



# Report of the Public Protection and Judiciary Committee Diversion Work Group

August 2016

## Executive Summary

The Diversion Work Group was created in response to recommendations in 2015 from the justice system study groups created pursuant to County Board 2014 Resolution 556, and funding for the work was included in the 2016 County budget. Supervisor Paul Rusk, Chair of the Public Protection and Judiciary Committee and Supervisor Jeremy Levin, Chair of the Health and Human Needs Committee appointed eleven members to the group, including a combination of county staff and community members with significant justice system experience and expertise. More detailed information about the charge to the group, the process the group went through to arrive at recommendations, discussion of additional work needed, and more detailed recommendations are included in subsequent sections of this report.

Ultimately the group developed twenty-two recommendations to report out to the Public Protection and Judiciary Committee and the Health and Human Needs Committee. The nature of the recommendations vary across several dimensions, including:

- (1) Time – the amount of time it would take to implement a recommendation, ranging from relatively short-range to longer-term system reforms;
- (2) Impact – the degree of impact a recommendation may have, ranging from impacting a relatively small, definable subset of individuals involved in the system to reforms that would have a substantial and lasting impact on potentially a large number of individuals; and
- (3) Funding/Resources – ranging from recommendations that would require professional planning time and/or limited funding in the short term to those that could eventually require substantial investment, albeit with ultimate payoffs in savings and/or a more effective system.

Following the development of the recommendations, group members were asked to list the top five recommendations that they would like the Board to consider first. Keeping in mind that each member came at this work from a different perspective and experience background and the varying dimensions noted above, the top recommendations forwarded by the group are:

1. Increasing the capacity and county-wide reach of the Community Restorative Court to efficiently and effectively address the number and range of offenses committed by 17-25 year olds. Include the development of processes that can expedite the referral of individuals to CRC by law enforcement.
2. Develop a Specialized Fast Track Intake Unit in the DA's office to more rapidly respond to cases referred to the DA's office for review, referral to appropriate diversion programs, and/or formal filing. This should increase the speed (including responsibly meeting the time limits recently established under Court Rule 206 which requires initial appearances in a timely manner even if charges are not yet filed) and number of cases

that can be successfully diverted from the formal system (including reducing the number of individuals that end up with a filing/CCAP record that can be a hindrance related to employment, housing, and education).

3. Increase the capacity of the Community Treatment Alternatives (CTA) (currently provided through Journey) by adding staff – potential caseload increase of 20 individuals with mental health needs that are at high risk of repeated readmissions to jail.
4. Encourage all Dane County law enforcement agencies to develop and implement policies, practices, resources, and training and that limit the use of arrest to cases in which it is required by law or necessary for protection of the public or suspect and encourage the use of alternatives.
5. Implement a process of universal assessment/screening (including use of a valid, unbiased tool) of all individuals referred for court action to assess the risk, needs, and appropriateness for the variety of diversion alternatives such as TAD, Deferred Prosecution, drug court, etc. (note: in some ways this process mirrors the routine process in the juvenile system – see section on juvenile diversion – in which that information helps inform subsequent decisions).
6. Expand/create a more comprehensive Deferred Prosecution program by adding a position focused on expediting the deferred prosecution process and promoting the development of evidence-based practices to serve deferred individuals.
7. Development of a short-term crisis/stabilization program that includes the capacity for short-term (up to 7 days) residential placement, crisis assessment, linking individuals to other community resources, etc. This type of program has commonly been referred to as a “restoration center”, but the size/scope can vary depending on how it links with other resources (e.g. case management, treatment services, etc.).
8. Major system partners should act together to (A) identify individuals with mental health issues have repeated and chronic contact with law enforcement and jail; and (B) develop an individualized intervention and crisis plan to reduce the likelihood of placement in jail.

Specifically, expansion of the CRC . received almost universal support as a top priority of members and is a reflection of the importance of focusing as much as possible at the front end of the process, developing alternatives to divert individuals from the current formal system as much as possible while maintaining a commitment to public safety. The fast track intake unit and the expansion of the CTA program received the next highest votes, with expansion of CTA being the most specific and defined recommendation (due to current waiting lists and the success of that program in working with individuals with mental health issues). The remaining recommendations followed, each with the same number of members including on their priority list, and they reflect the range of process, resource, and timing dimensions referenced above.

## Charge to the Work Group

The work of this Diversion Work Group follows the work of work groups established in 2015 pursuant to County Board 2014 Resolution 556 to focus on issues related to (1) Alternatives to jail confinement, (2) Reducing the length of stay for individuals placed in jail, and (3) Concerns related to the jail confinement of and use of solitary confinement for individuals with mental health issues. Within each of these areas, groups were also asked to address concerns related to the disparate levels of incarceration of individuals of color in Dane County. Each of those work groups developed recommendations for system reform and improvement, a number of which have been adopted/implemented and others that remain under consideration.

Included in the 2016 County Budget was an initiative to create a work group in 2016 to further focus on diversion of individuals from jail. The charge to the workgroup, consisting of eleven appointed individuals with system and practice level expertise, was to:

1. Review all current adult and juvenile diversion programs and the criteria for admission and successful completion;
2. Develop an equitable framework to ensure access to existing diversion programs;
3. Identify barriers to enrollment in and successful completion of the programs and make recommendations for improvements; and
4. Develop a list of large, traditional organizations and smaller, neighborhood-specific, grassroots entities that can offer services to benefit the clients enrolled and contribute to the improvement of communities and the diverse populations within them.

### Appointed Members:

Ismael Ozanne, Dane Co. District Attorney  
Captain Richelle Anhalt, Dane Co. Jail Administrator  
Dorothea Watson, State Public Defender's Office  
Judge Sarah O'Brien, Retired  
Jerome Dillard, Dane Co. Jail Reentry Coordinator  
Andre Johnson, Juvenile Justice Services Manager  
Luis Yudice, Madison Police Capt. Retired; Coordinator School Safety Services Madison Schools  
Todd Meurer; Municipal Judge Towns of Verona, Middleton, and Madison  
Linda Ketchum, Director Madison Urban Ministry  
Reverend Joe Barring  
Paul Saeman, member of MOSES

Additional staff support and consultation was provided by: Carlo Esqueda (Clerk of Courts), Lance Wiersma (DOC Regional Community Corrections, Region 1), and Todd Campbell (Human Services AODA Services Manager)

Facilitation and report writing: Jim Moeser

Staff Support: John Bauman, Juvenile Court Administrator

County Board Staff: Lauren Kuhl, Legislative Management System Specialist; Janice Lee, Clerk-Typist; and Karin Peterson Thurlow, Chief of Staff

## Overview of Process

### Meetings & Information Reviewed

Following are basic comments related to the functioning of the group:

- The group's first meeting was February 11, and in total the workgroup held 10 meetings.
- Initial discussions of the group focused on establishing a base understanding of the flow of cases through the adult court system and identifying the various decision points where diversion could occur. This work was supported by information from prior work groups/committees that had worked through mapping the court/custody process.
- There was discussion about the breadth of the charge, as there are many ways to think about what programs impact diversion. Ultimately the group decided, of necessity, to not discuss what might be considered prevention programs, focusing instead on those programs and processes that come into play once an individual is arrested/comes in contact with law enforcement up through reentry back into the community from confinement.
- The group brainstormed and identified as many programs as possible that have some impact on diversion, ranging from initial diversion into the system at all up through those programs that provide support services to individuals reentering the community from jail and work to promote stability in the community.
- A survey monkey instrument (53 questions) was developed and disseminated to approximately 60 programs (completion approximately 40) inquiring about basic demographics of who they serve, service numbers, racial/ethnic makeup of clients and staff, program outcomes including how they are measured, and ideas they may have about reducing racial/ethnic disparities.
- A number of meetings focused on specific programs, those programs that may be considered the "big buckets" of services, e.g. Deferred Prosecution, parole/probation revocation, and Dane County Sheriff's Office alternatives.
- Members were provided a variety of additional information, including information/recommendations from the 2015 work groups, examples of program models that have been implemented in other locations, summaries of prior studies related to system reform, and information from the Mead & Hunt review of the jail.
- As the deadline for work approached, the group began discussing recommendations, identifying both program/process ideas as well as ideas for continued investigation/exploration.
- The workgroup reviewed various drafts/lists of potential recommendations, and final recommendations included in this report represent a consensus of group members; that is no member objected to their inclusion.

## Comments on Context and Challenges and Opportunities for Diversion

The following comments provide additional context within which to consider the more specific recommendations and potential next steps for continued system reform. Considerations include:

1. The scope of the charge to the work group proved to be much more challenging than anticipated. The sheer volume of programs that interact/have some connection to diversion made it difficult, at best, to realistically review all the programs adequately. As a result, this report will not likely fully meet the goals of the charge and suggests that significant work remains, including that some form of more focused and sustained work needs to continue. This could include expanding the focus of the Pretrial Subcommittee of the Criminal Justice Council to more broadly consider additional diversion/support reforms.
2. As with the work groups in 2015, the limitations of readily available data make it difficult to fully assess the points of need and/or impacts of various diversion options. Credit should be given to Clerk of Courts, District Attorney, Human Service, and Sheriff's Office staff for gathering data that was requested by the committee, but realistically projecting the impact of changes, particularly as it relates to addressing concerns about disparity, will require increased data collection and analysis capacity.
3. There are many moving parts or initiatives that are underway as it relates to addressing jail diversion/justice system issues, some of them supported by grants, some based on implementing CJC or other recommendations related to reform. There are also many recommendations made by prior work groups and/or included in system studies that warrant continued attention, in particular recommendations related to developing a more integrated diversion/deferred prosecution effort. The recommendations of this report are consistent with the goals and guiding principles of County Resolution #556. Therefore, this report should be viewed as a step in the on-going process of system reform rather than a final chapter on diversion.
4. Racial disparities are first evident at the front end of the justice process, namely arrest and subsequent booking. A number of decision points that follow also then have an impact on disparity. While there are criteria for some of these decisions that are logical on their face, they also can exacerbate disparities and result in what is referred to as "cumulative disadvantage". For example, decisions about an individual's suitability for various alternatives to confinement may be based on economic or employment factors, housing stability, family stability, peer associations, or other factors that can place low-income individuals of color at a disadvantage. The system is beginning to utilize various screening/assessment tools that may help to ensure that decisions are objective and based on factors that have been conclusively researched to have an impact on the potential for

reoffending or failure to appear in court, and research continues related to the validity and reliability of such tools.

5. There are both opportunities and challenges related to funding of initiatives for reform. Realigning and/or adding resources is not easy, even though there is often a positive cost-benefit for implementing changes. There are multiple funding streams that can limit reforms, while at the same time there are new funding streams emerging (e.g. Comprehensive Community Services- CCS) that may be a source of additional funding to promote change. The workgroup could not adequately review issues related to funding, but staff within the county as well as other advocacy partners have ideas about how to make the best use of those funding streams in the most cost-effective manner.
6. The work group recognizes that investing in prevention efforts has the greatest potential of reducing overall offending and subsequent system involvement, particularly for youthful offenders. Investments that provide support for individuals with mental health issues have a significant impact on future system involvement. Investments in housing, health care, transportation, and employment help support family and community stability, and ensuring that youth/young adults have access to educational opportunities offers a brighter future for sustained economic success.
7. While there are many good programs already operating, there remains a sense of disconnectedness across programs and limited case management capacity to help ensure that the right individuals are referred to the right diversion program(s) and/or linkages that are made are followed up on to ensure sustained success and gather outcome information.
8. There is considerable opportunity for on-going reform given the interest and commitment of key policy-makers/leaders representing the cornerstone agencies involved in the justice system, including Circuit Court Judges, the Sheriff, the District Attorney, the County Executive, the County Board, the State Public Defender, and law enforcement leaders. While all of these organizations/leaders have varying responsibilities and perspectives in the process, there is common interest in ensuring that the system works in the most cost-effective way to promote public safety, hold offenders accountable, and get offenders back on track.
9. Transforming the justice system will often require up front investments that will reduce costs down the road. However, this raises two considerations to keep in mind: (a) finding needed up front funding can be a challenge and requires a willingness to take the risk that it will pay off; and (b) policy makers should commit to some level of reinvesting any savings resulting from reforms to push forward additional reforms or strengthen existing reforms.
10. There is a growing emphasis on implementing evidence-based practices, that is practices that research has shown to improve outcomes for our communities and individual offenders. It makes sense to implement programs and services that work, but it is also

important that the county keep this trend in mind as it seeks additional grants or other resources that can create even further reforms.

11. Finally, it cannot be ignored that Dane County has some of the highest rates of disparity and inequity across racial/ethnic lines in the nation, let alone in the state. Disparities in education, employment, income, and housing too often “set the stage” for criminal justice involvement. It is therefore important that any/all diversion efforts be viewed through a “racial equity” lens, even to the point of ensuring there is some required racial impact analysis completed before any system change/reform is implemented.

## Recommendations

One of the challenges in identifying program options and coming up with recommendations is the rather complicated and non-sequential aspects of the justice system process. In particular, many of the existing programs can be accessed at multiple points in the process, which is good. And, there are various frameworks that have been used to identify various phases and/or decision points in the process. The recommendations developed by the group are grouped according to various phases, but there is overlap across these phases and programs that cross them. It is recommended that readers not spend a lot of time focusing on the specifics or correctness of the description of the phase – rather the important point is to focus on the recommendations themselves.

### 1. Divert from Booking or Bench Warrants Issued for Failure to Appear (FTA)

Goal: Reduce the number of individuals who fail to appear (FTA) for court and subsequently end up being taken into custody and booked in jail by implementing one or more of the following:

- a. Encourage all Dane County law enforcement agencies to develop and implement policies, practices, resources, and training and that limit the use of arrest to cases in which it is required by law or necessary for protection of the public or suspect<sup>1</sup> and encourage the use of alternatives.
- b. Explore options to promote increased referral of less serious cases to municipal vs. circuit court (e.g. sharing “jail fee” income, providing a supported community service program option)<sup>2</sup>.
- c. Increase/utilize technology (e.g. text messaging) to remind individuals of pending hearings<sup>3</sup>.
- d. Promote court policy/practice so that individuals leaving court leave with a “notice in hand” of their next hearing.
- e. Develop a process to identify individuals at high risk (e.g. have missed court in the past, transient living situation) of FTA and institute added steps (e.g. through volunteer outreach) to remind individuals of upcoming court requirements and/or provide support to ensure appearance at subsequent hearings. This process, creating a “court coach” could perhaps also be used to support bail monitoring services.

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<sup>1</sup> Current statutes and policies provide some parameters related to arrest/booking, and any changes would have to be consistent with those statutes and policies unless modified.

<sup>2</sup> It is important to note, however, that for some individuals receiving a “fine” in municipal court, something that they may not be able to afford, can create more problems and can lead to a harmful cycle such as losing driving privileges, insurance coverage, etc.. This suggests that if/as more cases are directed there it is increasingly important for Municipal Judges to be cognizant of potential collateral consequences.

<sup>3</sup> We understand that this process will be initiated August 1.

- f. Develop process for screening cases of individuals referred for booking as a result of a warrant that includes the ability to release prior to an initial appearance (vs. automatically hold pending Initial Appearance - IA).

Although not specifically discussed in detail, there is overarching support for developing some sort of diversion coordinator who can focus entirely on this specific issue and can work across systems to develop a more coordinated/integrated/complete diversion program.

## **2. Divert from Formal Court Processing (reducing potential for placement in jail):**

Goal: Reduce the number of individuals referred for formal court action, reduce the length of time between offense and some form of adjudication, increase engagement of community members by:

- a. Implement a process of universal assessment/screening (including use of a valid, unbiased tool) of all individuals referred for court action to assess the risk, needs, and appropriateness for the variety of diversion alternatives such as Treatment Alternatives Diversion, Deferred Prosecution, drug court, etc. (note: in some ways this process mirrors the routine process in the juvenile system – see section on juvenile diversion – in which that information helps inform subsequent decisions).
- b. Increasing the capacity and county-wide reach of the Community Restorative Court (CRC) to efficiently and effectively address the number and range of offenses committed by 17-25 year olds. Include the development of processes that can expedite the referral of individuals to CRC by law enforcement.
- c. Develop a Specialized Fast Track Intake Unit<sup>4</sup> in the DA's office to more rapidly respond to cases referred to the DA's office for review, referral to appropriate diversion programs, and/or formal filing. This should increase the speed (including responsibly meeting the time limits recently established under Court Rule 206) and number of cases that can be successfully diverted from the formal system (including reducing the number of individuals that end up with a filing/CCAP record that can be a hindrance related to employment, housing, and education).
- d. Expand/create a more comprehensive Deferred Prosecution program by adding a position focused on expediting the deferred prosecution process and promoting the development of evidence-based practices to serve deferred individuals.
- e. Consider expansion of the Bail Monitoring Program in the Clerk of Court's Office to provide additional screening/assessment and supervision capacity.

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<sup>4</sup> More detailed information about the rationale and structure of this concept is contained in a July 27, 2016 memo from DA Ozanne to County Executive and County Board Chair.

The committee takes note that that each of these items would require substantial investment in additional personnel. For those programs operated by a county department more staff as well as other collateral resources (e.g. enhanced technology for law enforcement) may be needed. Programs like the Community Restorative Court would require expansion of community based resources but can also more readily leverage support from volunteers, the faith community, and others.

### **3. Divert Individuals with Significant Mental Health Issues from Jail**

Goal: Decrease the number of individuals experiencing chronic and/or episodic mental health issues that end up being placed in jail for behaviors that do not pose a substantial danger of to others (or themselves). Options include:

- a. Development of a short-term crisis/stabilization program that includes the capacity for short-term (up to 7 days) residential placement, crisis assessment, linking individuals to other community resources, etc. This type of program has commonly been referred to as a “restoration center”, but the size/scope can vary depending on how it links with other resources (e.g. case management, treatment services, etc.).
- b. Major system partners should act together to (1) identify individuals with mental health issues have repeated and chronic contact with law enforcement and jail; and (2) develop an individualized intervention and crisis plan to reduce the likelihood of placement in jail
- c. The County should affirm its commitment, in collaboration with the city of Madison and other units of government, to commit to the process and practices consistent with the Stepping Up Initiative<sup>5</sup> (developed by the National Counties Association, the Council of State Governments, and the American Psychiatric Foundation,) as a first step in bringing key leadership, policy-makers, providers, and advocate together to commit to an on-going process to reduce the use of jail for individuals with mental health issues.
- d. Increase the capacity of the Community Treatment Alternatives (CTA) (currently provided through Journey) by adding staff – potential caseload increase of 20 individuals with mental health needs that are at high risk of repeated readmissions to jail.
- e. Creation of additional case manager/expediter position(s) in the Sheriff’s Office and a position in the DA’s Office (in recognition/honor of Judy Schwaemle) focusing on mental health issues/cases, to focus on shortening the length of stay for individuals placed in jail and linking individuals with special needs to community-based services – in

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<sup>5</sup> More information about the Stepping Up Initiative is available at <http://www.naco.org/resources/programs-and-initiatives/stepping-initiative>

conjunction with development of an ombudsperson/advocacy role, perhaps filled by a contracted non-profit and/or volunteers.

- f. Implement a competency restoration process in the jail, a process to educate individuals who have been determined currently not competent to properly assist their defense in court but can be “educated to competency”.

#### **4. Divert Individuals from Confinement or Short-terms of Probation (at sentencing or other stages)**

Goal: Develop alternatives to jail sentencing that would reduce the number of individuals sentenced to/confined in jail:

- a. Develop a comprehensive community-service program to create and support additional community service options/placements<sup>6</sup>. Ideally this program would be available to both municipal and circuit courts and would utilize a combination of individual service projects, work crew-type projects, and could consider making use of the “time bank” model/program or other existing resources.

As is true with a number of other recommendations, building a more comprehensive community service program will require added investments (e.g. program coordinator, case manager(s)) but can leverage additional community resources (e.g. Food Share Employment Training- FSET) for support as well as having the benefit of providing additional needed services in the community.

#### **5. Divert Individuals Placed in Jail for Technical Probation Violations and/or Pending Probation Revocation Proceedings:**

Goal: Reduce the number of and/or length of stay for individuals on state probation who are confined through the revocation process for violations that do not rise to the level of new law violations. Currently the Department of Corrections (DOC) has a process in place that uses a risk tool and other criteria to determine who should be held for violations and then those cases in which they pursue formal revocation (a hearing process that can take up to 60 days). Additionally, DOC also has been working to develop alternatives to revocation that can help reduce the number of individuals held in jail pending a revocation decision. That said, there are aspects of the process that warrant further discussion. They are:

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<sup>6</sup> There is strong interest in expanding the capacity, whether through the Sheriff’s Office or otherwise, to accommodate more individuals who would perform community service work as an alternative to confinement (see Appendix II for basic data about the number of individuals screened/authorized and hours of community service completed in 2015). However, it should be noted that (1) the Sheriff’s Office currently does offer/screen/track a significant number of individuals already sentenced to jail who will perform community service to “earn” a reduction in a number of confinement days; and (2) there would need to be a review of current practice/criteria for what individuals are eligible for community service to determine to what extent there are additional individuals who could perform community service if there were an expanded program.

- a. Further development of alternatives to respond to technical (not new law violations) violations of probation/parole that would not require referral of an individual for confinement. This notion of a graduated response system can take into account the nature of the violation and the risk level of the individual and provide accountability and safety measures short of confinement.
- b. Shortening the time of the revocation hearing process so that decisions related to formally revoking/not revoking the probation status of an individual are accomplished more quickly (now that time frame permits an individual be held for as many as 60 days prior to a decision). That is a long time frame, but with more proactive, progressive leadership diversion opportunities can be increased.
- c. Encouraging the Department of Correction to meet with other concerned/involved parties (e.g. Public Defender, Sheriff) to review which individuals facing revocation may be eligible for an out of custody (vs. remaining in jail) revocation process.

Making progress in these areas has the potential to marginally impact the average daily population of individuals in the jail but work should continue to help reduce the use of the jail to hold this population.

**6. Improve support services for individuals released from jail/prison that will increase the likelihood of sustaining reentry into the community/reducing the likelihood of return to jail for technical or new law violations:**

There are many programs providing support services to individuals reentering the community. As one would expect, challenges to success that were identified by programs included concerns about stable/affordable housing, lack of mental health services to adequately address individuals' needs, education, transportation, and meeting other basic needs. Program responses also noted that these challenges were particularly acute for individuals of color, decreasing the chances for enrollment in a program as well as the likelihood of successful program completion.

The workgroup did not have time to fully consider all the programs in this category, but some highlights that warrant increased attention and potential support include increasing support to address one or more of these challenges by supporting programs including, but not limited to:

- a. Madison Urban Ministry programs (Just Bakery, the Journey Home, and Circles of Support), programs that serve a diverse population, have high standards but offer high levels of support, and have positive long-term outcomes;
- b. YWCA Driver's License Recovery Program
- c. MOSES benefit enrollment program

- d. Benefits Application Program to help individuals to apply for BadgerCare, FoodShare, and other programs (developed in cooperation with MOSES, Dane County Human Services, Second Harvest, and St. Vincent de Paul)
- e. ARC Community Services – RESPECT
- f. Urban League Advance Employment Services

## Review of the Juvenile System

Given the overwhelming scope of the charge to the workgroup, the group did not focus on/discuss the juvenile system, and there may be some interest in further study. Having said that, there are a number of characteristics and initiatives in the juvenile system that deal with issues of diversion and disparity, including:

1. The juvenile system, by statute, has features that prioritize assessment, diversion, and timeliness, for example:
  - a. There is a statutory presumption that youth taken into custody should be released to their parent(s).
  - b. There is statutory authority for non-law enforcement staff (generic term is “intake”; in Dane County the function is done through the Juvenile Reception Center) to review referrals of youth taken in custody by law enforcement, including the authority to release youth taken into custody to parents, other responsible adults, and/or place in a non-secure placement<sup>7</sup>. There is no comparable system/authority in the adult system<sup>8</sup>. There are relatively narrow statutory criteria for placing a youth in secure custody, so the number of youth held in secure custody is low (in fact, Dane County has one of the lowest per capita youth confinement rates in the nation).
  - c. Juvenile statutes provide for an assessment structure/process in which the majority of youth referred to the court go through an substantial assessment process prior to a determination related to formal filing of a petition in court.
  - d. Juvenile statutes have relatively tight timelines for case processing, beginning with time constraints on the assessment/filing process/determination all the way through ultimate adjudication and disposition. Those timelines are even tighter for youth held in confinement.
2. The juvenile system, both by statute and philosophy, emphasizes balancing community safety, accountability, and competency/skill development in the development and implementation of individualized plans for youth alleged and/or adjudicated delinquent. Meeting these goals necessarily requires engagement with the youth’s family as well as developing plans that increase the likelihood the youth will become successful in the community, diminishing an emphasis on confinement as a response or solution.
3. Under the auspices of the Juvenile Court Program, along with management of the juvenile detention facility, are the non-secure Shelter Home and the Home Detention

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<sup>7</sup> In 2015, slightly less than one-half of the youth referred to JRC by law enforcement were placed in secure custody.

<sup>8</sup> Law enforcement have some discretion on arrest/referral, and there is a “Uniform Bail Schedule for Misdemeanor” (and traffic) cases that provide some guidance to law enforcement and the sheriff’s regarding referral/placement in secure confinement pending further court review.

programs, both providing immediate alternatives to secure confinement, both created in the early 1970's.

4. The Human Services Department, the entity responsible for referral assessment and supervision of youth referred for delinquency, has implemented a comprehensive range of services and processes, including but not limited to:
  - a. Realigning the case referral process in 2012 to provide for a more complete intake assessment and an increase in the use of deferred prosecution agreements prior to formal court filing;
  - b. Development in 2015 of a partnership with the City of Madison and others to direct referrals of youth in contact with law enforcement to municipal court and other restorative justice programs vs. formal arrest and referral to formal juvenile court processing;
  - c. On-going evolution of a variety of alternative early intervention and supervision initiatives to reduce the number of youth in out of home placement;
  - d. Implementation of the Children Come First initiative to provide wraparound case management and services to youth with mental health issues, significantly reducing the need for confinement and out-of-home placement;
  - e. Development of the Neighborhood Intervention Program (N.I.P.) in 1988 to focus greater efforts on reducing the disproportionate contact, confinement, and out-of-home placement of youth of color.
  - f. Leadership in development of a coordinated effort to reduce disproportionate minority contact across the juvenile system, beginning in the early 2000's and continuing through the current time; that planning has led to some of the changes that have been already implemented as well as identifying additional disparity reduction opportunities;
  - g. Maintaining a variety of treatment, therapeutic, and other community-based programs to create a continuum of dispositional options short of confinement in a secure facility.

As a result of these efforts, Dane County continues to experience a remarkably low number of youth held in temporary secure custody (in the detention center) and a substantially decreasing number of youth in secure correctional care. However, concerns about the disparity of youth arrested, referred for intake (custody and case intake), and confined clearly suggest that continued attention to reducing disparity should be a high priority for the juvenile system.

## Limitations and Next Steps

### Data

As referenced elsewhere, the ready availability of data to evaluate the need and/or impact of various diversion efforts is a challenge. Additional data is needed even to evaluate the viability and impact of a number of the recommendations contained in this report. Fundamental questions about some of the recommendations remain related to a reliable estimate of the number of individuals that could be deferred through various means.

An example of this is in the area of how many individuals held on warrants for an initial appearance could be diverted through various means. Many of these are individuals who have missed court, have an alleged offense that suggests the need for confinement, and/or for which there is a safety concern related to confinement or not. There is no real capacity, authority, or process in the adult system to screen law enforcement referrals and make a more independent decision related to custody. What would happen, what would the numbers be if there were some form of screening available (akin to the intake function in the juvenile system) with the relatively independent authority to hold or release individuals referred for booking as the result of a warrant (as opposed to referred at the time of arrest)? How many more individuals would be held, and for how long? Would implementing such a change have any significant impact on the population of inmates in jail?

### Dialogue

A number of the recommendations made by the workgroup should be taken as only at the beginning, and in some cases, the theoretical level. While all of them represent the group's opinion about a process or program option that could divert individuals from confinement and/or the formal court system, the actual implementation of the idea is where the rubber meets the road, and successful implementation will take the buy in and continued collaborative work of many of the decision-makers (identified earlier as cornerstone entities) and program staff that are much more familiar with the intimate details of potential implementation (including for example funding, integration with or realignment with existing services, implications for other services/programs, etc.).

A good example is the sense of the group that there is potential for greater diversion in the expansion of the capacity of the Community Restorative Court program, with that potential coming both from the scope of offenses referred and developing additional referral processes that could divert cases from circuit court. However, to make that work there will need to be the buy in of key actors, including law enforcement, judges, the district attorney, and others. Each of these actors have different perspectives, different responsibilities, and different accountability factors that impact their current or future efforts to support diversion, and no

one actor may be able or willing to stand alone in pushing forward potentially complicated and/or controversial programs without the support of others across the process.

### Decision-Making

Following the discussion on dialogue, it is important to recognize that there are a number of key decision-makers involved in the process, each of whom are elected officials and bear the ultimate responsibility for the impacts/outcomes of the variety of programmatic decisions they make. Likewise, the Public Protection & Judiciary and the Health and Human Needs committees include elected decision-makers that play a significant role in both the programmatic and fiscal aspects of the system. Mixed into this are circuit court judges that play a critical role in the process and play a significant role in potential system reforms.

This suggests that some form of coordinated decision-making and planning process needs to be in place that brings all key decision-makers together, and a logical structure for that is the Criminal Justice Council, particularly if there is a way to include an on-going focus on diversion as part of their charge. With that in mind the Diversions Workgroup urges the Criminal Justice Council (CJC) to consider expanding the scope of its CJC Pretrial Subcommittee to broadly include diversion and support programs as explored by the Diversion Workgroup and others.

## Appendices

**Appendix I** – list off programs/services identified that are working with offenders in lieu of placement in confinement and/or to support successful release from and avoid reentry to confinement. Most of these programs responded to the “diversion survey”/some did not.

### Adult

Journey Mental Health - Emergency Services Unit  
Community Restorative Court  
MPD Mental Health Liaison Team/ Municipal Citations  
Municipal Homeless Court  
Emergency Detentions  
Alternatives to Incarceration Program (ATIP)  
Bail Monitoring  
Drug Court Diversion Program  
Huber Center (non-secure)  
Madison Urban Ministry (MUM) - Just Bakery  
Food Share Employment/Training Program  
Methadone Programs  
Bail Monitoring  
Differed Prosecution Unit (DPU)  
Chapter 51  
Critical Benefit Enrollment  
Department of Labor (DOL) - Windows to Work - foodshare employment/ training program  
DSCO Volunteer Program  
Methadone Programs  
New Beginnings  
Man Up  
MATC Adult Ed  
Critical Benefit Enrollment  
Nehemiah - Man Up  
Critical Benefit Enrollment  
Child First (Child Support Program)  
Department of Corrections - Variety of programs  
DOL-Windows to Work  
Vitriol Opiate Program  
Food Share Employment/Training Program  
Re-entry Specialist  
Huber Counselors  
Methadone Programs  
Residential Assessment Clinic  
Comprehensive Community Services (CCS)  
New Beginnings (DCSO)  
Driver's License Recovery

First Offender/Deferred Prosecution  
Opiate Program  
Veterans Court  
Drug Court Treatment Program  
OWI Court  
Hope Haven - Rehab United- Pathfinders  
Journey Mental Health - Community Treatment Alternatives  
Urban League - ADVANCE Employment Services  
DCSO - Custody Alternatives Program  
Fatherhood Program  
Foundation Work Readiness Program  
MUM - Circles of Support MUM - Journey Home MUM - Just Bakery

## **Juvenile**

Journey Mental Health - Emergency Services Unit  
Juvenile Reception Center (J.R.C.) - Custody Intake  
N.I.P. and Briarpatch Intensive Supervision  
Electronic Monitoring  
Children Come First - wraparound case management & support services  
YWCA Timebank/Briarpatch RJ Program(s)  
Shelter Home (non-secure)  
N.I.P Weekend Services  
Various mental health, family, and other treatment services  
Municipal Citations  
Home Detention Program  
WFT and Parent Support Specialist  
Municipal Truancy Court  
Court Diversion Unit (CDU)  
Post re-unification Support  
Teen Courts Post and Pre-charge  
SOPORT  
Chapter 51  
Municipal Court Services  
Neighborhood Intervention Program (N.I.P) Weekend Report Center  
MMSD Youth Ed  
Comprehensive Community Services (CCS)  
Emergency Detentions  
Critical Benefit Enrollment  
Wisconsin Family Ties (WFT)

## Appendix II

### Dane County Sheriff's Office Volunteer Services Program

## 2015 Annual Report

#### **Daily/Regular Volunteer Sites:**

River Food Pantry 21,820 volunteer hours  
Second Harvest Food Bank 16,892 volunteer hours  
Olbrich Botanical Gardens 3,596 volunteer hours  
Bayview Apartments 4,564 volunteer hours

**Special Projects/Short Term Volunteer Sites:** 3,838 volunteer hours

**Total Hours for 2015 50,710 volunteer hours**

#### **Sentence Reduction:**

Number of Days Worked off Inmate's Sentences: 3,985 total days for 2015  
Average Number of Days Worked Off per Week: 77 days per week

#### **Volunteer Applications:**

Total applications that were screened & dealt with: 708 applications  
Number of Inmates not approved to volunteer: 421 inmates  
(did not fit volunteer criteria)  
Number of Inmates approved & did NOT volunteer: 68 inmates  
(Went out on Div., no longer interested in volunteering)

**Number of Inmates approved and did volunteer: 219 inmates**

#### **Employment:**

Due to the experience and work skills inmates learned as volunteers, **7 inmates were hired** as paid employees, at volunteer sites in 2015.

#### **Recommendations to the Huber Program:**

Directed two inmates to take the Accu Placer test. Suggested one inmate apply for construction job and was hired.

#### **Significant Changes to the Volunteer Program in 2015:**

The DCSO Dog Program was started in February 2015. During the calendar year, 6 adult dogs and 4 puppies lived and were trained by inmates in B wing.  
Worked closely with Badger Kennel Club with the training of the jail dogs.

#### **New Volunteer Sites Added:**

Several new non-profits inquired about getting inmate volunteers to help with special projects, but we did not have enough volunteers to fill those requests.  
Several former volunteer sites inquired about getting inmate volunteers, but we could not fill their requests.

**New Projects Worked on During 2015:**

Implemented revised Inmate Volunteer Contracts

Developed contracts for inmates living in the dog wing

Developed contracts for inmates walking and training the dogs

Developed a survey for inmates living in the dog wing.

Organized the outdoor fence project

Gave a presentation of the Dog Program to Badger Kennel Club

Meet and screen potential dog adopters

## Appendix III

Examples of Program data/individuals referred and served (source: Survey Data). This is self-reported, unaudited information to provide a sense of the scope and number served.

|                                                                                          | CY 2015         |                 |
|------------------------------------------------------------------------------------------|-----------------|-----------------|
|                                                                                          | Referred        | Enrolled        |
| <b>Adult Diversion Programs</b>                                                          |                 |                 |
| Children First                                                                           | 279.00          | 279.00          |
| Journey Mental Healthy - Community Treatment Alternatives                                |                 | 86.00           |
| Clerk of Courts - Alternatives to Incarceration (Bail Monitoring)                        | 517.00          | 456.00          |
| District Attorney - Deferred Prosecution Program (DPP) (in program up to 18 months)      |                 |                 |
| 1)DPP-General 2)DPP Opiate Diversion 3)DPP-Child Abuse Initiative                        | 650.00          | 568.00          |
| Dane County DHS - Community Restorative Court                                            | 13.00           | 13.00**         |
| ARC - Maternal and Infant Program                                                        | 6.00            | 6.00            |
| <b>TOTAL</b>                                                                             | <b>1,462.00</b> | <b>1,416.00</b> |
| <b>Adult Support and Reentry Programs</b>                                                |                 |                 |
| YWCA Driver's License Recovery Program                                                   | 298.00          | 182.00          |
| Nehemiah Reentry Services                                                                |                 | 280.00          |
| FoodShare Employment & Training (FSET) - General (available to many leaving confinement) | 5,000.00        | 900.00          |
| Windows to Work                                                                          | 30.00           | 30.00           |
| Journey Mental Health - Jail TEAM                                                        | 60.00           | 28.00           |
| Journey Mental Health - Opiate Recovery Project                                          | 73.00           | 70.00           |
| Comprehensive Community Services<br>(Note: program began mid-2015)                       | 179.00          | 79.00           |
| Urban League - Support & Development of Fathers                                          | 35.00           | 35.00           |
| Hoover Family Foundation - Benefits Application Program                                  | 200.00          | 200.00          |

|                                                               |                 |                 |
|---------------------------------------------------------------|-----------------|-----------------|
| MUM - Just Bakery (96 max/year)                               | 80.00           | 80.00           |
| MUM - Journey Home                                            | 300.00          | 300.00          |
| MUM - Circles of Support                                      | 57.00           | 57.00           |
| Journey Mental Health - Emergency Services Hospital Diversion | 1,356.00        | 1,356.00        |
| <b>TOTAL</b>                                                  | <b>7,668.00</b> | <b>3,597.00</b> |

\* Note: that FSET is used by many individuals not involved with the justice system

\*\* Note: The CRC 2015 data reflects initial pilot phase data from late summer 2015-Dec 31, 2015

## Appendix IV – Survey Questions

- a. Agency/department name
- b. Program name
- c. Adult or Juvenile
- d. Point of diversion – Refer to description of “diversion points” in the instructions and select one or more points in the process in which individuals may be referred to/engaged in your program/services.
- e. Primary address of program services
- f. City
- g. Zip code
- h. Referral source (what agencies/organizations refer individuals for your program)?
- i. What % of your participants are confined/not confined prior to diversion in your program?
- j. Approximate program budget in 2015 including administration allocations or other costs shared with other programs in your agency/organization.
- k. Total number of individuals referred in 2015
- l. To your knowledge, is some sort of objective assessment instrument (risk assessment, other screening tool) used to determine whether or not individuals are referred to your program?
- m. Approximately what % of individuals referred are: (race/ethnicity)
- n. Percentage of referred individuals who are: (race/ethnicity)
- o. Gender
- p. Who (by position or organization) makes decisions about who to refer to your program?
- q. Total number of participants enrolled/accepted:
- r. Who (by position) decides whether to accept/not accept a referred individual?
- s. Approximately what % of individuals referred are: (by race/ethnicity)
- t. Percentage of participants who are: (race./ethnicity)
- u. Gender
- v. What is the approximate average length in days a participant is in the program assuming the program is "completed"/individual meets expectations?

- w. What is an approximate range, in number of days, a participant in the program is involved assuming the program is completed/individual meets expectations? (\_\_\_\_ to \_\_\_\_ format)
- x. Approximately what % of individuals enrolled/accepted complete the program?
- y. Average daily number of participants:
- z. What is the capacity limit?
- aa. Program participants in \_\_\_\_ during program participation (please fill in the blank)
- bb. Are there minimum criteria the individual has to meet to be enrolled/accepted in your program/service?
- cc. Describe/list any basic/minimum criteria for involvement in your program/service
- dd. Total number referred but not accepted for your program in 2015:
- ee. What are the most common reasons for not accepting someone referred?
- ff. If you had more staff/resources, could you serve more participants (basically there are individuals who would be eligible for your program/services but you can only serve so many)?
- gg. What would you need to serve more participants? (more staff? changes in process? change in criteria?)
- hh. Related to racial/ethnic equity, is the number/percent of non-white individuals accepted for services about the same, lower, or higher than the number/percent referred?
- ii. If the number/percent of non-white individuals referred and accepted is lower, how could you increase racial and gender equity in your program?
- jj. What are barriers/challenges to increasing racial/ethnic equity and access for the diversion/support program? (Could include individual factors, lack of certain types of services, or other challenges to increasing diversion equitably)
- kk. Total number of participants completing/complying with the program over the past year:
- ll. Percentage of participants who completed who are: (race/ethnicity)
- mm. Gender
- nn. Do you have specific measurable outcomes that you track to determine if an individual successfully completes your program?
- oo. List the outcomes you use to measure whether an individual is "successful"

- pp. If you do not have specific measures, how would you define "successfully complete"?
- qq. What do you think are barriers to successful completion? Or common reasons individuals are not successful? (if none or not applicable please indicate that)
- rr. Do you track/gather longer-term outcomes post program involvement/completion? (e.g. 6 months post program? 12 months?)
- ss. What longer-term outcomes do you measure/track/collect?
- tt. If applicable, briefly describe what steps you take to help ensure an individual leaving your program continues to be successful:
- uu. List important services and/or supports that don't now exist that would help promote and sustain longer term success for individuals after they leave your program
- vv. Percent of program staff providing direct service to individuals/participants who are (exclude personnel that are primarily executive and/or administrative in nature):
- ww. Gender of staff - Percent of program staff providing direct service to individuals/participants who are (exclude personnel that are primarily executive and/or administrative in nature)
- xx. What are some of the additional services/supports (beyond those provided specifically by your program) that participants make use of:
- yy. How would you describe your program/services as it relates to working with an individual's family/significant others?
- zz. Are there frequently family issues/challenges that negatively impact the outcomes for individuals in your program?
- aaa. What are examples of family-related issues that can reduce the likelihood of program success?
- bbb. Open for comments - Understanding the purpose of the workgroup, do you have any additional comments/insights into how we can increase the use of diversion programs for individuals?