

## Reports Commissioned by Criminal Justice Council 2019 to 2021 from JFA Institute

1. [Review of Consolidated Jail Plan for Dane County](#) by JFA Institute (October 2021)

### Summary Recommendations

If one assumes that the primary purpose of the JCP is to close the dysfunctional and CCB and stay within the \$148 million allocated for such a purpose the following recommendations are made:

1. Adopt Option #2 which eliminates the unnecessary PSB renovation plans to create infirmary, upgraded and expanded basement kitchen and related support functions.
2. Redesign the proposed Tower facility to include new medical clinic, acute/step-down mental health units, and houses medium and maximum security residents now residing in the CCB.
3. Implement population control measures to ensure the population remains below 716 which would include:
  - a. Increasing the number of Huber Sentenced Residents on EM;
  - b. Removing all Youthful Residents under age 17 and House them in the Empty Juvenile Detention unit;
  - c. Terminating/reducing Federal Contract for Housing Federal Transit Residents;
  - d. Implementing Weekend Initial Appearance Court ;
  - e. Creating a Jail Population Review Panel for Detainees in Custody for more Than 120 days; and,
  - f. Funding the Crisis Stabilization Center with surpluses from the \$148 million JCP construction costs.
4. Regardless of which option is adopted by the County, it should recalculate bed need using a 15% peaking/classification factor and not the 20% rate.

2. [Dane County Jail Race and Ethnicity Disparity Analysis by JFA Institute \(April 2021\)](#)

### Summary

The major source for the disparity in the jail population occurs at the point of arrest. As shown earlier, this level of disparity persists at arrest even when one controls for the type of crime. This finding is consistent with other studies of racial and ethnic disparities within the juvenile and adult criminal justice system.<sup>3</sup> These studies have shown that defendant behavior and police bias are the two primary sources of such disparity.

However, it is also true that a longer length of stay for Blacks and Hispanics, especially for violent crimes, further contributes to the racial and ethnic disparities in the jail population. This disparity persists when controlling for the type of crime for which the person is charged and/or convicted.

The detailed qualitative study of a random sample of police encounters with its residents found little evidence of systemic racial bias in the how police use their discretion to arrest or not, and,

what crime(s) to charge the defendant(s) with. This finding is consistent with prior studies that concluded much of the racial disparity at the point of arrest is explained by differential criminal behavior participation rates which are more strongly associated with SES (social economic status) status and not race.<sup>4</sup> A limitation of this study was that it did not study bias in traffic stops, which other studies have found to be racially biased.<sup>5</sup>

### [3. Analysis of the Dane County Jail Population by the JFA Institute \(August 2019\)](#)

#### **Major Findings**

1. The incarceration rates for Dane County are well below the national rates whether based on its population, crime rate or number of adults arrested.
2. The number of jail admissions and the average length of stay (LOS) has been relatively stable since 2010 as has the overall jail population.
3. Although the size of the county's population is projected to increase by about 14%, the size of the male population with the highest risk of being arrested and incarcerated is not projected to grow by more than 3-4 percent.
4. The vast majority of the current jail population are people who have been sentenced or are in pretrial status with a hold/warrant that is restricting their release from custody.
5. There are over 12,000 admissions and releases from the jail with an overall LOS of 24 days. However, the vast majority of jail admissions are released within a few days, are mostly charged for a misdemeanor level crime and who post a bond or are released on their own recognizance.
6. The two largest drivers of the jail population are people who have been sentenced to the jail (after a period of pretrial detention) and people being transferred to other correctional systems including people sentenced to state prison or probation violators.
7. The most effective way to further reduce the Dane County jail population would require changes in criminal court processing for people in these two release categories (sentenced and transferred out to) which would not change the ultimate court disposition but would moderately reduce their LOS by an average of 7-14 days
8. Further reforms would take the form of reducing sentence lengths for people sentenced to the jail. Here again modest reductions in sentence lengths (30 to 60 days) which are at the discretion of the circuit courts would have a significant impact on the jail population.
9. Both expediting case processing of felony cases who are in pretrial status and moderately reducing the sentence lengths by 30 days that are typically in the 90 -180 range would reduce the current jail population by at least 20%.

The next steps for the County to undertake would be to further discuss and examine these findings and recommendations. A strategic plan for modifying current criminal justice policies with a specific focus on court processing policies that would reduce jail admissions and LOS, a revised jail population projection should then be developed. Based on that plan estimates can be developed to assess impact of such reforms on the current jail population and the associated cost savings.

## **Additional Research Reports Listed on CJC website:**

### **1. [Dane County Crisis Triage Center Implementation Report by RI, International \(October 2021\)](#)**

RI International (RI) was awarded a contract with the Dane County Department of Human Services (DHS) on June 18, 2021. Under the Scope of Work of that contract, RI was tasked with providing consultation, assessment, analysis, and recommendations to develop a plan for the implementation of a Dane County

Triage and Restoration Center that would address the following:

- The capacity to serve as a jail diversion by accepting and safely managing all referrals by law enforcement for individuals who are believed to have urgent mental health or substance use issues;
- The capacity to assess and address the immediate behavioral health need(s) of the individuals referred, provide stabilization, and link the individual with on-going services and supports;
- The capacity to admit individuals on a voluntary or involuntary basis for a time period as determined by medical or health professionals;
- The capacity to serve as a resource for individuals and families seeking assistance in dealing with behavioral health issues; and
- The capacity to address the disparate impact of the criminal justice system on those who are members of our Black, Indigenous, and People of Color (BIPOC) communities

### **2. [Community Justice Center Initiative - Final Needs Assessment Report \(Full Report\) by Center for Court Innovation \(September 2021\)](#)**

After conducting and assessing stakeholder interviews, pre-engagement reports, responses from community feedback events, available data, and prior reports and data findings, several key themes arose around the creation of a community justice center initiative. Priority action steps were then developed around each of those primary themes. The priority action steps the CJC and County Board of Supervisors should take in creation of a community justice center initiative are reflected below:

### **3. [Community Justice Center Facilitated Conversations \(February 2021\)](#)**

Dane County retained seven community organizations to complete facilitated conversations with their clients and partners, which allowed for candid responses and better engagement. This was a first step to inform the needs assessment and planning process for a community justice center. As this process unfolds, the consultant completing the needs assessment will continue critical community conversations and engagement. Dane County partnered with the following organizations:

- Centro Hispano of Dane County

- Charles Hamilton Houston Institute
- Families Back to the Table
- JustDane
- Nehemiah
- The Hmong Institute
- Urban Triage

4. [Identifying New Opportunities for Deflection and Diversion Programs Targeted at Non-Violent, Misdemeanor-level Offenses by January Advisors \(January 2020\)](#)

**Summary of Recommendations**

This section contains a summary of the findings in this report, and associated recommendations.

Actions:

- Investigate the potential for deflecting more Disorderly Conduct cases prior to arrest:
  - Refer more Disorderly Conduct cases to municipal court.<sup>44</sup> While this is already common practice among law enforcement, there were 364 bookings for Disorderly Conduct with no enhancer and no associated charges. We recommend at least two research areas:
    - Research the feasibility of increasing municipal court referrals by identifying the circumstances of cases currently referred to municipal court, and collaborating with law enforcement to test and implement a program.
    - Research why older people are more likely to get referred to municipal court.
  - Release with citation in lieu of arrest. Citations take less time to process, and law enforcement keeps discretion.<sup>45</sup>
- Work to reduce misdemeanor probation violation with no associated offenses. There were 926 people who went to jail because of misdemeanor probation violations and no other co-occurring offenses. A potential reduction strategy involves the early discharge of probation for misdemeanor offenses.<sup>46</sup>
- Work with the Wisconsin DOC to reduce the number of arrests and incarcerations for Probation Holds with no major co-occurring offenses. This includes encouraging the DOC to report outcomes of Probation Hold arrests and incarcerations to better understand the cycle of interactions with the criminal justice system.<sup>47</sup>
- Research programs like the Community Restorative Court that can accept people who are over 25. The current age limit of 25 covers 1,009 additional people who could potentially be diverted to the CRC. If there were a program with an age limit of 35, the number of eligible people would increase by an additional 953 people. If there were no age limit were eliminated, it would include an additional 1,949 people.

5. [Dane County Behavioral Health Needs Assessment by the Public Consulting Group, Inc. \(October 2019\)](#)

**Our recommendations are as follows:**

1. Maximize capacity through better facility and provider coordination: Capacity analysis shows that some facilities are overutilized, while others are underutilized. PCG recommends conducting a root cause analysis to determine reasons underpinning lack of utilization for certain providers. After the root cause analysis, PCG recommends Dane County collaborates with Medicaid and commercial payers to centralize resource information and educate advocates, clients, and providers about all care options with the goal of using existing capacity more effectively;
2. Establish formal partnerships between providers and facilities: Formal relationships can ease the administrative burden of finding placements for individuals in need of various levels of care. Ensuring that providers and facilities have formal connections with partners across the continuum of care can also help reduce facility capacity issues;
3. Develop additional services to reduce gaps in crisis care: One notable gap within the continuum of care is the absence of 23-hour observation beds. These extended observation beds help reduce emergency room and inpatient care for behavioral health crises. Currently, crises that occur after hours in Dane County are largely managed by hospital Emergency Departments;
4. Improve access to care for underserved populations: PCG recommends that Dane County work with community organizations to create and implement a strategic plan to improve access to underserved populations. This should include identifying key resources, metrics, and outreach/inreach strategies to effectively engage individuals in need and meet people where they are in their communities;
5. Increase diversion options: In Dane County, there are several diversion programs available across the behavioral health and criminal justice system intercepts, however few specifically focus on mental health. PCG recommends developing diversion models that are specifically focused on mental health and/or co-occurring disorders to include both a pre-arrest and post-arrest option;
6. Extend crisis response to rural areas: The Madison Police Department is a national example for law enforcement response to mental health crisis. However, the same practices are not duplicated across the county, specifically in rural areas. Outside of the Madison Police Department, only the Dane County Sheriff's Office has a dedicated crisis worker, and that position is only half filled; and,

7. Create infrastructure for cross-sector, data-driven decision making: The current Memorandum of Understanding (MOU) Coordinated by the Criminal Justice Council (CJC) in Dane County does not include behavioral health providers. Dane County could benefit from including behavioral health providers as part of this MOU, specifically to better track frequent users of the criminal justice system who also have a mental health disorder.