

1 2022 RES-136
2 REALIZING KEY GOALS OF THE DANE COUNTY JAIL PROJECT WITHIN THE CURRENTLY
3 AUTHORIZED FUNDING
4

5 **BACKGROUND**

6 Through various resolutions, culminating in March 2022 with Sub. 1 to RES.-320 as amended,
7 the Dane County Board of Supervisors approved a budget of \$166 million for the construction of
8 an 825-bed consolidated jail facility, revising the project accordingly.

9 In May 2022, Mead and Hunt notified the Board that, because of economic changes, updated
10 estimates indicated that the actual cost of the project would be approximately \$9.8 million over
11 the \$166 million authorized.

12 In October 2021, the JFA Institute submitted a report to the Dane County Board of Supervisors
13 that suggested the viability of a smaller jail, as well as a number of reforms that would reduce
14 the need for incarceration. Most of those and other potential diversion initiatives are still
15 possible.

16 In July 2022, the JFA Institute presented additional information to the Criminal Justice Council.
17 This presentation highlighted racial disparities that exist in Dane County’s criminal justice
18 system. These disparities result in an incarceration rate for Black individuals in Dane County
19 that is double the national average. These disparities produce arrest rates and jail population
20 rates for Black Dane County residents that are many times higher than those of white and
21 Hispanic individuals (see Figure 1).

Race/Ethnicity	Arrest Rate per 100 population	Current Jail Population per 1,000 population	Jail Releases per 100 population
Hispanic	1.2	1.6	2.8
White	1.1	0.9	1.0
Black	9.8	14.0	9.7

22 **Figure 1: Arrest, ADP, and Jail Releases Rate by Race and Ethnicity.** (Source: JFA Institute
23 presentation to the Criminal Justice Council, July 28, 2022)

24 As James Austin (JFA Institute) noted in his presentation to the Criminal Justice Council, “the
25 driver of your jail population is the high incarceration of your African American population.” In
26 practical terms, on one day in July 2022, there were approximately 400 Black residents in jail. If
27 Dane County’s numbers reflected the national average, that number would be 200.

28 Addressing these disparities will mean a better, more just Dane County—and within the context
29 of this resolution, addressing these disparities will significantly lower the population of the Dane
30 County Jail, thereby reducing the need for beds in the new facility.

31 **PRIMARY OBJECTIVES OF THIS RESOLUTION**

32 Years of study and engagement resulted in an ambitious list of 10 objectives for the jail
33 consolidation project. While all of these objectives are important, given ever increasing costs,
34 the scope must address the 3 most important goals, while striving to achieve the others as
35 possible. Those three objectives are:

- 36 1. Replace outdated cell blocks in the City County Building
- 37 2. Eliminate or greatly reduce solitary confinement
- 38 3. Provide appropriate medical and mental health space

39 The purpose of this Resolution is to continue to meet those three objectives while bringing the
40 project back within the authorized budget so that no additional funds are needed, while
41 delivering a more appropriate justice system for the citizens of Dane County. That can be
42 accomplished by adopting reforms in the system that make an 825-bed capacity jail
43 unnecessary.

44 **CHANGES IN SCOPE**

- 45 • To avoid expenditure of any additional capital funds,
- 46 • In recognition of the multiple opportunities which exist to continue to safely reduce the
47 long-term average daily population in the jail, and
- 48 • In recognition that medical needs more severe than those which can be accommodated
49 adequately by the proposed enlarged clinic should be transferred to a hospital so that
50 designated acute medical beds are not required and that space can be better utilized
51 with general population beds,

52 TO AVOID ANY FURTHER DELAYS, THE PROJECT SHALL BE REVISED AS FOLLOWS:

- 53 1. Eliminate the 6th floor, resulting in a 5-floor tower.
- 54 2. Revise the fourth-floor level to remove all acute medical housing. Provide general
55 population housing in the available space that this change creates.
- 56 3. Remove Huber housing from the Public Safety Building as required by Sub 1 to 2021-
57 RES-320 as amended.
- 58 4. Keep in-person visitation in the tower by retaining the visitation elevator, if it is possible
59 to do so within the budget.
- 60 5. Provide no more than a total of 725 beds, including mental health beds, meeting
61 necessary resident classification as the Dane County Sheriff's Office deems appropriate.

62 **ANTICIPATED ADVANTAGES**

63 This Resolution is anticipated to offer the following distinct advantages compared to the 825-
64 bed, 6-floor proposal, which would have required adding at least \$9.8 million to the amount
65 already authorized for the consolidated jail project:

- 66 1. Due to the savings realized from the removal of the 6th floor of the tower, there will be
67 no added capital cost to be borne by the taxpayers of Dane County.
 - 68 a. This eliminates the need for a referendum to gain the authorization for
69 additional \$9.8 million, which would have an unknown outcome, and
70 which could cause further delays in completing the design,
71 construction, and transfer of residents from the CCB.
- 72 2. Providing a reduced bed capacity of up to 725 beds will be an incentive for the various
73 stakeholders to work together to implement the justice system reforms that will be
74 required in order to reduce the current racial inequity in our jail. This has been identified
75 by the JFA Institute as the most glaring reform needed in the Dane County Jail. Dr.
76 Austin's evaluation of 2021 RES-320 in his July 28, 2022 presentation to the Criminal
77 Justice Council indicated that the Black population disparity in Dane County is more than
78 double the national average. The time to change this is now.

- 79 a. Minimally, we should drop and maintain the current population from 665 to
80 609 (a reduction of 56 beds from the current number indicated in the July 28,
81 2022 Dane County Jail resident report). This allows the 15% cushion
82 recommended by Dr. Austin, which would easily keep the number of beds
83 even lower than 725 (approximately 700). This drop can be achieved by
84 following several of Dr. Austin’s recommendations for population control
85 including:
- 86 1. 100% reduction of eligible Huber population under roof - estimated
87 at 20 (20 beds)
 - 88 2. 25% reduction of federal in-transit population (20 beds)
 - 89 3. 50% reduction of individuals held for more than seven days with
90 less than \$1000 bail (16 beds)
- 91 b. Because there is a spike in incarceration during the summer months, these
92 goals should be achievable between now and completion of the new
93 structure. This provides plenty of time to arrange and implement the policy
94 changes needed to make and sustain these reductions.
- 95 c. During the implementation of these reductions there should be significant
96 focus by Dane County to assure these reductions are applied with vigor to the
97 Black and Latino/Latina populations in particular to begin to remediate the
98 severe racial disparities in the Dane County Jail.
- 99 3. Eliminating the designated acute medical housing units achieves two benefits:
- 100 a. The new clinic, as currently designed, achieves the desired greatly improved
101 level of medical care without the expense of building and staffing medical
102 housing, which can be more appropriately provided in local hospitals.
 - 103 b. The space which that vacates on the 4th floor can be reconfigured to create
104 at least an equal number of beds suitable for housing general population
105 residents.
- 106 4. Retaining the visitation elevator maintains the opportunity for in-person visitation for the
107 approximately 320 residents who will still be housed in the tower.
- 108 5. Any delay required to redesign to accommodate the proposed changes will be offset by
109 the reduced construction duration due to the reduced project scope.
- 110 6. Operating costs will be significantly reduced. Those savings will then be available as
111 resources to provide housing, treatment, employment, and other needs to address
112 underlying issues in our community.

113 **COMMITMENT TO REFORM AND TO DECREASED INCARCERATION**

114 Recommended reforms to the criminal justice system which could limit incarceration and
115 decrease the needed number of beds in the jail consolidation project include:

- 116 1. Urge the District Attorney, the Public Defender, and the Courts to hold an 18-month pilot
117 of a weekend court, held virtually. Analysis of the pilot should include analysis of both
118 the average daily population and racial impact.
- 119 2. While most individuals with nonviolent misdemeanors are released after paying bail
120 based on the state bond schedule, some stay in jail and then proceed to initial
121 appearance in front of a Court Commissioner and receive cash bail—even if the charge
122 was non-violent—in order to assure appearance in court. We urge Court Commissioners
123 to review how cash bail is used with the objective of reducing its use, and we urge Court
124 Commissioners to account for racial disparities in how cash bail is used moving forward.
125 Court Commissioners are to submit a report to the Dane County Board of Supervisors

- 126 on a quarterly basis with a breakdown of each hold based on offense, gender, age, race,
127 ethnicity, and whether or not cash bail was used.
- 128 3. Urge law enforcement agencies throughout the county to not arrest those reporting
129 crimes if they themselves have an outstanding non-violent arrest warrant. While this
130 often happens during the day when law enforcement can confer with prosecutors, there
131 is no discretion in the evening.
 - 132 4. Urge the District Attorney, Public Defender, Courts, and the Sheriff to continue the newly
133 established jail population review panel to reduce the length of stay and move residents
134 out of jail as quickly as possible and begin submission of regular reports as referenced in
135 in Sub 1 to 2021-RES-320 as amended, lines 106-114, to the Dane County Board of
136 Supervisors.
 - 137 5. Urge the Sheriff to limit the number of federal prisoners held in our facility to 10% of the
138 jail population, prioritizing prisoners who live in Dane County.
 - 139 6. Urge the Sheriff and probation agents to limit probation and parole holds by booking and
140 releasing unless extraordinary circumstances exist, and where holds are used, to limit
141 them to 7 days without a charge.
 - 142 7. Request that the Juvenile Court Administrator work with the Courts to reduce the
143 incarceration of youthful offenders by identifying alternative diversion programs and
144 services.

145 **NOW, THEREFORE, BE IT RESOLVED** that the Dane County Board of Supervisors urges the
146 District Attorney, the Public Defender, and the Courts to establish a virtual weekend court for an
147 18-month pilot period and study its impact.

148 **BE IT FURTHER RESOLVED** that the Dane County Board of Supervisors urges the Court
149 Commissioners to review how cash bail is used with the objective of reducing its use and
150 eliminating racial disparities in how it is used.

151 **BE IT FURTHER RESOLVED** that Court Commissioners submit a report to the Dane County
152 Board of Supervisors on a quarterly basis with a breakdown of each hold based on offense,
153 gender, age, race, ethnicity, and whether or not cash bail was used.

154 **BE IT FURTHER RESOLVED** that the Dane County Board of Supervisors urges law
155 enforcement agencies throughout Dane County not to arrest individuals who report crimes if
156 those individuals themselves have a non-violent arrest warrant.

157 **BE IT FURTHER RESOLVED** that the Dane County Board of Supervisors urges the District
158 Attorney, the Public Defender, the Courts, and the Sheriff to continue the jail population review
159 panel.

160 **BE IT FURTHER RESOLVED** that the Sheriff is to begin submitting the monthly reports set
161 forth in Sub 1 to 2021-RES-320 as amended, lines 106-114.

162 **BE IT FURTHER RESOLVED** that the Dane County Board of Supervisors urges the Sheriff to
163 limit the number of federal prisoners to 10% of the population of the jail, and in so doing, to
164 prioritize those who live in Dane County.

165 **BE IT FURTHER RESOLVED** that the Dane County Board of Supervisors urges the Sheriff to
166 work with the Wisconsin Department of Corrections to book and release for probation and

167 parole holds unless extraordinary circumstances exist, and under those circumstances to limit
168 the number of days a resident can be held on a probation and parole hold to 7 days.

169 **BE IT FURTHER RESOLVED** that the Dane County Board of Supervisors requests the Juvenile
170 Court Administrator to work with the Courts to identify potential approaches for all youthful
171 offenders to find alternative diversion programs and services for youthful offenders in lieu of
172 incarceration.

173 **BE IT FURTHER RESOLVED** that the design remove the fourth-floor acute medical housing
174 and provide general population housing in the available space that this change creates.

175 **BE IT FURTHER RESOLVED** that the design maintain the visitation elevator, if it is possible to
176 do so within the budget, to allow for the opportunity for in-person visitation for the approximately
177 320 residents who will still be housed in the tower.

178 **BE IT FURTHER RESOLVED** there are no more than a total of 725 beds, including mental
179 health beds, meeting necessary resident classification as the Dane County Sheriff's Office
180 deems appropriate.

181 **BE IT FINALLY RESOLVED** that the Department of Administration-Public Works Engineering
182 Division be directed to ensure complete performance of the Contract, including change orders to
183 implement the changes in scope enumerated herein.