit Court Rules that authorize community service in lieu of payment of a fine.	Somerset Co., PA
Require a mechanism to report whether the community work or service is completed, to the court or the court's designee.	Yakima Co., WA, Clark Co., WA, and Boulder Co., CO
Establishment of a mental health screening center.	Orange Co., FL.
Transfer the responsibility for abuse and neglect cases (CHIPS) from the DA's Office to the Corporate Counsel.	American Bar Association, Guidelines for Agency Representation and Childrens Bureau, DHHS
District Attorney's Office	County in which the Practice Has Been Implemented
The DA should retain a county funded executive manager to assist it in improving case management processes and getting better information.	Contra Costra Co., CA Hennepin Co., MN and Multnomah Co., OR DOJ-BJS surveys show that a medium-sized county typically has a non-litigating manager.
Conduct a formal DA workload review to determine which lower-priority work should be eliminated or shifted to non-criminal venues.	Basic business practice
Expand use of non-attorney personnel.	Sedgwick Co., KS
Initiate pre-diversion (summary diversion) screening.	Alameda Co., CA Part of effective diversion program.
Uniform deferred prosecution screening. Centralize diversion screening in the DA's office and use a "quick risk screening tool" to match offenders to the best intervention option.	Part of effective diversion program.

Create a diversion unit to review and keep current with standards for prosecutorial diversion and offender risk assessment tools.	Part of effective diversion program.
Screen for Drug Court using the Federal Salient Factor Scale and an appropriate drug-use screening tool prior to making any referral to the Drug Court.	Greene Co., MO Part of effective diversion program.
Pretrial Bail Conditions. The ADA requesting bail conditions should utilize one of the many available “quick risk” assessment systems available to ensure that only evidence-based conditions are sought.	National norm.
Accelerate charging decisions by one or two days.	Basic prosecution business practice.
Review Domestic Violence and retail theft charging policies.	Greene Co., MO These two areas are typically considered by overloaded prosecutors as high volume events amenable to multiple enforcement approaches.
The DA should immediately begin maintaining e-mail directories for defense counsel in Dane County, and when possible for defendants who are not represented by counsel.	Transition to digital communication.
The DA’s office should promptly adopt a policy for producing a copy of the primary discovery document in electronic form via email to the defendant’s attorney within a short time after charges are filed and an attorney is appointed.	Transition to digital communication.
The DA should consider revamping and reinstating its formal DA’s Pretrial practices.	Dane Co., WI
The office should develop a means to ensure more consistent plea offers, and better manage plea reductions once an offer is made.	Palm Beach Co., FL Basic prosecution business practice.
Non-attorney staff should be assigned to monitor and facilitate time frames to charging, discovery, plea offers and final disposition.	Allegheny Co., PA Basic prosecution business practice, part of non-litigating management responsibility.

DA's Office should gather management information on delays caused by lack of availability of victim witnesses and arresting officers.	King Co., WA
The DA's office should participate in a CJG's Executive Committee.	Allegheny Co., PA
Jail Release Programs	County in which the Practice Has Been Implemented
Provide the Sheriff with authority to issue signature bonds.	Salt Lake Co., UT, California, Oregon and King Co., WA
During periods of jail overcrowding, consider requesting special release orders issued by the presiding criminal court judge.	Most counties in Michigan have authority due to state legislation. , Orange Co., FL, Wisconsin, and Multnomah Co., OR, Los Angeles, CA, King Co., WA, and Bernalillo Co, NM.
As an interim action, consider establishing a revolving bail fund to assist indigent defendants in posting bail.	Somerset Co., PA
Move the BMP function to the booking area and institute a pretrial release program.	Washington, D.C.
Track FTA rates and develop policies and procedures to reduce current FTA occurrences.	King Co., WA and Multnomah Co., OR
Establish a speedy process to handle all DOC revocation matters where offenders waived their right to a formal hearing.	St. Lucie Co., FL
Revise a list of parole and probation holds that is provided to DOC to specify all holds. Also submit a weekly list that includes the number of days in jail for every offender to the DOC.	Basic Business Practice
Fund a day reporting center and/or a community work program to enhance the control and retributive aspects of CAMP.	King Co., WA and Dane Co. State Probation
Consider waiving CAMP fees for indigent participants and do not violate non-working participants for failure to pay fees.	Efficiency measure

Community Based Treatment Efforts	County in which the Practice Has Been Implemented
Develop a single point-of-entry into treatment programs for the criminal justice client using a provider who does not operate a treatment program.	Orange Co., FL

Conclusion

While it is difficult to document implementation efforts throughout the nation for this wide array of recommended policies, programs, procedures, and initiatives of all kinds, the upshot of the above chart is to demonstrate a powerful truth. Few recommendations in this report are new, untried, or deviate widely from normal business practice and/or the logical development of current information systems and their use, evidence-based practices, and good management.