2014 RES-556

INVESTIGATING SOLUTIONS TO RACIAL DISPARITIES

AND MENTAL HEALTH CHALLENGES IN THE DANE COUNTY JAIL

AND THROUGHOUT DANE COUNTY’S CRIMINAL JUSTICE SYSTEM

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

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

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

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

**Background:**

The lack of availability of reliable information regarding who is in the criminal justice system and why continues to be a challenge in Dane County. Current and accurate measurement of criminal justice data is integral to system reform and measuring success. While broad statistics help to draw attention to problems, system change must be accompanied by better, more precise and detailed data as to the jail population, improving integration of information with state data systems, and increasing capacity for statistical analysis.

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

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

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

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

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

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

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

As highlighted by the Race to Equity Report, racial disparities between black people and white people in Dane County are some of the highest in the nation. The data indicates that the Dane County criminal justice system is not working fairly for all community members. Addressing these issues will have a direct impact on the challenges of jail space needs.

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

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

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

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

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

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

 **Length of Stay**

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

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

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

**Alternatives to Incarceration:**

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

**Current Jail Safety Issues:**

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

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

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

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

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

1c. Eliminating or greatly reducing the use of solitary confinement. This includes but is not limited to: creating mental health beds, medical and special needs beds; any other space options that provide for those incarcerated with medical and mental health needs. Additionally, this shall include investigating the impact of solitary confinement in any form on incarcerated people whether it is used due to space needs or as a tool for changing behavior. This includes but is not limited to: the long-term outcome of solitary confinement in behavior management; the effects of solitary confinement on recidivism; alternative tools to solitary confinement to address various situations that keep the safety of the inmate, deputy and larger jail community in mind.

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

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

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

3. Locating all current Dane County alternatives to incarceration programs within one or more “one-stop shopping” facilities, with a priority of addressing racial disparities in incarceration and racially equitable access to participating in jail alternative programs. This includes but is not limited to: allowing for a continuum of services for individuals needing more or less support; creating Day Reporting Centers as part of these facilities; creating restorative justice programs for all individuals charged with non-felony crimes or who would otherwise qualify for minimum-security placement or work-study release. There also must be an investigation of what policies could be implemented to encourage police and law enforcement to send and/or refer people directly to services and programs in these facilities instead of committing people into jail, whether referring people to services reduces recidivism more than jail, and what services, especially African-American and community-of-color led services, already exist (or could be created given a critical mass of future referrals) that could be housed in such facilities. This investigation shall include options for both adults and juveniles.

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

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

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

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

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

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

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

1. the first meeting will include: understanding of the current issue and practices, idea sharing and national best practices.
2. the second meeting shall determine obstacles to success,
3. the third meeting will consider short term recommendations,
4. the fourth meeting will review long term solutions,
5. the fifth meeting will finalize recommendations to assist the Dane County Board prioritize approaches for these critical issues.

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

1. Mead and Hunt shall complete a detailed analysis of the existing physical plant of the CCB Jail focusing on life safety implications, electronic systems, and physical plant security that exposes the County to vulnerabilities associated with emergency and life safety issues.

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

1. With consideration of all input from the work groups, Mead and Hunt shall identify and propose alternatives for eliminating or greatly reducing the use of solitary confinement, which may include creating specialized beds such mental health beds, medical beds, and restrictive housing beds; and establishing supportive jail-based treatments and interventions. Additionally, with consideration of all input from the work groups, Mead and Hunt shall summarize the prevailing research as it relates to the impact of solitary confinement for those with mental health issues or as a tool for changing or managing behavior, and on recidivism; and alternatives to solitary confinement that encompass safeguards for inmates, staff, and the larger community.
2. Mead and Hunt shall propose a long-term solution for the consolidation of functions and operations at the PSB site, as detailed in the Needs Assessment and Master Plan. This long-term solution shall be developed as an incremental phased approach to allow the County to implement the program as growth and funding allows.

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

1. The functional capacity of the Public Safety Building (PSB);
2. Utilization of the PSB for medical, mental health and specialized housing and/or services;
3. Care and custody of youthful offenders in compliance with the Prison Rape Elimination Act (PREA) Standards;
4. Programmatic use of the PSB; and
5. Discontinuing use of the Ferris Center.
6. Mead and Hunt shall meet with each of the three workgroups: 1. Mental Health, Solitary Confinement, and Incarceration; 2. Length of Stay and 3. Alternatives to Incarceration, to provide input and address questions regarding housing and program-related space issues. Mead and Hunt shall attend the first meeting of each group as well as the last meeting of each work group in person, and shall further attend the meetings via telephone when the work groups address short term and long term recommendations.

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

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

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

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