Dane County is committed to addressing two critical issues which afflict the county’s criminal justice 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).

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

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 arrest and incarceration. Additionally, Dane County must address the immediate health and safety issues within the City-County Building Jail.

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

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 all individuals and 66% of all Black 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, are often placed 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 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 to eliminate this practice through more appropriate housing options.

**Length of Stay**

According to national research, length of stay negatively affects recidivism for people who have a low and medium risk of reoffending. The collateral consequences experienced by individuals, families, and communities caused by length of time spent in jail may further overall inequities in Dane County. Consequences include accused individuals, especially the poor and people of
color, pleading guilty to get out of jail for economic and family reasons, rather than based upon innocence or guilt of the alleged offenses.

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 justice 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 Arrest and Incarceration:

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

NOW, THEREFORE, BE IT RESOLVED, that because of these and other systemic issues, Dane County is committed to a comprehensive reform of the Dane County criminal justice system. This reform will be influenced by a set of Guiding Principles. The Dane County Board
will measure its actions against these principles and will encourage its partners in the Dane County criminal justice system to do the same. The Guiding Principles are:

1. Racial equity will be achieved across the entire criminal justice system.
2. The criminal justice system will be guided by the use of publicly available data and information for understanding what is happening, for accountability, and for measuring outcomes.
3. Solitary confinement will be eliminated or greatly reduced.
4. Arrests and incarceration will be reduced by having a coordinated system of community treatment for substance abuse, mental health treatment and for people with developmental disabilities.
5. The number of arrests will be reduced along with people initially apprehended by police, but diverted prior to booking.
6. Efforts will be made within the criminal justice system to reduce sentences in ways that do not compromise public safety, but which emphasize rehabilitation, reduce incarceration and include wide ranging systemic reforms such as access to drug treatment, training, and employment to support personal accountability.
7. Dane County will provide resources to those incarcerated to reduce recidivism.
8. The criminal justice system, including the Dane County Jail, will not be used to generate excess revenue source.
9. People charged with crimes or sentenced will be placed in the least restrictive setting possible, while still ensuring reasonable public safety and justice for victims.
10. People leaving jail have supports so that they can change their lives in positive directions.
11. Increased resources will be sought by maximizing state and federal funding sources and leveraging private insurance.
12. Dane County will build off of its own successful efforts at improving the criminal justice system and will seek out the best evidence-based practices from around the country.
13. Dane County will identify and encourage the implementation of immediate actions that can be taken as well as long-term solutions.
14. Dane County shall have a safe and secure environment for those incarcerated

NOW BE IT RESOLVED, to address the challenges outlined above, recognize the value of public participation, and respect the community response, the Dane County Board will engage the public to identify next steps by establishing three work groups of the Public Protection and Judiciary Committee. These workgroups shall produce the following:

1) A prioritized list of recommended changes based on previous consultants’ recommendations and from successful models implemented elsewhere;
2) Measurable outcomes/benchmarks and parties responsible for high priority recommendations; and
3) Tangible implementation steps, benchmarks and timelines for high priority recommendations.

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

BE IT FURTHER 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:

1(a). 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.

1(b). One or more stand-alone community-based facilities, potentially based on a crisis intervention or restoration center model, 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. Recommendations should reflect existing mental health and substance abuse diversion resources and needs in Dane County as well as identified gaps in our community-based mental health and substance abuse services systems. 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.

1(c). Eliminating or greatly reducing the use of solitary confinement. This includes but is not limited to: policy and practice changes recommended by workgroups, particularly
around addressing racial disparities in solitary confinement; creating mental health, medical, special needs or other space options that provide for those incarcerated with medical and mental health needs; and creating strategies to eliminate de facto solitary confinement conditions when there are low numbers of incarcerated youth. Additionally, this shall include investigating the impact of solitary confinement in any form on incarcerated people, and particularly people with mental illness or people of color, 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 incarcerated people, 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 and racial disparities among 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 post-booking for those incarcerated in Dane County Jail, with the goal of diverting people from incarceration. This includes but is not limited to: weekend arraignment court, signature bonds, deferred prosecution, full-scale pre-trial services program, policies relating to probation and parole holds, alternative to bail programs, expanding the current Bail Monitoring Program, and expanding home detention (electronic monitoring) as allowed by state statute to people who do not qualify for other pre-trial jail diversion programs.

Additionally, the work group shall recommend changes in policies and procedures to reduce racial disparities in participation in bail monitoring, home detention, and work/study release (Huber) programs. The work group shall also investigate what can be done to expedite the release of people alleged to have violated state Department of Corrections community supervision (probation, extended supervision, parole). All recommendations will focus on improving racial equity and equitable access for those unable to pay fees.
BE IT FURTHER RESOLVED that the Dane County Board of Supervisors establish a third work group, the Alternatives to Arrest and Incarceration Work Group, to advise the Public Protection and Judiciary Committee to address alternatives to arrest and incarceration, prior to being booked, 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. Diverting incarcerated people from incarceration by seeking options outside of the traditional justice system. Recommendations should be based on a review of existing diversion policies, prior recommendations, and current resources, particularly for African-American and community-of-color led services. Areas for review include but are not limited to: community restorative courts, restorative justice practices, allowing for a continuum of services for individuals needing more or less support; creating Day Reporting Centers as part of these facilities; prioritizing diversion of youthful offenders; 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, and co-locating alternatives to incarceration programs within one or more “one-stop shopping” facilities. 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 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, and people with mental illness due to their large disproportionate numbers in the criminal justice system. This includes increasing racial
equity in access and participation as well as reducing racial disparities in services and programs outlined in this resolution.

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

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 include in its recommendations methods for improving baseline statistical information and evaluation of any system change by developing better, more precise and detailed data as to the jail population, which shall:

1) Include the race and ethnicity of people involved in Dane County’s criminal justice system, and to the extent possible aggregate health information, including mental illness;
2) Recognizing that County data must be created and collected, improve integration with state data systems, including a data dashboard with customizable reports;
3) Increase capacity for statistical analysis; and
4) Make easily available to the public any data used to produce statistics or analysis that inform decisions in Dane County’s criminal justice system.

BE IT FURTHER RESOLVED that any funding needed to further study these issues beyond the work groups 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 capital 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 recommendations for
tangible next steps to the Public Protection and Judiciary Committee and to the Criminal Justice
Council by September 30, 2015, and shall then be dissolved. Members of the committee are
requested to be available for consultation during the 2016 budget process. These
recommendations shall be the foundation of 2016, 2017 and future operating budget proposals
to improve services and programs in the criminal justice system and in the community, especially the African American community.

1) Improve services and programs in the criminal justice system and in the community,
especially the African American community and people with mental illness;
2) Reduce incarceration;
3) Reduce racial disparities in Dane County’s criminal justice system; and
4) Divert people with mental health needs.

BE IT FURTHER RESOLVED each of the work groups shall make recommendations to the
extent possible that reduce the local tax burden and increase resources by systematically using
available state and federal funding sources including:

1) Estimating how referrals directly to Medicaid certified providers for Medicaid recipients
could save County dollars;
2) Estimating how FoodShare Employment and Training dollars could be used to expand
Drug Court and other diversion programs;
3) Developing strategies to ensure that people flowing through the jail and the criminal
justice system have the opportunity to get assistance to help apply for BadgerCare,
FoodShare and other programs as necessary.

BE IT FURTHER RESOLVED that the Dane County Board of Supervisors authorizes per diem
payments for non-supervisor and non-staff members of the work group on the same basis and
under the same polices as other Dane County bodies that receive per diems and mileage.
BE IT FURTHER RESOLVED that the Dane County Board of Supervisors directs the Public Protection and Judiciary Committee and requests the Criminal Justice Council’s Racial Disparities Subcommittee to review work group recommendations, as well as review and report on progress to date, in January and July, 2016.

BE IT FURTHER RESOLVED, that in creating recommendations, the work groups as well as consultants selected shall consider that in passing this resolution the County Board is unequivocally stating its support for eliminating racial disparities, reducing incarceration, reducing the number of jail beds, as well as its opposition to the construction a new standalone jail.

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

BE IT FURTHER RESOLVED, the County 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.

BE IT FURTHER RESOLVED the Sheriff’s office in consultation with Department of Administration shall issue a request for proposals for the following scope of work:

1. **Emergency and Life Safety Issues.** The consultant shall identify emergency and life safety issues in the City-County Building Jail and shall provide recommendations and a work plan to address the identified issues.
   a. The recommendations and work plan shall include the costs and the anticipated longevity of any repairs, staffing and procedural options for life safety mitigations, and whether incarcerated people will need to be temporarily moved out of areas
of the City-County Building Jail in order to effectuate needed repairs and, if so, options for housing incarcerated people.

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

2. Reducing incarceration and integrating workgroup recommendations. Within 90 days of receiving reports of the workgroups, the consultant shall provide recommendations that incorporate predicted jail population reductions due to implementing plans to eliminate racial disparity, and to ensure compliance with the PREA as well as to eliminate or reduce solitary confinement.

   a. **Integrate workgroup recommendation to reduce incarceration and racial disparities.** The consultant shall provide recommendations that incorporate predicted jail population reductions due to implementing plans to significantly reduce or eliminate racial disparities, divert people with mental health needs, and increase diversions and alternatives and community-based treatment.

   b. **Prison Rape Elimination Act.** The consultant shall recommend immediate solutions to bring all jail facilities into compliance with all Prison Rape Elimination Act (PREA) standards

   c. **Solitary Confinement.** The consultant shall develop up to two options to eliminate or greatly reduce the use of solitary confinement.

   d. These recommendations shall provide discrete alternatives that address renovating the City-County Building Jail and the PSB Jail to meet current jail standards, applicable codes as well as health and safety needs. Options should decrease the number of beds at Dane County jail facilities commensurate with estimated reductions in the jail population.

3. **Format and components of recommendations.** Recognizing that the solutions recommended in #2 may need to be addressed independently, the consultant shall include a plan allowing for independently or sequentially addressing issues. The consultant shall include strategies (i.e., physical plant and operational) to optimize
programmatic, treatment, and behavior management resources. As part of #2 solutions, the consultant shall address the following:

a. Incorporation of workgroup recommendations for reductions in jail population due to implementing recommendations that eliminate racial disparities;

b. Compliance with the Prison Rape Elimination Act (PREA) and current applicable state and federal regulations;

c. Appropriate and effective housing for the care and custody of incarcerated people, including; (Such housing is not to increase the functional capacity of the jail, but rather ensure quality of care.)
   i. Develop medical and mental health housing;
   ii. Reduce the use of solitary confinement, by creating specialized beds such as mental health or medial beds/cells or restrictive housing beds that incorporate the recommendations of the workgroup;
   iii. Provide options for supportive jail based treatments and interventions; and
   iv. Incorporate programmatic space for incarcerated people use;

d. Best practices and modern standards for the safety and well-being of jail staff;

The consultant shall deliver information on #1 by December 31, 2015, and the remainder within 90 days of the workgroup’s final recommendations. The consultant will provide operational and space recommendations, an incarcerated people 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 costs.

The consultant shall deliver, by December 31, 2015, operational and space recommendations, an incarcerated people 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.
BE IT FINALLY RESOLVED that, except for the allocation for the consultant described above, no further use of the eight million dollars set aside will be considered without both the outcomes of the above work group recommendations presented and the approval of the Dane County Board of Supervisors, except to address imminent life and safety issues in the current facilities.