

1 SUB 2 to 2014 RES-556 (PROPOSED - PERTL)

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

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

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

18 Dane County's racial disparities in criminal justice continue to persist. To reduce racial
19 disparities, Dane County has funded new initiatives, such as the Community Restorative Court.
20 Even though the Community Restorative Court has not begun, we are hopeful in this new
21 approach to justice.

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

26
27 **Background on Racial Disparities in Dane County Criminal Justice System:**

28 The lack of availability of reliable information regarding who is in the criminal justice system and
29 why continues to be a challenge in Dane County. Current and accurate measurement of
30 criminal justice data is integral to system reform and measuring success. While broad statistics

31 help to draw attention to problems, system change must be accompanied by better, more
32 precise and detailed data as to the jail population, improving integration of information with state
33 data systems, and increasing capacity for statistical analysis.

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

70 According the United States Bureau of Justice Statistics, 44% of all individuals and 66% of all
71 Black individuals incarcerated in local jails throughout the nation have mental health challenges.
72 Due to the lack of mental health services overall throughout the United States, jails and prisons
73 have become the largest care-takers of individuals with mental health challenges.

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

79 Solitary confinement has been studied for decades, along with the short and long term
80 detrimental impacts on individuals. The Dane County Board and Dane County Sheriff are
81 seeking to eliminate this practice.

82

83 **Length of Stay**

84 According to national research, length of stay negatively affects recidivism for people who have
85 a low and medium risk of reoffending. The collateral consequences experienced by individuals,
86 families, and communities caused by length of time spent in jail may further overall inequities in
87 Dane County. Consequences include accused individuals, especially the poor and people of

88 color, pleading guilty to get out of jail for economic and family reasons, rather than based upon
89 innocence or guilt of the alleged offenses.

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

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

100

101 **Alternatives to Incarceration:**

102 Dane County has many alternatives to incarceration that, for some, have proven to be effective.
103 However, participation by people of color in alternatives is minimal. Alternatives include:
104 deferred prosecution, (including the first offender program), electronic monitoring, and treatment
105 alternatives, among others. Eligibility criteria need to be evaluated, modified, and/or developed
106 to ensure equitable access and use of alternatives to incarceration, including use of evidence-
107 based decision making through a racial equity lens.

108

109 **Current Jail Safety Issues:**

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

113

114 NOW, THEREFORE, BE IT RESOLVED, to address the challenges outlined above, recognize
115 the value of public participation, and respect the community response, the Dane County Board
116 will engage the public to identify next steps by establishing three work groups of the Public

117 Protection and Judiciary Committee. The work of these three groups will not only inform the
118 county's budget process, but also provide information that will be valuable as the county seeks
119 funding via grant opportunities.

120

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

128 1(a). A mental health toolkit or mental health court to support Dane County's Circuit
129 Court judges. This includes but is not limited to: determining what charges/offenses to
130 be considered; screening tools or assessment to determine placement; options of
131 treatments/services need to be available (especially for individuals without health
132 insurance); and whether it should be a stand-alone court or toolkit integrated into all
133 criminal courtrooms.

134 1(b). A stand-alone facility, potentially based on a crisis intervention or restoration center
135 model, that serves individuals with: 1) mental health needs and who are not incarcerated
136 by the Sheriff, 2) mental health needs and who are in police custody and need an
137 alternative to jail placement, and 3) mental health needs and who are in the Sheriff's
138 custody. As part of a potential facility, investigate a mental health crisis intervention field
139 team that can be available to all Dane County law enforcement, fire, and emergency
140 entities, 24 hours a day.

141 1(c). Eliminating or greatly reducing the use of solitary confinement. This includes but is
142 not limited to: creating mental health beds/cells, medical and special needs beds/cells;
143 any other space options that provide for those incarcerated with medical and mental
144 health needs; and creating strategies to eliminate de facto solitary confinement
145 conditions when there are low numbers of incarcerated youth. Additionally, this shall
146 include investigating the impact of solitary confinement in any form on incarcerated
147 people, and particularly people of color, whether it is used due to space needs or as a

148 tool for changing behavior. This includes but is not limited to: the long-term outcome of
149 solitary confinement in behavior management; the effects of solitary confinement on
150 recidivism; alternative tools to solitary confinement to address various situations that
151 keep the safety of the incarcerated people, deputy and larger jail community in mind.
152

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

159 2. Initiatives that decrease the average length of stay post-booking for those
160 incarcerated in Dane County Jail, with the goal of diverting incarcerated peoples from
161 incarceration. This includes but is not limited to: weekend arraignment court, signature
162 bonds, deferred prosecution, full-scale pre-trial services program, policies relating to
163 probation and parole holds, and alternative to bail programs.
164

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

171 3. Diverting incarcerated people from incarceration by seeking options outside of the
172 traditional justice system. Locating all current Dane County alternatives to incarceration
173 programs, within one or more "one-stop shopping" facilities, with a priority of addressing
174 racial disparities in incarceration and racially equitable access to participating in jail
175 alternative programs. This includes but is not limited to: community restorative courts,
176 restorative justice practices, allowing for a continuum of services for individuals needing
177 more or less support; creating Day Reporting Centers as part of these facilities;
178 prioritizing diversion of youthful offenders; creating restorative justice programs for all

179 individuals charged with non-felony crimes or who would otherwise qualify for minimum-
180 security placement or work-study release. There also must be an investigation of what
181 policies could be implemented to encourage police and law enforcement to send and/or
182 refer people directly to services and programs instead of committing people into jail,
183 whether referring people to services reduces recidivism more than jail, and what
184 services, especially African-American and community-of-color led services, already exist
185 (or could be created given a critical mass of future referrals) that could be housed in
186 such facilities. This investigation shall include options for both adults and juveniles.

187

188 BE IT FURTHER RESOLVED that all of the above investigations shall prioritize needs of
189 communities of color, especially African Americans, due to their large disproportionate numbers
190 in the criminal justice system. This includes increasing racial equity in access and participation
191 as well as reducing racial disparities in services and programs outlined in this resolution.

192

193 BE IT FURTHER RESOLVED that each work group shall include community members,
194 explicitly including communities of color, particularly the African-American community and
195 people who have been impacted by incarceration.

196

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

202

203 BE IT FURTHER RESOLVED that each work group shall include in its recommendations
204 methods for improving baseline statistical information and evaluation of any system change by
205 developing better, more precise and detailed data as to the jail population, which shall:

206 1) Include the race and ethnicity of people involved in Dane County's criminal justice
207 system;

- 208 2) Improve integration with state data systems;
209 3) Increase capacity for statistical analysis; and
210 4) Make easily available to the public any data used to produce statistics or analysis that
211 inform decisions in Dane County's criminal justice system.
212

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

220

221 BE IT FURTHER RESOLVED each of the work groups shall make recommendations for
222 tangible next steps to the Public Protection and Judiciary Committee and to the Criminal Justice
223 Council by August 31, 2015, and shall then be dissolved. These recommendations shall be the
224 foundation of 2016, 2017, and future operating budget proposals to improve services and
225 programs in the criminal justice system and in the community, especially the African American
226 community.

227

228 BE IT FURTHER RESOLVED that the Dane County Board of Supervisors authorizes per diem
229 payments for non-supervisor and non-staff members of the work group on the same basis and
230 under the same polices as other Dane County bodies that receive per diems and mileage.

231

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

236

237 BE IT FURTHER RESOLVED that the Dane County Board of Supervisors hereby waives the
238 county's bid requirements in Chapter 25 of the Code of Ordinances to select Mead and Hunt,
239 Inc. to complete the analysis of the immediate health and life safety issues in the City-County
240 Building Jail; and the County Board approves an addendum to Agreement No. 11333 in order to
241 complete analysis and make recommendations consistent with the requests as outlined below.
242 The requests made in this resolution shall form the entire scope of services included in the
243 addendum.

244

245 BE IT FURTHER RESOLVED, that in creating recommendations, the work groups as well as
246 Mead and Hunt shall consider that in passing this resolution the County Board is unequivocally
247 stating its support for eliminating racial disparities, reducing incarceration, reducing the number
248 of incarcerated people beds, as well as its opposition to the construction a new standalone jail.

249

250 BE IT FURTHER RESOLVED, the County Board supports addressing the immediate health and
251 safety issues in the jail, eliminating or reducing solitary confinement, and compliance with the
252 Prison Rape Elimination Act (PREA). Additionally, the County Board supports addressing
253 mental health issues outside the jail to the degree practical and within the jail in the least
254 restrictive environment.

255

256 BE IT FURTHER RESOLVED, the County Board will provide the Sheriff's Office access to funds
257 to develop solutions which address the immediate health and safety concerns of the current jail
258 facilities in the City-County Building using the services of Mead and Hunt. Mead and Hunt shall
259 also recommend immediate solutions to bring all of our jail facilities into compliance with the
260 Prison Rape Elimination Act (PREA) standards to ensure the safe care and custody of youthful
261 offenders.

262

263 BE IT FURTHER RESOLVED that the Dane County Board of Supervisors hereby waives the
264 county's bid requirements in Chapter 25 of the Code of Ordinances to select Mead and Hunt,
265 Inc. to complete the analysis of the immediate health and life safety issues in the City-County
266 Building Jail; and the County Board approves an addendum to Agreement No. 11333 in order to

267 complete analysis and make recommendations consistent with the requests as outlined below.
268 The requests made in this resolution shall form the entire scope of services included in the
269 addendum. Recommendations shall be organized as follows:

270 1. **Emergency and Life Safety Issues.** Mead and Hunt shall identify emergency and life
271 safety issues in the City-County Building Jail and shall provide recommendations and a
272 work plan to address the identified issues.

273 a. The recommendations and work plan shall include the costs and the anticipated
274 longevity of any repairs, staffing and procedural options for life safety mitigations,
275 and whether incarcerated people will need to be temporarily moved out of areas
276 of the City-County Building Jail in order to effectuate needed repairs and, if so,
277 options for housing incarcerated people.

278 b. Emergency and life safety recommendations shall include: operational layout,
279 structure and design, plumbing, HVAC, the entire locking system, door hardware
280 and controls, voice communication systems, video surveillance technology,
281 detention barriers, and other security systems consistent with industry standards
282 and current code compliance.

283 2. **Reducing incarceration and implementing workgroup recommendations.** Within
284 90 days of receiving reports of the workgroups, Mead and Hunt shall provide
285 recommendations that implement predicted jail population reductions due to
286 implementing plans to eliminate racial disparity, and to ensure compliance with the
287 PREA as well as to eliminate or reduce solitary confinement.

288 a. **Integrate workgroup recommendation to reduce incarceration and racial**
289 **disparities.** Mead and Hunt shall provide recommendations that incorporate
290 predicted jail population reductions due to implementing plans to eliminate racial
291 disparity

292 b. **Prison Rape Elimination Act.** Mead and Hunt shall recommend immediate
293 solutions to bring all jail facilities into compliance with all Prison Rape Elimination
294 Act (PREA) standards.

295 c. **Solitary Confinement.** Mead and Hunt shall develop up to two options to
296 eliminate or greatly reduce the use of solitary confinement, by creating
297 specialized spaces such as mental health beds/cells, medical beds/cells, and
298 restrictive housing beds.

299 3. **Format and components of recommendations.** Recognizing that the solutions
300 recommended in #2 may need to be addressed independently, Mead and Hunt shall
301 include a plan allowing for independently or sequentially addressing issues. Mead and
302 Hunt shall include strategies (i.e., physical plant and operational) to optimize
303 programmatic, treatment, and behavior management resources. In order to provide
304 cost comparisons, these recommendations shall provide alternatives for either 1)
305 eliminating the use of the City-County Building Jail and consolidating operations at the
306 Public Safety Building site or 2) upgrading the City-County Building Jail and the PSB
307 Jail to meet current jail standards, applicable codes and inmate health and safety
308 needs. Neither option should functionally increase the number of inmate beds at Dane
309 County jail facilities or create a new greenfield site for the jail. As part of #2 solutions,
310 Mead and Hunt shall address the following:

- 311 a. Workgroup recommendations for reductions in jail population due to
312 implementing recommendations that eliminate racial disparities;
- 313 b. The Prison Rape Elimination Act (PREA) and current applicable state and federal
314 regulations;
- 315 c. Appropriate and effective housing for the care and custody of incarcerated
316 people, including; (Such housing is not to increase the functional capacity of the
317 jail, but rather ensure quality of care.)
 - 318 i. Develop medical and mental health housing;
 - 319 ii. Reduce the use of solitary confinement, by creating specialized beds
320 such as mental health or medical beds/cells or restrictive housing beds
321 that incorporate the recommendations of the workgroup;
 - 322 iii. Provide options for supportive jail based treatments and interventions;
323 and
 - 324 iv. Incorporate programmatic space for incarcerated people use;
- 325 d. Best practices and modern standards for the safety and well-being of jail staff;
- 326 e. Closure of the Ferris Center.

327
328 Mead and Hunt shall deliver information on #1 by August 31, 2015, and the remainder within 90
329 days of the workgroup's final recommendations. Mead and Hunt will provide operational and
330 space recommendations, an incarcerated people disaggregation plan, macro staffing
331 deployments and redeployments, operating costs recommendations and preliminary drawings

332 representing these recommendations, a written report of the reasoning for recommendations,
333 and associated opinion of probable costs.

334

335 Mead and Hunt shall deliver, by August 31, 2015, operational and space recommendations, an
336 incarcerated people disaggregation plan, macro staffing deployments and redeployments,
337 operating costs recommendations and preliminary drawings representing these
338 recommendations, a written report of the reasoning for recommendations, and associated
339 opinion of probable project costs of a phased project both in terms of probable repair,
340 renovation and construction costs.

341

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

343

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

348