



The League of Women Voters of Dane County, Inc.

General Meeting and Public Forum

Topic:
**Increasing Effectiveness
in the
Dane County Justice System**

Speaker:
David Mahoney
Dane County Sheriff

When:
Wednesday, November 4, 2009, 7 p.m.

Where:
The Capitol Lakes Grand Hall
333 West Main Street in Downtown Madison
Free Parking in Ramp Available Across the Street

LWVDC Criminal Justice Study Committee:
Carol Dutton [Convener], Sue Hoffenberg, Kathy Johnson, Pat Kippert, Sue Larson, Diane Martin Liebert

Listing of Study Materials:

- | | |
|---|---|
| ▪ Introduction | 1 |
| ▪ The Path Through the Legal Justice System | 2 |
| ▪ The Jail Population | 2 |
| ▪ Dane County's Information Technology Flow | 2 |
| ▪ Alternatives to Incarceration | 3 |
| ▪ Drug Court Treatment Program (DCTP) | 3 |
| ▪ 10 FAQ About . . . Drug Court | 4 |
| ▪ Electronic Monitoring Program (EMP) | 5 |
| ▪ Bail Monitoring Program (BMP) | 7 |
| ▪ Case Mediation Program | 8 |
| ▪ Relevant Positions of the LWV-Wisconsin | 9 |

Discussion Questions:

- See reverse side of this page



Increasing Effectiveness in the Dane County Justice System

Discussion Questions:

1. What are the alternatives to incarceration in Dane County? Are they effective?
2. Given the number of people with mental health issues in jail, how does the system evaluate them and address their status?
3. What are the barriers to implementing the recommendations in the 2007 Criminal Justice Assessment? Financial? Institutional? Political?
4. What do you think it will take for the public to demand efficiency improvements in the Dane county justice system? What could the League do to support implementation of the report's recommendations?



The League of Women Voters of Dane County, Inc. <http://www.lwvdanecounty.org/>

Increasing Effectiveness in the Dane County Justice System

The following materials, guest speaker Sheriff Mahoney, and discussion questions have been selected to inform us about the current status of the justice system in Dane County and possible improvements for providing services.

The Dane County Board of Supervisors commissioned the Institute for Law and Policy Planning to do a comprehensive criminal justice system assessment, with an emphasis on jail population management review. The County's need was to improve public safety while containing costs. While lauding the highly professional work of the staff in the justice system, the final draft of the report acts as a primer for change that will reduce unnecessary workload, jail bed demand and escalating costs. The report was finalized on September 20, 2007.

For the big picture the researchers found problems with the basic organizational policies and procedures among the various agencies that work within the system: Court, Jail Administration, and District Attorney's Office

Even though this 151-page report assesses the Dane County Judicial System as a whole, our program is focusing on the Sheriff Department/ jail population portion of the system in the Final Report. To read the 151-page report, go to

<http://danedocs.countyofdane.com/webdocs/PDF/coboard/CriminalJusticeAssessment1007.pdf>

The problem areas that the report summarized are:

Technological Communications – See below for an overview of the computer systems. The report recommends that these systems be consolidated to save on the time it takes to duplicate input information such as name, address, charges, etc. For example the DA's office receives paper copies of arrest reports which need to be re-entered into the data system for their use.

Inmate Tracking – See below for an overview of the path of an arrestee. This report suggests an action plan that prevents some arrestees from "falling through the cracks" or spending more time than necessary using up jail cell space.

Facility Issues – Jail does not have separate facilities for special needs group

Work Programs – County should develop in-custody & out-custody work programs to implement a graduated method of moving successful offenders through less restrictive and more effective sanctions

Housing Inmates in Out of County Facilities – At the time this report was published, 100 inmates per day were being housed in other counties at the rate of \$65.00 per inmate per day. Many of these inmates are in the pre-detention category and require special transportation back for court hearings.

[The League of Women Voters of Dane County, Inc. November Study Materials 2009]

State Legislator's lethargy - Even though this report and both the City and County Governments have approved increasing the number of Assistant District Attorneys for Dane County, and the State Legislature Representatives have stated that they are sensitive to the problem, they would prefer to spend State taxpayer money on other issues.

The Path Through the Legal Justice System:

A brief explanation of how a person passes through the system.

- 1) Arrest
- 2) Booking – this is the time when the arrestee is photographed, fingerprinted etc.
- 3) Pretrial detention – waiting period for the initial appearance before a Court Commissioner
- 4) Initial appearance – .Usually bail of some sort is set and a date for a court preliminary hearing is scheduled.
- 5) Preliminary Hearing – Prosecutor presents evidence that a crime has been committed. Normally this is held in front of a Court Commissioner.
- 6) Arraignment – Preliminary plea is entered (guilty, not guilty or no contest) and court date is scheduled
- 7) Pre-trial conference – This is the time that the Judge discusses the facts of the case with all parties, future scheduling and discovery are planned. Discovery is one of the most important parts of the trial as this is when the prosecutor and defense discuss the facts of the case (show and tell time)
- 8) Trial
- 9) Sentencing

NOTE: Once defendant pleads guilty or no contest, defendant's path goes right to sentencing. To remain in the system defendant must plead not guilty.

The Jail Population:

The majority of the jail population consists of persons who are being held on probation violations, who failed to appear on warrants and who are awaiting court appearance for the purpose of disposing of their cases. The most important driver of jail overcrowding and budget needs is the increase in the *average length of stay (ALS)* for Dane County prisoners. Despite a reduction in serious crime, the ALS has continued to grow. And the ALS has grown independently of the rates of population, arrests or bookings. Reducing the case processing times and the length of stay throughout the system and reducing admissions at key justice system decision points would contain staff workload growth.

Dane County's Information Technology Flow:

(NOTE: this report was originally published in 2007. There have probably been some changes to this technology in the past 2 years)

Dane Co Sheriff's Office uses Spillman Technologies software as a Record Management System (RMS) which specializes in all law enforcement and jail related information. The Spillman Technology software does not interface with the information systems used by the State of Wisconsin, or the Madison Police Department.

Madison Police Dept. uses “New World” program which lacks an adequate jail module, but does integrate with TraCS (a software program that keeps track of electronic citations and traffic incidents).

District Attorney Office uses CCAP (Wisconsin Circuit Court Access System) which does not interface with the Spillman system but does interface with PROTECT which is a Crime Management Program (CMS) that is used statewide. However, arrest reports must be data entered into PROTECT.

State of Wisconsin has available: TraCS, PROTECT and CCAP. They also have the Dept of Justice’s access to CIB criminal history file system.

National Criminal Information Service (NCIS) system: The nationwide judicial system – available to all of the agencies.

Alternatives to Incarceration:

Minimum security (non-dangerous) inmates make up 63% of the jail population. Reducing admissions through focused evidence-based screening and pretrial release procedures would result in enormous savings and would increase public safety. Moving half or more of the minimum security inmates out to work crews, electronic supervision and other monitoring would leave empty beds to facilitate flexibility in classification and providing services in jail, while reducing overcrowding and spending and would improve rehabilitation of prisoners.

On July 1, 2009, Clerk of Courts Carlo Esqueda published information about *Alternatives to Incarceration* which included information on three of the topics that this report emphasized: Drug Court Treatment Program (DCTP); Electronic Monitoring Program (EMP) & Bail Monitoring Program (BMP)

Drug Court Treatment Program (DCTP):

Mission

The Dane County Circuit Court recognizes that a majority of crimes committed in Dane County are committed by people with substance abuse problems. We believe that in order to lessen this problem, it is necessary to provide offenders with an opportunity to participate in a program that will provide treatment and intervention to assist them with their substance abuse problems. This program will offer educational and employment linkages so that with these tools, they will possess the ability to become productive members of our community. We believe that such intervention is best achieved when offenders initially enter the criminal justice system.

Eligibility

- Residency in Dane County
- No convictions for violent felony offenses
- No pending violent misdemeanor offenses
- No indication of the presence of a weapon during commission of the present offense
- Must have identifiable treatment needs and willingness to address their substance use/abuse/dependence
- Must be 18 years old within at least 90 days of the referral date.
- Must be willing to comply with program expectations at time of screening.

Program

Program components include:

- A plea of guilty/no contest in exchange for potential reduction/dismissal of charges upon successful completion
- Individualized assessment and alcohol and other substance abuse programming in the Treatment Track (minimum 9 months)
- A commitment to remain alcohol and drug-free while in the program
- Compliance with all program recommendations and requirements
- Submission to drug testing
- Sanctions for program violations including jail detention
- Remaining subject to conditions of bail
- Program fee paid in full (unless waived)

Goals & Benefits

- To break the cycle of drugs and crime.
- To reduce criminal justice costs by reducing drug addiction and street crime
- To reduce incarceration for participants who present a low risk to public safety
- To provide fully integrated and comprehensive treatment program
- To enhance personal, academic, and employment abilities among program participants

10 FAQ About...Drug Court:

1. **What is Drug Court?** Drug-treatment courts focus on non-violent offenders who are referred by the district attorney and who agree to participate in the program receive drug treatment services instead of a sentence. Those charged with misdemeanors and felonies are eligible if their offense relates directly to controlled substances or is a non-drug offense resulting from the defendant's drug abuse. The offenders appear regularly before the judge as a group. The judge reviews each case with the treatment providers and district attorney, and discusses each offender's progress directly with the offender in front of the group. The judge may order the treatment modified or may order sanctions for violating treatment requirements, for example several days in jail. If an offender successfully completes treatment by staying off drugs, district attorney will move to reduce or dismiss the charges as promised in the contract.
2. **Who is eligible for Drug Court?** Program eligibility requirements include Dane County residency, minimum age of 18 years and no history of violent felony convictions. It is a voluntary program. Cases are referred to the Drug Treatment Court Program by the District Attorney's office. The District Attorney specifies the length of time the participant will be required to participate in the program.
3. **What's the difference between Drug Court and criminal court?** Participants are not convicted or sentenced in Drug Court and there are no trials. Eligible participants are deferred from criminal prosecution.

4. **Is there a limit on the numbers accepted for Drug Court? Why?** The case managers and other providers are able to serve 80 Drug Court participants at any one time. This number is limited to the amount of funding available for the program.
5. **Does Drug Court use sentencing guidelines like criminal court?** No. People who successfully complete Drug Court usually have their charges dismissed and don't get sentenced. A few agreements provide for probation following Drug Court. However, if the offender does not succeed in treatment, he or she is returned to the regular criminal process for adjudication and sentencing. No different guidelines apply.
6. **Who is the judge for Drug Court? How often does the judge change?** Drug Court proceedings are currently presided over by Judge Sarah O'Brien. The judge may rotate every two years or may stay in one assignment for many years.
7. **Do other counties have Drug Courts?** Yes. As of 2005, three Wisconsin counties (Dane, La Crosse, and Monroe) had established treatment court for adult drug abusers and three additional counties (Eau Claire, Pierce, and Wood) were running pilot programs to test the concept with a small number of offenders. Several other counties were in the planning stages, including Waukesha County where an alcohol-treatment court was under consideration. One county (Ashland) has a drug treatment court for juvenile offenders. Other counties have Drug Courts that function to improve the processing of cases rather than to provide treatment.
8. **When did Drug Court start in Dane County? Could it end or become less funded?** Dane County's Drug Court Program began in 1996. As with many court programs and services, funding can be reduced or eliminated by the county budget.
9. **Is there someone at the courthouse I can talk to regarding Drug Court?** The contact person for the Drug Court program in Dane County is Julie Beyler. She can be reached at (608) 267-1557 if you have questions or would like to schedule an appointment. Her office is located in Room 210 of the City County Building (not the courthouse). Enter from the Carroll Street side of the building.
10. **Where can I find more information or resources about Drug Court or drug abuse issues?** The Dane County Legal Resource Center has a Drug Court collection available in their library. There is also a resource guide listing community, or web, resources on their website:
<http://wsll.state.wi.us/branch/dclrc/pub/drugcourt.pdf>

Electronic Monitoring Program (EMP):

Mission

The Electronic Monitoring Program (EMP) is the Dane County Court's home monitoring bracelet program. These clients have been convicted of different criminal charges, which can be traffic misdemeanors and felonies. These defendants are sentenced to EMP in lieu of doing jail time. Some cases the defendants are eligible for all of their time on EMP and in other circumstances they are required to do some time in jail. The defendant's monitoring can vary from days to one year depending on their sentence. On EMP, the defendants are restricted to their home unless approved by the EMP supervisor. Approved appointments include work, medical appointments, legal appointments, etc.

Accountability and compliance with EMP rules are the primary goals of the program. The equipment relays information whenever the defendant leaves their residence whether approved or not. The system uses the telephone to transmit this information. Therefore, the line must be free of all features. A defendant may be sentenced to EMP "when eligible." In this case, the defendant would be eligible when they have met the basic eligibility criteria. The minute sheets initiate referrals which are provided by the Clerk of Courts or by the defense attorney. If a minute sheet is not received, we have no way of knowing that the referral exists.

Basic Eligibility Criteria

- Defendant must have a satisfactory behavior record in the jail
- Defendant must have a verifiable and suitable residence with a telephone
- Defendant must have verifiable employment, school, or childcare duties. An exception to this would be verifiable disability
- Defendant must contribute to the cost of the program. The standard fee is \$15.00 per day for Dane County convictions and \$20.00 per day for convictions from other counties. (There is a sliding scale for individuals who meet certain financial requirements). The first month must be paid in advance
- All payments must be made timely to remain on the program

EMP Rules & Requirements

- One face-to-face contact in the ATIP office per week
- Maintain phone line with no telephone service options or internet services on that line unless approved by ATIP
- Maintain all curfews and schedules established by the ATIP staff. This includes the defendant keeping the ATIP office informed of his/her whereabouts at all times
- The defendant shall avoid all conduct, which violates federal and state statutes, municipal or county ordinances or which is not in the best of public welfare
- The defendant shall not use or possess any controlled substance or alcohol
- Determine if additional supervision tools would be appropriate (EMP/Alcohol Monitoring)
- The defendant shall not enter the premise of a bar or tavern unless approved by the case manager
- The defendant shall continue to make agreed payments to contribute to the cost of the program
- The defendant will be required to make bi-weekly or monthly payments
- The defendant shall contact the ATIP office at least two weeks prior to start date to arrange details.

If the defendant violates any of the above it may result in their return to the Dane county jail to serve the balance of their sentence, plus all good time is forfeited.

Bail Monitoring Program (BMP):

Mission

On this program, persons have been legally charged with crimes and are pending trial. They are not convicted. Persons with all levels and seriousness of charges can be on Bail Monitoring to include misdemeanor and felony cases. The judge has given them the option to agree to Bail Monitoring supervision in lieu of cash bail or for a reduced cash bail or as a further condition of bail. If client's bail is being reduced to lower cash or a signature bond, clients must be interviewed and assessed first by ATIP. If it's a condition of bond, clients are informed to report within 24 hours of his/her release. Their character and connections to the community are verified and then ATIP staff must accept them, before they are released from jail. They are under court ordered bail conditions to comply with rules. Failure to comply with BMP rules and bail conditions can result in their termination from the BMP and their reinstatement of cash bail and their return to the Dane County Jail. BMP can also impose additional rules as a condition of their release.

Eligibility Requirements

- Defendant must have been in Dane County Jail for 72 hours
- Defendant cannot have a probation/parole hold, detainer from another jurisdiction, or a commitment/sentence to serve. If they do, they cannot be released from jail
- Defendant must voluntarily agree to participate with the rules/requirements of BMP and to comply with all other court orders and conditions of bail
- Defendant must have the ability to secure a suitable and verifiable residence

Other Desired Eligibility Requirements

- Referral from the courts (either at hearing or by an order)
- Review of connections/ties to the community
- Assess risk to re-offend and/or history of violating bail or conditions of bond
- Interview client and assess individual needs/barriers to succeed in community on bond
- Assess current bond conditions to determine if person can be appropriately supervised in the community with those conditions
- Determine if additional supervision tools would be appropriate (EMP/Alcohol Monitoring)
- Defendant must be honest during the interview process
- Defendant must be able and willing to follow the rules of supervision

BMP Minimum Supervision Requirements

- One face-to-face contact per week
- Verifiable and suitable residence
- No alcohol and/or drug use; Defendant will be subject to random urinalysis to screen for controlled substances
- Defendant will be informed about upcoming court appearances
- Verification of employment, if any

Other Potential BMP Supervision Requirements

- No contact with victim(s)
- Referral for counseling, alcohol/drug assessment and/or treatment
- No unsupervised contact with minors
- Order to seek employment, job training or continue with school
- Geographical restrictions
- Random phone contacts at staff discretion
- Electronic monitoring - for all or part of release
- Curfews
- Other requirements by order of the court or BMP staff

Case Mediation Program - A Program to Resolve Litigation Without Trial:

The Case Mediation Program is sponsored by the Dane County Bar Association (DCBA). The program will accept only cases filed or eligible for filing in the Dane or Columbia County court system or in which at least one attorney in the case is a member of the Dane County Bar Association (DCBA). Parties are not required to retain legal counsel but it is highly recommended that they do so.

The program is aimed at helping parties resolve civil cases and family law cases (financial issues only) in the court system through voluntary or court ordered mediation. It is financed by user fees. The mediator must be a member of the Dane County or Columbia County Bar Association and may charge an agreed professional fee if the mediation session requires more than 3 or 4 hours of the mediator's time.

"Mediation" means a dispute resolution process in which a neutral third person, who has no power to impose a decision if all of the parties do not agree to settle the case, helps the parties reach an agreement by focusing on the key issues in a case, exchanging information between the parties and exploring options for settlement.

[Section 802.12(1)(e), Wis. Stats.]

Once the parties have either agreed to participate or have been ordered to mediation, the Court or counsel shall submit a written order or request for mediation to the Program Administrator. That order or request should include the case caption, including the five-digit case information code or a brief description of the issues involved, the attorneys' or parties' names, firm names, addresses and telephone numbers, and any scheduling deadlines that may need to be considered.

The filing fee for mediation is \$75.00 per party, payable to the "Case Mediation Program." A panel of mediators will not be issued until all parties have paid that filing fee. The fee requirement is not dependent on the success of the mediation process and is not refundable. Once the fees have been paid, the Administrator will offer a panel of three potential mediators. Requests for a specific individual mediator will not be considered. Counsel may select a mediator from the panel by agreement or by elimination. When the Administrator is notified as to the final selection, a letter and report form will be sent to that mediator. It is then the responsibility of the mediator and the parties to schedule the mediation session.

At least 3 business days prior to that session, counsel or litigants will provide the mediator with any summaries or documentation (including signed Financial Disclosure Statements in family law cases)

requested by the mediator. It is the responsibility of the parties/attorneys to provide any materials or information they want the mediator to have. Original Court files will not be provided.

At or before the mediation session, all parties and their representatives will be asked to read and sign an Agreement to Mediate. The mediator tries to assist the parties in reaching a settlement but does not guarantee a resolution or take responsibility for the merits of any settlement. The resolution of the issues in these cases primarily rests upon the parties themselves. Agreements reached during the mediation by the parties are always voluntary. The Program does not require counsel for all parties, but participants must recognize that THE MEDIATOR DOES NOT REPRESENT ANY PARTY AND DOES NOT GIVE LEGAL ADVICE.

At the end of the mediation process the mediator will submit a written Report Form to the Administrator. A copy of the Report will be filed with the Court. The mediator may also draft a letter or memorandum of understanding setting forth any settlement but will not draft any final stipulations, orders or agreements. All agreements reached during any mediation session are subject to final drafting, signatures and approval by the parties and the Court. The entire mediation process will be considered "settlement negotiations" or "offers of compromise" for purposes of statutes relating to admissibility of "settlement" or "compromise" evidence in court. All information obtained in mediation is confidential and may not be divulged to anyone, except to the parties' respective attorneys and their agents, without specific consent. It is the responsibility of the parties and their attorneys to ensure that the mediator understands what information or communications may be disclosed to the other party(ies).

Relevant Positions of the League of Women Voters of Wisconsin:

Since the focus of this program is based on The Criminal Justice System Assessment Report of September 20, 2007, the LWVWI Positions copied here only cover the areas that are covered in the report.

- **Availability of judges at all times in all parts of the state to take care of judicial work without undue delay.**
- **Establishment of uniform rules of practice and procedure.**
- **In the area of pre-trial disposition of the adult defendant in the criminal process, use of a point system based on past record, family ties, employment and length of residence, to evaluate the stability of the individual, and all who qualify to be released on recognizance.**
- **Law enforcement policy locally developed by cooperative efforts of citizens and law enforcement agencies using state guidelines, but reflecting local needs.**
- **Mandatory basic training within state standards for law enforcement personnel and continuing in-service training.**

Alternatives to Incarceration.

There is a strong need for further development and primary reliance on alternatives to incarceration except for the most dangerous offenders. Citizen education and participation should play an important role in the reintegration of the offender into the community. Use of community based treatment centers and halfway houses should be expanded. Probation services should include professional staff, each with a reasonable number of cases, use of trained volunteer aides, paraprofessionals, and wider use of community resources through purchases of services by the Department of Corrections. Unnecessary and unenforceable restrictions on behavior should be eliminated. Pre-trial intervention should be used to provide rehabilitation alternatives to a criminal record for adults who commit minor

offenses, particularly first time offenders, and those whose lack of income would ordinarily doom them to jail before trial.

Local Jails.

State government should establish minimum standards for the operation of county jails and should provide for enforcement of those standards. The state should establish minimum training requirements for jail personnel and make special training programs available to counties to enable them to meet these requirements. Funding of day-to-day jail operations should remain a local responsibility, but the state should provide assistance for training and other special programs or facilities needed to meet state requirements.

The League supports, in principle, the separation of the sheriff's department from jail administration. The latter should be under a separate director and staffed by trained civil service personnel. Consideration should be given to the practical difficulty of achieving this separation in smaller counties.

Discussion Questions

1. What are the alternatives to incarceration in Dane County? Are they effective?
2. Given the number of people with mental health issues in jail, how does the system evaluate them and address their status?
3. What are the barriers to implementing the recommendations in the 2007 Criminal Justice Assessment? Financial? Institutional? Political?
4. What do you think it will take for the public to demand efficiency improvements in the Dane county justice system? What could the League do to support implementation of the report's recommendations?

