

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

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

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

Despite progress and important initiatives, such as the new Community Restorative Court, Dane County's racial disparities in criminal justice continue to persist.

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

Background:

The lack of availability of reliable information regarding who is in the criminal justice system and why continues to be a challenge in Dane County. Current and accurate measurement of criminal justice data is integral to system reform and measuring success. While broad statistics help to draw attention to problems, system change must be accompanied by better, more

31 precise and detailed data as to the jail population, improving integration of information with state
32 data systems, and increasing capacity for statistical analysis.

33

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

37 • The total population of Dane County, as reported in the 2010 Census, is just over
38 488,000. Of that total, African Americans are 31,300 of the county’s population, or about 6.5%.
39 African American youth (under age 18) make up 8.5% of all youth (under age 18) in Dane
40 County.

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

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

46 • In 2010, the county’s black youth arrest rate was 469 per 1,000, compared to 77 per
47 1,000 for whites. Black teens in Dane County are six times more likely to be arrested than white
48 teens. This is double Wisconsin state’s juvenile arrest disparities and more than triple the
49 national numbers.

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

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

56

57 As highlighted by the Race to Equity Report, racial disparities between black people and white
58 people in Dane County are some of the highest in the nation. The data indicates that the Dane

59 County criminal justice system is not working fairly for all community members. Addressing
60 these issues will have a direct impact on the challenges of jail space needs.

61

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

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

67

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

71

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

76

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

82

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

86

87 **Length of Stay**

88 According to national research, length of stay negatively affects recidivism for low and medium
89 risk offenders. The collateral consequences experienced by individuals, families, and
90 communities caused by length of time spent in jail may further overall inequities in Dane County.

91

92 In the 2007 Criminal Justice System Assessment conducted by the Institute for Law and Policy
93 Planning (ILPP), two strategies were recommended to reduce workload growth in the criminal
94 system, including the jail. They were: “1. Reduce admissions at key justice system decision
95 points, and 2. Reduce length of stay and case processing times throughout the system.”

96

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

102

103 **Alternatives to Incarceration:**

104 Dane County has many alternatives to incarceration—that for some—have proven to be
105 effective. Alternatives include: deferred prosecution, (including the first offender program),
106 electronic monitoring, and treatment alternatives, among others. Eligibility criteria need to be
107 developed to insure equitable access and use of alternatives to incarceration, including use of
108 evidence-based decision making through an equity lens.

109

110 **Current Jail Safety Issues:**

111 From the Mead and Hunt study and the Sheriff’s comments on the current facility, it is clear that
112 there are immediate mental health, solitary confinement, and life and safety issues with parts of
113 the facility.

114

115 To address the challenges outlined above, and recognize the value of public participation, the
116 Dane County Board will engage the public to identify next steps by establishing three work
117 groups of the Public Protection and Judiciary Committee. Additionally, the Board will provide
118 the Sheriff's Office access to funds to develop solutions which address the immediate health
119 and safety concerns of the current jail facilities in the City-County Building using the services of
120 Mead and Hunt.

121

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

129 1a. A mental health toolkit or mental health court to support Dane County's Circuit Court
130 judges. This includes but is not limited to: determining what charges/offenses to be
131 considered; screening tools or assessment to determine placement; options of
132 treatments/services need to be available (especially for individuals without health
133 insurance); and whether it should be a stand-alone court or toolkit integrated into all
134 criminal courtrooms.

135 1b. A stand-alone facility that serves individuals with: 1) mental health needs and who
136 are not incarcerated by the Sheriff, 2) mental health needs and who are in police custody
137 and need an alternative to jail placement, and 3) mental health needs and who are in the
138 Sheriff's custody. As part of a potential facility, investigate a mental health crisis
139 intervention field team that can be available to all Dane County law enforcement, fire,
140 and emergency entities, 24 hours a day.

141 1c. Eliminating or greatly reducing the use of solitary confinement. This includes but is
142 not limited to: creating mental health beds, medical and special needs beds; any other
143 space options that provide for those incarcerated with medical and mental health needs.
144 Additionally, this shall include investigating the impact of solitary confinement in any form
145 on incarcerated people whether it is used due to space needs or as a tool for changing

146 behavior. This includes but is not limited to: the long-term outcome of solitary
147 confinement in behavior management; the effects of solitary confinement on recidivism;
148 alternative tools to solitary confinement to address various situations that keep the safety
149 of the inmate, deputy and larger jail community in mind.

150

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

157 2. Initiatives that decrease the average length of stay for those incarcerated in Dane
158 County Jail prior to sentence / conviction, with the goal of diverting inmates from
159 incarceration. This includes but is not limited to: weekend arraignment court, signature
160 bonds, full-scale pre-trial services program, and alternative to bail programs.

161

162 BE IT FURTHER RESOLVED that the Dane County Board of Supervisors establish a third work
163 group, the Alternatives to Incarceration Work Group, to advise the Public Protection and
164 Judiciary Committee to address alternatives to incarceration, with up to eleven (11) members
165 appointed by the Chair of the committee, in consultation with other members of the Board, and
166 the Department of Human Services assistance in securing facilitators for the workgroup to
167 investigate the possibility of establishing the following:

168

169 3. Locating all current Dane County alternatives to incarceration programs within one or
170 more “one-stop shopping” facilities, with a priority of addressing racial disparities in
171 incarceration and racially equitable access to participating in jail alternative programs.
172 This includes but is not limited to: allowing for a continuum of services for individuals
173 needing more or less support; creating Day Reporting Centers as part of these facilities;
174 creating restorative justice programs for all individuals charged with non-felony crimes or
175 who would otherwise qualify for minimum-security placement or work-study release.

176 There also must be an investigation of what policies could be implemented to encourage
177 police and law enforcement to send and/or refer people directly to services and
178 programs in these facilities instead of committing people into jail, whether referring
179 people to services reduces recidivism more than jail, and what services, especially
180 African-American and community-of-color led services, already exist (or could be
181 created given a critical mass of future referrals) that could be housed in such facilities.
182 This investigation shall include options for both adults and juveniles.

183

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

187

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

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

196

197 BE IT FURTHER RESOLVED that each work group shall make recommendations regarding
198 improving baseline statistical information and evaluation of any system change by developing
199 better, more precise and detailed data as to the jail population, improving integration with state
200 data systems and increasing capacity for statistical analysis.

201

202 BE IT FURTHER RESOLVED that any funding needed to further study these issues beyond the
203 work teams shall come from the \$8 million in capital funding designated in the 2013 budget to
204 investigate jail space needs, to the extent that the study addressed capitol issues. Additionally,

205 any outside request for proposals or studies shall be awarded to entities that have a
206 demonstrated history of understanding the impact of race discrimination, as well as race and
207 poverty combined, in Wisconsin and the United States on an individual's mental and physical
208 well being.

209

210 BE IT FURTHER RESOLVED each of the work groups shall make initial recommendations for
211 tangible next steps to the Public Protection and Judiciary Committee and the Criminal Justice
212 Council by August 15, 2015, and shall then be dissolved.

213

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

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

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

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

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

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

224

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

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

233 security that exposes the County to vulnerabilities associated with emergency and life
234 safety issues.

235
236 Mead and Hunt shall recommend short-term solutions to mitigate vulnerabilities and life
237 safety concerns in the CCB Jail. The short-term recommendations shall consider staffing
238 and procedural options for life safety mitigation, as well as upgrades to door controls,
239 voice communication systems, video surveillance technology, door hardware and locking
240 devices, detention barriers, and other security systems consistent with industry
241 standards. For the purposes of this study, short-term solutions shall not exceed two and
242 one half (2 ½) years and are further defined as ones that allow for the implementation of
243 a long-term solution.

244
245 2. With consideration of all input from the work groups, Mead and Hunt shall identify and
246 propose alternatives for eliminating or greatly reducing the use of solitary confinement,
247 which may include creating specialized beds such as mental health beds, medical beds,
248 and restrictive housing beds; and establishing supportive jail-based treatments and
249 interventions. Additionally, with consideration of all input from the work groups, Mead
250 and Hunt shall summarize the prevailing research as it relates to the impact of solitary
251 confinement for those with mental health issues or as a tool for changing or managing
252 behavior, and on recidivism; and alternatives to solitary confinement that encompass
253 safeguards for inmates, staff, and the larger community.

254
255 3. Mead and Hunt shall propose a long-term solution for the consolidation of functions and
256 operations at the PSB site, as detailed in the Needs Assessment and Master Plan. This
257 long-term solution shall be developed as an incremental phased approach to allow the
258 County to implement the program as growth and funding allows.

259
260 For each phase of the long-term solution, Mead and Hunt shall include strategies (i.e.,
261 physical plant and operational) to optimize programmatic, treatment, and behavior
262 management resources that consider, at a minimum:

- 263
264 a. The functional capacity of the Public Safety Building (PSB);
265 b. Utilization of the PSB for medical, mental health and specialized housing and/or
266 services;

- 267 c. Care and custody of youthful offenders in compliance with the Prison Rape
268 Elimination Act (PREA) Standards;
269 d. Programmatic use of the PSB; and
270 e. Discontinuing use of the Ferris Center.

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272

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

279

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

283

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

289

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

291

292 BE IT FINALLY RESOLVED that, except for the allocation for Mead and Hunt described above,
293 no further use of the eight million dollars set aside will be considered without both the outcomes
294 of the above investigations presented and the approval of the Dane County Board of
295 Supervisors, except to address imminent life and safety issues in the current facilities.