

Dane County Community Justice Council

# SUMMARY & RECOMMENDATIONS REPORT

Community Court

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2-20-2024

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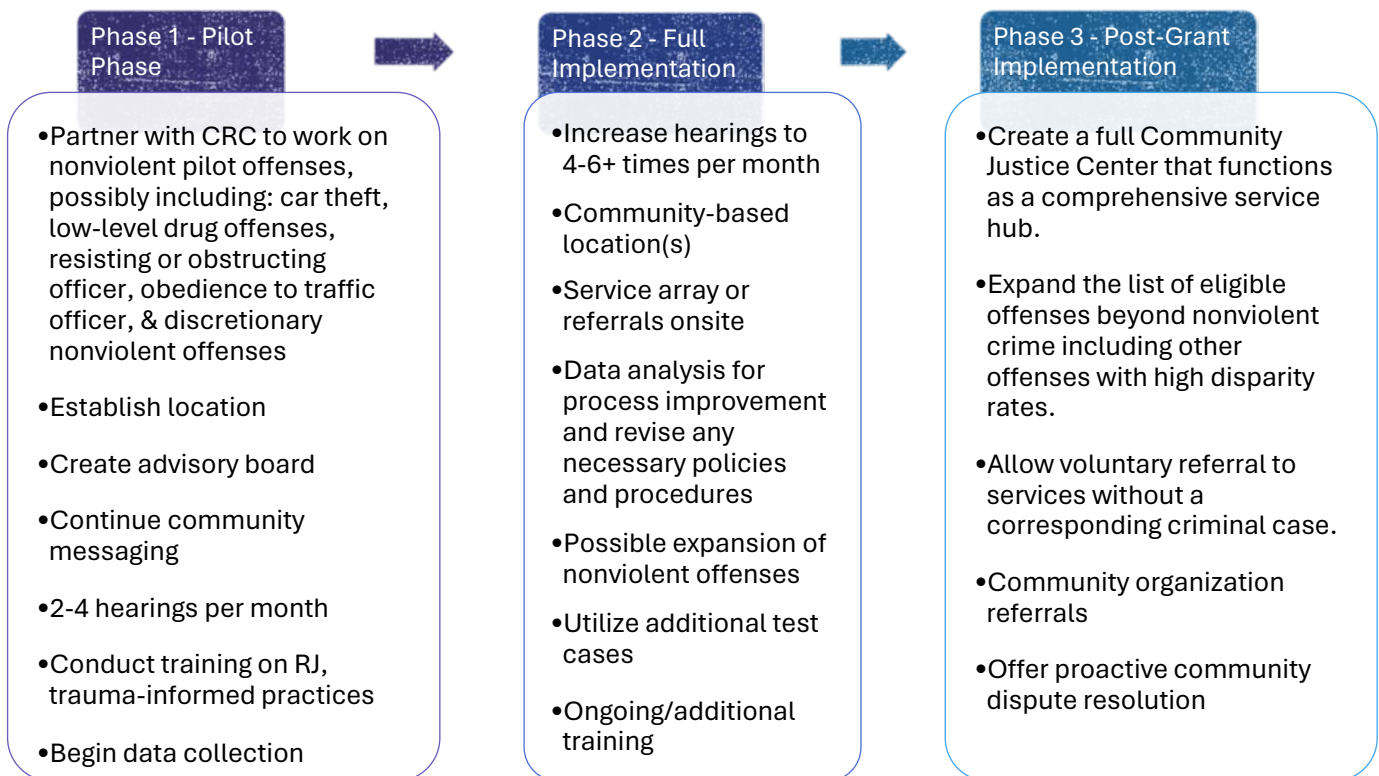
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## EXECUTIVE SUMMARY

The development of a Dane County Community Court builds on fifteen years of evaluation and response to racial disparities in its criminal justice system, an effort that has brought together a collaborative group of researchers, community advocates, agency directors, directly impacted parties, and system actors. In 2013, Dane County's broader examination of community justice models and community courts nationally as a means of addressing racial disparities, and an intentional focus on restorative justice as an effective means of criminal justice reform, led to the creation of the Dane County Community Restorative Court (CRC) in 2014. That program has successfully served individuals aged 17-25 in criminal and municipal cases as a restorative justice diversion program in a pre-charge capacity for nearly a decade.

In 2022, Dane County was awarded a Bureau of Justice Assistance (BJA) grant to join the latest cohort of supported community courts across the country. The new, pilot Dane County Community Court builds on the successful framework of the CRC and will continue to address racial disparities in the Dane County criminal justice system by serving an expanded population of individuals aged 17-35 in higher level felony cases that may require additional court or system oversight. Additionally, the pilot community court can offer participants additional pathways into the program by expanding possible referral sources and an opportunity for diversion at later, post-charge points in the criminal justice process. Ultimately, this pilot community court can serve as a springboard for the development of a full community justice center as a longer-term project in the post-award phase.



## Dane County Community Justice Council – Community Court Advisory Subcommittee

The initial planning phase was conducted by a subcommittee created for this purpose by the Dane County Community Justice Council (CJC). The CJC recognized that committed stakeholders and community members need to be at the table, helping envision and co-create what community justice should look like. This six-month planning process was a novel approach in Dane County by involving community from the very start, in alignment with the new guiding principles for creating and operating community justice sites. The subcommittee was tasked with providing input and recommendations on the following items:

- Short-term Vision for Launching a Pilot Community Court
- Longer-term Vision for a Community Justice Center
- Community Court Location
- Eligible Offenses
- Necessary Supports and Services for Participants

The planning process included a mix of presentations, data review, collaborative and small group visioning, community building, and large group discussions on the development of both short and long-term recommendations to the CJC on program elements and a site visit to Cook County’s Restorative Justice Community Court.

### Community Court Location

There was strong interest from community stakeholders to having a community-based site for the community court rather than being located in the existing Dane County Courthouse. Location may be dependent on compliance with SCR Ch. 68 and will require additional consideration. There may be an option for building out an unfinished space in the courthouse if it is determined that is either required or the best option for the pilot phase. The longer-term visioning contemplates a community-based community justice center.

### Eligible Offenses

The focus of data analysis and subsequent discussion centered around the most racially disparate offenses in Dane County for the targeted age group of 17–35-year-olds. The BJA-funded pilot phase requires the eligible offenses to be deemed nonviolent. Additionally, the subcommittee was looking for those offenses or individuals that are not already eligible or able to be served by existing diversion programs. Nonviolent offenses for possible program eligibility purposes (subject to further discussion and exclusion) may include lower-level drug offenses, operating a motor vehicle without owner’s consent, resisting/obstructing an officer, failure to obey a traffic officer, and other discretionary nonviolent offenses. The longer-term visioning contemplates adding additional nonviolent offenses and other significantly racially disparate offenses in the post-award phase.

## Partnership with CRC

As there was exceptionally strong committee support for pursuing a restorative justice practice model for the community court, the CRC is seen as a crucial partner for the program, especially in the pilot phase. Leveraging the knowledge and experience of a longstanding, successful restorative justice program will allow the new community court to reach operational status more rapidly, protect the confidentiality of the restorative justice process, and help maintain fidelity to restorative justice principles.

## Supports and Services

The committee spent significant time examining elements that are crucial to participants' long-term success with an emphasis on responding to root causes and engaging in early intervention. The supports and services the subcommittee found most important to be accessible through the community court are:

- Multicultural and multilingual services
- Employment/job services/job references and placement
- Holistic health and mental health services with collaboration across agencies
- Housing
- Family support services
- Peer support services
- Substance use disorder treatment & dual diagnosis treatment (mental health and SUDs)

## Advisory Board

To engage community groups and neighborhood stakeholders, an advisory board for the community court should be created and involve as many of the community groups from the subcommittee as possible. Individuals with lived experiences and crime victims' voices should be highlighted on the advisory board, along with additional treatment service providers. Based on the subcommittee's composition, adding mental health and substance use disorder treatment providers would round out the service array representation. The subcommittee's community groups have already indicated that they would like to transition to community roles on an advisory board.

## Recommended Next Steps

Once the Office of Criminal Justice Reform Director and Community Court Coordinator are in place, the crucial next phase of design work can take place to build towards the pilot launch of the Community Court. They fall into three main categories for the coordinator and director, the location and site design, and the court process design. Many of these action items can be undertaken concurrently, and some may even begin prior to the hiring of the Community Court

Coordinator, such as: identifying interested judges; engaging in broader messaging; developing the relationship with CRC; starting database development; and examining possible court locations and hours.

### Community Court Coordinator & OCJR Director

- **Site Visits to Other Community Court Locations**
- **Select Restorative Practice Model**
- **Develop Direct Relationship/Partnership with CRC**
- **Begin Broader Messaging to Community and Partners to Increase Awareness and Buy-In**
- **Select RNR Assessment Tool**
- **Service Array Planning**

### Community Court Site Design

- **Identify Interested Judge(s)**
- **Determine Physical Location (SCR Ch. 68) & Hours of Operation**
- **Design of Community Court Space and Environment**
- **Training Personnel and Staff**

### Process Design

- **Select BJA-eligible Pilot Offenses**
- **Create Referral Pathways with Multiple Entry Points**
- **Co-Develop Eligibility Criteria that Reduces Participatory Barriers**
- **Develop Restitution and Community Service Plan**
- **Develop Database for Comprehensive Data Collection**
- **Establish Advisory Board Utilizing CCAC Members**

It is recommended that the court coordinator engage in multiple site visits to see how other community court locations operate and aid in determining the specific restorative justice practice model(s) to pursue. These visits can also help inform the process design elements of restitution and community service plans and co-creation of eligibility criteria.

Completing these recommended steps in the next planning phase will assist in a successful pilot launch and inform the fuller implementation phase (Phase 2) of the BJA award period.

## INTRODUCTION

In October 2022, the Dane County Criminal Justice Council (CJC), now the Community Justice Council, was awarded with a planning and implementation grant from the U.S. Bureau of Justice Assistance to create a community court according to the guiding principles for community courts. This grant is part of the National Community Court Initiative and added Dane County to the current Community Court Cohort. The CJC proposal contemplates a court that serves individuals aged 17-35 and will continue to address racial disparities in the Dane County criminal justice system.

## BACKGROUND

### Community Courts

For the past 30 years, community courts have approached justice from the space of engaging with people to adapt the process to meet the person. This has differentiated community courts from other types of specialty courts and treatment courts that focus solely on a specific population group (e.g., veterans courts) or a specific class of offenses (e.g., drug courts). Now, dozens of community court sites exist across the country and internationally. The Center for Court Innovation (now known as the Center for Justice Innovation) launched the first community court site and developed the original guiding principles for the creation and operation of community justice sites. In November 2022, the Bureau for Justice Assistance published a new set of six principles that significantly re-envisioned the previous list of principles<sup>1</sup> that are now expressed more expansively as:<sup>2</sup>

1. Co-Create Justice
2. Advance Equity
3. Put People First
4. Prioritize Community-Based Solutions
5. Promote Accountability
6. Model Innovation

These new principles are active charges for those creating a community justice center to embrace and consciously do, rather than simply a list of traits to have or steps to undertake. As a result, each of these principles is effectively heightened to a mission.

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<sup>1</sup> The previous set of guidelines included: community engagement, individualized justice, alternative outcomes, accountability (client and system), collaboration, and enhanced information. See Greg Berman, *Principles of Community Justice: A Guide for Community Court Planners*, Center for Court Innovation (New York: 2010), available at: <https://www.courtinnovation.org/publications/principles-community-justice-guide-community-court-plan>

<sup>2</sup> See *Community Justice Today: Values, Guiding Principles, and Models*, Center for Court Innovation (New York: 2022), available at: <https://bja.ojp.gov/library/publications/community-justice-today-values-guiding-principles-and-models>



Perhaps one of the most radical and distinguishing features of the geographically-focused community court model is how it engages with the importance of space. This recognition and responsiveness to how a person's experience is impacted by their environment and how it "feels" to be in that space has led to creative placements of courts outside the traditional courtroom, such as libraries, community centers, and church basements.<sup>3</sup> This represents a shift to a people-first approach when the social environment is also re-envisioned through how court participants are treated, rather than only the physical environment.

### Dane County

Since 2008, Dane County has actively engaged in examining and responding to racial disparities in its criminal justice system. This began with creating a local task force to examine racial disparities in the criminal justice system, comprised of a collaborative group of researchers, community advocates, agency directors, and system actors that published a catalyst report in 2009.<sup>4</sup> That work led to further collaboration with community partners and strategic and coordinated engagement of local and national experts on a variety of critical criminal justice fronts, with many efforts emerging from what is now the Community Justice Council (CJC), formerly known as the Criminal Justice Council, and its Racial Disparities Subcommittee. This included the beginning of a long-standing partnership with the Center for Court Innovation in 2013, Dane County's broader examination of community justice models and community courts nationally, and an intentional focus on restorative justice as an effective means of criminal justice reform, which led to the creation of the Dane County Community Restorative Court (CRC) in 2014.<sup>5</sup>

The CRC was developed as a multi-agency partnership between the Dane County Department of Human Services (DCDHS), Dane County District Attorney's Office, and the various law enforcement agencies across the county formalized through a memorandum of understanding (MOU). The CRC was specifically designed as a pre-charge diversion program<sup>6</sup> and placed under the direction of DCDHS, outside the traditional criminal justice system. It utilized human services/social work interventions through a restorative justice framework to address the needs and accountability of responsible parties. The CRC age eligibility range (17-25) was based on existing neurobiological research on juvenile brain development available at the time. The initial selection of eligible offenses was similarly data-driven, based on arrest data for lower-level offenses committed by individuals in the target age range and agreed to by CRC agency partners.

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<sup>3</sup> A general description of several community courts, geographic service areas, populations and cases, and their physical locations is available at: <https://www.innovatingjustice.org/national-community-court-initiative>.

<sup>4</sup> See generally Dane County Office of Equal Opportunity, "Dane County Task Force on Racial Disparities in the Criminal Justice System," Sept 2009 available at: <https://cjc.countyofdane.com/documents/pdf/2009-RD-Task-Force.pdf>.

<sup>5</sup> See generally <https://bjatta.bja.ojp.gov/media/blog/creating-model-community-restorative-courts-dane-county-wisconsin>.

<sup>6</sup> This also serves to minimize potential collateral consequences of even having a criminal charge without a conviction due to the wide public access to individual court records through the Wisconsin Consolidated Court Automation Program and the potential for misuse or misunderstanding of the court record data by private citizens.

The CRC also accepted municipal violation equivalents to the eligible criminal charges as a direct referral mechanism for law enforcement agencies, recognizing the disparate financial impacts of citations, the resulting consequences of unpaid citations, and the potential need for social services array, especially for young adults.

As part of efforts to launch the CRC in 2014, in partnership with the Center for Court Innovation (CCI), a team from Dane County went to New York to conduct site visits to several community justice centers. The Dane County team included members of the CJC Racial Disparities Subcommittee, along with members of the Dane County District Attorney's Office, the Madison Police Department, community leaders, and local officials. To assist Dane County in choosing a community justice model, the New York site visits included the Red Hook Community Justice Center, the Brownsville Community Justice Center, and the Harlem Community Justice Center. The Dane County team ultimately decided that the Red Hook Peacemaking program would most closely align with the pre-charge diversion program they sought to implement. Through this strategic partnership, CCI provided robust evaluation for the CRC and performed multiple site visits to Dane County in 2015 and 2017 to conduct interviews and offer technical assistance as the CRC grew beyond its pilot phase to a broader jurisdictional implementation across the county.

Over this same time period and continuing through 2019, Dane County enhanced its research capacity and extended its local collaborative partnership building and data-driven reform work, while adding a variety of national research partners.<sup>7</sup> This equity-focused work included examining disparity-related elements around mental and behavioral health and the county jail (more specifically, pre-trial detention), as well as developing a pre-trial risk assessment.

In January 2020, the January Advisors published a report for Dane County on "Identifying New Opportunities for Deflection and Diversion Programs Targeted at Non-Violent, Misdemeanor-level Offenses: Analysis and Recommendations" that highlighted the potential impact of expanding the CRC's use. This report found that by just increasing the age range of eligible participants to 35 (over the three year period of analysis), more than 950 additional people could be considered eligible without expanding the offenses that CRC accepts.<sup>8</sup> A similar analysis contemplating the potential impact of expanding the range of eligible offenses to first-time offenders for other misdemeanors found that another 600 people could be eligible for CRC participation.<sup>9</sup>

Later in 2020, Dane County partnered with seven community-based organizations<sup>10</sup> to hold facilitated conversations to provide information about its upcoming planning process and needs assessment regarding the creation of a community justice center. These conversations were

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<sup>7</sup> See generally <https://cjc.countyofdane.com/Partners-and-Links>

<sup>8</sup> See "Identifying New Opportunities for Deflection and Diversion Programs Targeted at Non-Violent, Misdemeanor-level Offenses," January Advisors (January 2020) at pg. 47-48, available at: <https://cjc.countyofdane.com/documents/pdf/DaneCountyDiversion-DeflectionAnalysisandRecommendations.pdf>

<sup>9</sup> *Id.* at 48.

<sup>10</sup> Community organization partners: Centro Hispano of Dane County, Charles Hamilton Houston Institute, Families Back to the Table, JustDane, Nehemiah Center for Urban Leadership, The Hmong Institute, and Urban Triage.

preceded by a CJC Virtual Town Hall on October 29, 2020<sup>11</sup> on community courts from a national and local perspective. The community conversations were conducted through the end of 2020 and into 2021, and the final report with summary findings from each of the organizations was published in February 2021.<sup>12</sup> These endeavors were undertaken in alignment with the guiding principle for community justice of advancing equity.

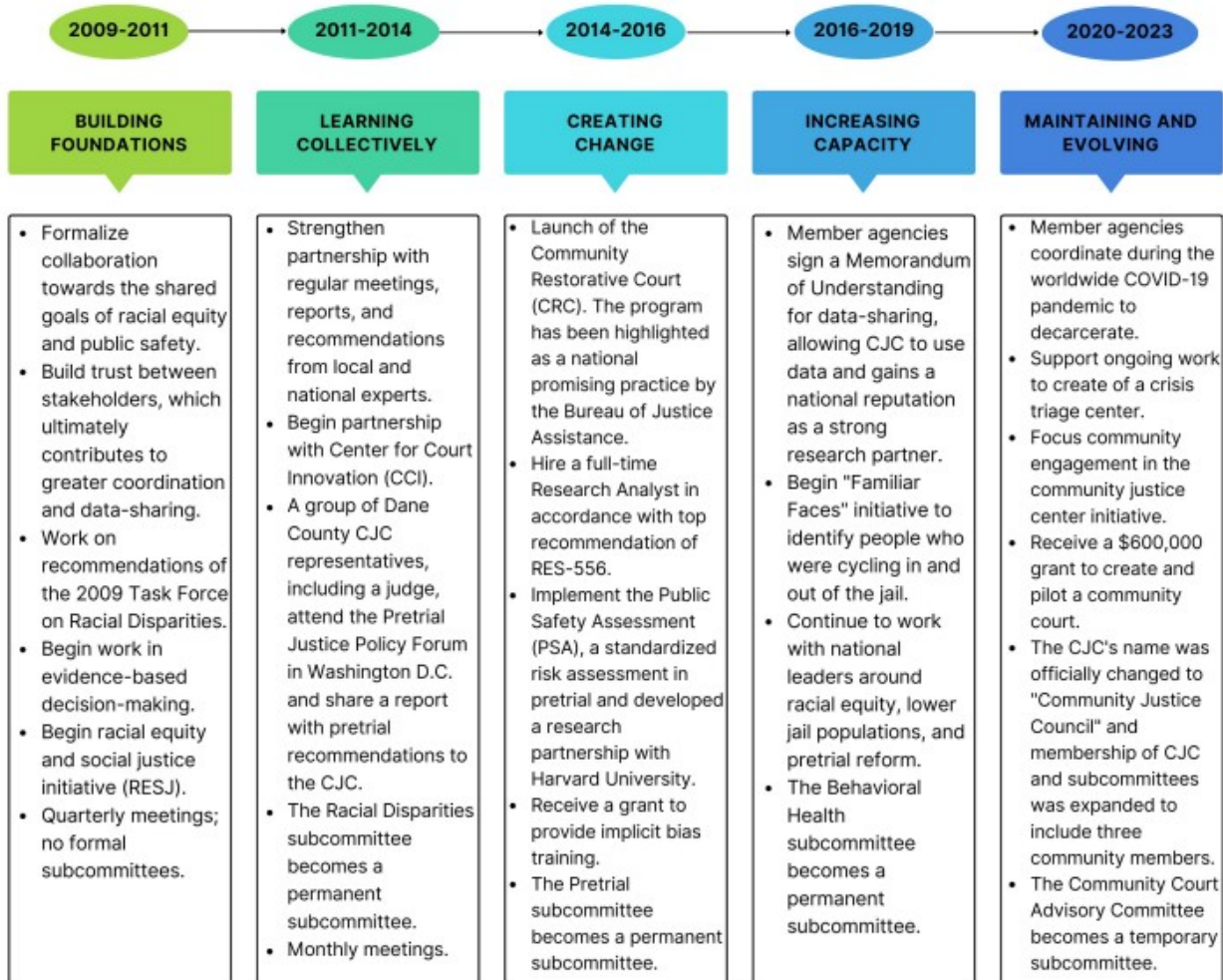


Figure 1. Dane Co. Criminal Justice Efforts 2009-2023.<sup>13</sup>

In 2021, Dane County re-engaged with CCI to evaluate the potential benefits and feasibility of creating a community justice center in Dane County. This evaluation comprised of a data review, additional stakeholder interviews with local organizations to both follow up on the earlier facilitated community conversations (included as a pre-engagement report) and expand the range

<sup>11</sup> Available at: <https://media.cityofmadison.com/Mediasite/Showcase/madison-city-channel/Presentation/9057ec330e8a4e428f2ff5e6c8dd66a21d>

<sup>12</sup> See Community Justice Center Facilitated Community Conversations Report, Feb 2021, available at: <https://dane.legistar.com/View.ashx?M=F&ID=9193471&GUID=D725C256-D509-40E5-83C0-4E66A6D5B411>

<sup>13</sup> From "Evolution of Criminal Justice Reforms" presentation by Dane County staff, CCAC Meeting on April 25, 2023.

of voices and perspectives included in the final report, and two public-facing engagement sessions in July 2021.<sup>14</sup> This pre-engagement process was a novel and rarely seen planning element by going to the communities most directly impacted prior to any actual program development occurring, with the express purpose of direct, responsive community involvement in pre-planning steps. The findings and recommendations of this evaluation are compiled in the “Community Justice Center Initiative Final Needs Assessment Report,” which was presented to the CJC in September 2021.<sup>15</sup> These recommendations served as the foundational framework for the collaborative creation approach for the current planning process of a possible community justice center in Dane County.

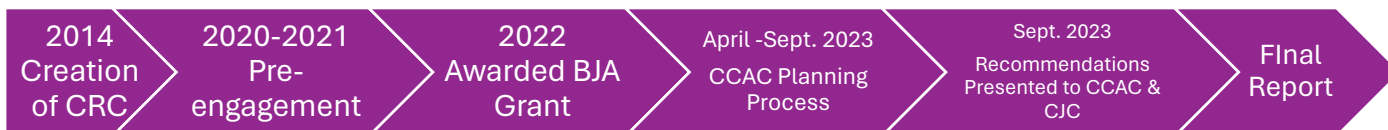


Figure 2. Timeline of Pre-engagement and planning for Community Court & CCAC.

Prior to Dane County launching their advisory group subcommittee in April 2023, county officials had already begun outreach with the Restorative Justice Community Court (RJCC) in Avondale, a neighborhood in Chicago. While the Avondale RJCC launched in 2020, it is connected to the greater Cook County Restorative Justice Community Court from the 2016 cohort of Bureau of Justice Assistance grant recipients. In fact, this collaborative relationship between Dane County and the Restorative Justice Community Courts in Cook County, Illinois existed prior to the creation of the first Cook County community justice site in the North Lawndale neighborhood. When Cook County examined restorative justice court programs around the country to build their own restorative model, they collaborated with the original Dane County CRC coordinator and other county personnel regarding the design and operation of the CRC and sharing program materials.

This cross-county collaboration continued to grow during this most recent planning process, when RJCC Avondale hosted a site visit for Dane County on August 4, 2023<sup>16</sup> and presented to the CJC subcommittee about the RJCC Avondale model on June 6, 2023.<sup>17</sup>

<sup>14</sup> A Community Justice Center pre-engagement video for Dane County can be viewed at: <https://www.youtube.com/watch?v=8IXody-Ky-A&t=2s>

<sup>15</sup> Available at: <https://cjc.countyofdane.com/documents/pdf/CCI-Final-Report-DaneCounty-9.10.21-.pdf>

<sup>16</sup> Dane County site visit participants included: Carlo Esqueda, Dane County Clerk of Courts; Supervisor Dana Pellebon, Dane County Board of Supervisors; Hon. Judge Everett Mitchell; Isabel Anadon, Dane County Office of Justice Reform and Equity.; Kirbie Mack, JFMJ Leadership; Linda Ketcham, JustDane; and Sara Jensen, Dane County CJC.

<sup>17</sup> See Appendix A for Avondale site visit information presented at the August 8, 2023 subcommittee meeting and Appendix B for a copy of the June 6, 2023 presentation.

## CJC – Community Court Advisory Subcommittee

The Community Court Advisory Subcommittee (CCAC) to the CJC was conceptualized in alignment with the principle of co-creating justice to involve community partners from the very beginning of the planning process. A motion was brought before the CJC’s Racial Disparities Subcommittee on October 25, 2022, and subsequently approved by the CJC:

### RECOMMENDATION TO THE CRIMINAL JUSTICE COUNCIL ON THE FORMATION OF A CJC SUB-COMMITTEE TO GUIDE COMMUNITY JUSTICE/COURT INITIATIVES IN DANE COUNTY

The Bureau of Justice Assistance (BJA) Community Court grant envisions a collaborative group of community members and criminal justice stakeholders to advise the planning and implementation of the community court / justice initiative. The Dane County Community Justice Council (CJC) - Racial Disparities subcommittee recommends creation of a CJC subcommittee to guide the planning and implementation of the community court / justice initiative. This new CJC subcommittee should be comprised of the following: the members of the CJC-Racial Disparities subcommittee plus the designee for each of the seven agencies that participated in the pre-engagement sessions for the community justice center in 2020. These include: Nehemiah Center for Urban Leadership, Just Dane, Centro Hispano, Hmong Institute, JFMJ Academy, Inc. (formerly Charles Hamilton Houston Institute), Families Back to the Table, and Urban Triage; additionally the Director (or designee) of the District Attorney’s Victim Witness Unit should be included as a member.

The duties of the CJC-Community Court Advisory subcommittee shall include community engagement in the development of recommendations to the Community Justice Council of Dane County. Recommendations should include: allowable offenses, social service supports, pathways to education and employment, drug and alcohol treatment needs, and other therapeutic services to reduce future criminal justice involvement.

The subcommittee will meet a minimum of twice per month. It will sunset upon completion of the planning stage of the BJA Community Court grant. Staffing shall be initially provided by the County Board Office to be replaced by staff for the new Office of Justice Reform and Equity upon its creation.<sup>18</sup>

CJC-CCAC began meeting on April 5, 2023. Two additional Community Representative members were appointed to the CCAC, along with a Municipal Court Judge, whose terms all began prior to the May 9, 2023 meeting.

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<sup>18</sup> Created through 2022 ACT-165, *See* <https://cjc.countyofdane.com/Community-court-Advisory-Subcommittee>.

The CJC-CCAC had 19 members:

- Linda Ketcham (Co-Chair), JustDane
- Dana Pellebon (Co-Chair), Dane County Board of Supervisors
- John Bauman, Dane County Juvenile Court Program
- Shannon Blackamore, Madison Police Department
- Lisa Burrell, Families Back to the Table
- Amy Brown, Director (or designee) of the District Attorney's Victim Witness Unit
- Ron Chance, Dane County Department of Human Services
- Anthony Cooper, Sr., or Karen Reese, PhD, Nehemiah Center for Urban Leadership
- Evelyn Cruz, Centro Hispano
- Catherine Dorl, Wisconsin Office of the State Public Defender
- Carmella Glenn, Community Representative
- Brandi Grayson, Urban Triage
- Aaron Hicks, Community Representative
- Kirbie Mack, JFMJ Academy, Inc.
- Todd Meurer, Municipal Court Judge
- Ismael Ozanne, District Attorney of Dane County
- Wesley Sparkman, Office for Equity and Inclusion Director
- Jonathan Triggs, Dane County Sheriff's Office
- Judge Mario White, Dane County Circuit Court

## PROCESS

The CJC-CCAC was charged with providing input and recommendations regarding the logistical and operational elements of a community justice center in Dane County, while also offering guidance on the overall mission and vision statements. The six-month convening schedule for the CCAC consisted of two meetings per month and comprised a mix of presentations, data review, collaborative and small group visioning, community building, and large group discussions on the development of both short and long-term recommendations to the CJC on program elements.

The approach to the design and operation of this committee centered community engagement, specifically starting from a space of centering the people and their values to craft community guidelines for the group. The strategic intent of creating the CCAC at the initial planning step was to be responsive to critiques of planning efforts for previous projects that did not include community voices and perspectives early enough in the process or before key decisions were made. The goal for the formation, composition, and operation of the CCAC was to do exactly that: involve community organizations and stakeholders from the very beginning of the planning process. This included intentionally starting with the visioning and planning process for a community court and what a larger community justice center could or should be in Dane County, without a lot of prescription of what it needed to be.

Due to the broad range of ground to be covered regarding recommendations for the creation and operation of a community court, each of the CCAC's twelve meetings was typically broken up into distinct sections for presentations, reports on data and analysis, and discussions on multiple topics. Ultimately, those discussion topics served to respond to several of the main questions considered by the CCAC:

- What should the community court process look like?
- What is the short-term vision for launching a community court?
- What is the longer-term vision for a community justice center?
- What offenses should be considered eligible for the community court?
- What supports and services are necessary for participants to be successful?
- Where should the community court be located?

### Structural and Operational Model

Several presentations took place, starting with the very first meeting, to examine what a community court model could look like, along with discussions about the shared examples. Beyond the presentation by CJI, the CCAC heard from multiple members of the RJCC Avondale team, including both a direct presentation (Appendix B) and a site visit and report back to committee by attendees (Appendix A).<sup>19</sup> Subsequently, CCAC reviewed a video on the Dane

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<sup>19</sup> See Minutes for August 8, 2023, CCAC meeting – 2. Restorative Justice Community Court-Avondale Site Visit for participant reflections.

County Community Restorative Court (CRC) and received a full presentation from CRC staff about their pre-charge restorative justice process.

Early in the meeting cycle, the CCAC received a summary presentation of current adult deflection and diversion practices in Dane County, and later a presentation on the Pretrial Services Department, to orient where a community court and community justice center could fit in the diversion landscape. There was also a presentation on equitable system design in diversion and restorative justice to meet one of the goals of reducing and responding to racial disparities in the criminal justice system.

### Visioning

Multiple facilitated visioning sessions and activities occurred throughout the CCAC as part of its critical function with both the pre-engagement report and the Facilitated Community Conversations report serving as reference materials. Committee members engaged in several group and individual activities and were tasked to collect responses to specific questions from their networks, staff, and clients early in the process, which were later reviewed as a group. Those broader organizational and network questions were:

- What would most help people avoid being involved with criminal activity?
- What would most help victims of crime in your community?
- What words would you use to describe a safe neighborhood and a safe community?<sup>20</sup>

Further visioning activities included discussions where committee members spent time in small groups to respond to the following questions:<sup>21</sup>

1. When you envision “Community” what do you want to see? (for the PEOPLE)



<sup>20</sup> See Appendix C for the general committee responses to these questions from the meeting minutes, along with two agency-specific responses.

<sup>21</sup> Word clouds generated from the list of responses found in Appendix D and additional discussion can be found in the minutes for the CCAC meeting on July 25, 2023, under *1. Facilitated Activity: World Caf : What is Community? What is Justice? What is a Center?* found on [dane.legistar.com/](http://dane.legistar.com/)



2. When you envision “Justice” what do you want to see? (for the PROCESS)



3. When you envision a “Center” what do you want to see? (for the PLACE)



A subsequent presentation by a representative of the Hmong Institute added to this visioning process. That discussion reinforced similar key themes and considerations raised by committee members regarding the importance of location, accessibility, culturally competent staff, community space, and the provision of critical services.

The CCAC began working on refining mission and vision statements<sup>22</sup> in the latter portion of the committee timeline and encountered a need for clarification regarding the structure and pathway forward for the committee and the overall community court project. Some committee members wanted to continue meeting together as a body due to the time intensiveness of working in this type of relational process beyond the established term of the CCAC, which was nearing its conclusion and expressed a desire for extending the term of the CCAC.<sup>23</sup> The approaching

<sup>22</sup> See Appendix E for discussion questions and facilitated activity from August 8, 2023.

<sup>23</sup> This was addressed as not possible due to funding limitations, the unavailability of some committee members, county staffing constraints, and the suspension of the search for a director of the Office of Justice Reform and Equity.

sunsetting of the CCAC highlighted the tension between needing to move to the next stage of the planning process and getting a community court program started in accordance with the terms of the grant and the desire for significantly more collaborative planning time.<sup>24</sup> Much of the larger visioning work conducted to that point was considered more applicable for the longer-term, post-pilot phase based on the structural limitations and amount of grant funding, the suspended director search, and the sunsetting of the committee. This led into a presentation on timelines and re-focusing the CCAC work to more strictly on the pilot phase.

In the CCAC’s final set of meetings, the visioning process turned to selecting eligible offenses and the possible service arrays for community court participants, with a commitment to a restorative justice model approach for the community court.<sup>25</sup>

Offense Data Analysis & Pilot Offenses

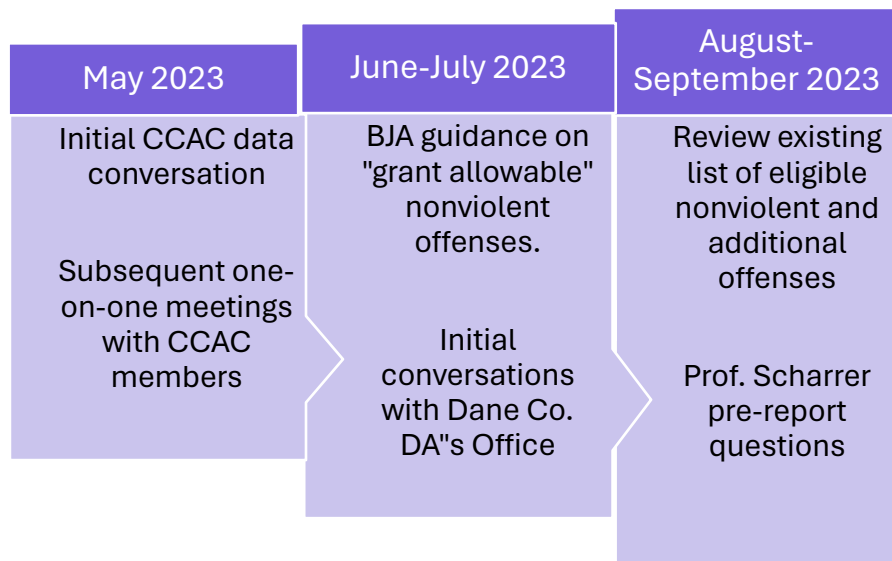


Figure 3. Timeline of CCAC examination of possible pilot offenses.<sup>26</sup>

<sup>24</sup> As discussed later in the report recommendations, this additional collaboration should be extended in the next phase of planning by including some or all of the interested members from the CCAC as well as including them to the advisory group.

<sup>25</sup> It was suggested during the final CCAC meeting that the coordinator have a one-time reconvening of the subcommittee group to meet with them. Several committee members stressed the importance of the court coordinator getting both an overview of the process and historical working relationships (positive and negative) from participants in addition to the specific context of the committee work to provide an appropriate frame for the report from the people involved in the CCAC.

<sup>26</sup> From “Dane County Data from a System Lens” presentation on August 29, 2023 by Dane County staff.

Dane County aims to address racial disparities in its criminal justice system, and creating a community court or community justice center is another step in that direction. The first series of data reports provided to the CCAC for discussion examined the most racially disparate non-violent offenses as measured by Black-White disparity rate ratios collected from CCAP for cases from 2018-2022 for individuals aged 17-35.

<u>Offense Name</u>	<u>Black/white rate ratio</u>	<u>Disparity rank</u>	<u>Number of cases</u>
Possession of a firearm	111.8	1	328
Carrying concealed weapon	63.0	2	313
Operating vehicle without owner's consent	57.4	3	699
Recklessly endangering safety	49.1	4	263
Fraud against a financial institution	47.3	5	51
Contempt of court	46.1	6	63
Failure to submit DNA specimen	46.1	7	54
Obedience to traffic officers	39.1	8	511
Resisting or obstructing officer	27.0	12	1,503

Comparison of disparity rate ratios

Chart shows disparity ratio, calculated by dividing the rate of Black residents of Dane County charged with this offense divided by the rate of White residents charged with this offense. For residents ages 17 to 35.

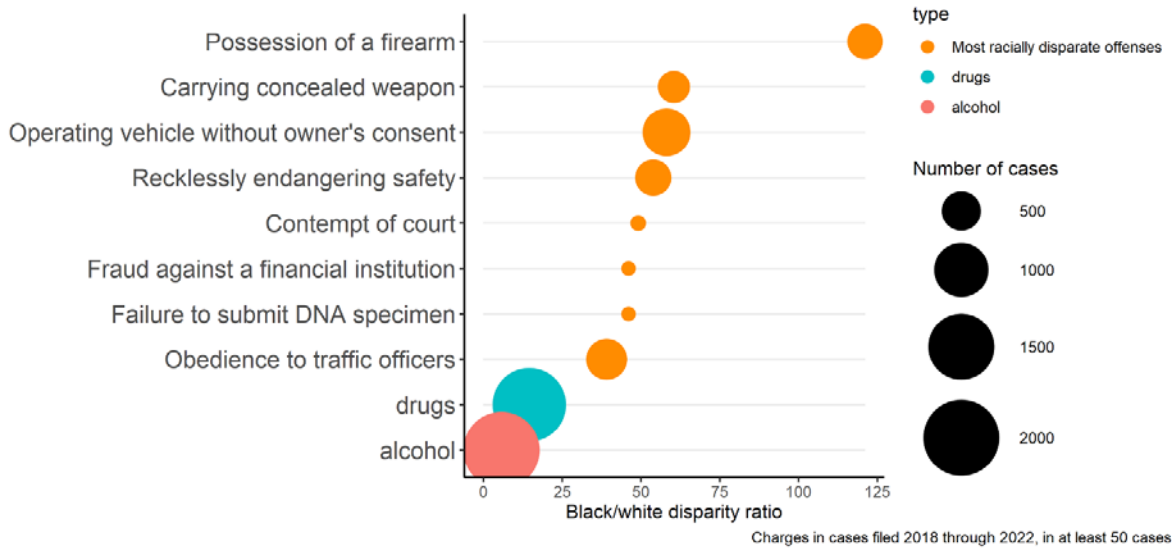


Figure 4. Comparison of Black/White disparity ratio rates<sup>27</sup>

During the initial examination of offense data (Appendix F), nonviolent offenses were determined according to the list of violent offenses compiled by the State of Wisconsin Pretrial

<sup>27</sup> From “Dane County Data from a System Lens” presentation on May 23, 2023 by Dane County staff.

Pilot Project.<sup>28</sup> It was later clarified with BJA that “violent offenders” include any person charged with a felony who also possessed a weapon, even if the underlying offense was not included on the list of violent offenses and could not be included in the BJA funded pilot phase. The CCAC then removed those related offenses (e.g., possession of a firearm by a felon) from the list of potential pilot offenses, but this did not occur until after the second data analysis presentation (covered more below).

County staff also provided the CCAC with data regarding the most common co-occurring charges for the potential target offense list<sup>29</sup> to see if there would either be disqualifying offenses tied to eligible target offenses or disparate offenses that are frequently tied together.<sup>30</sup>

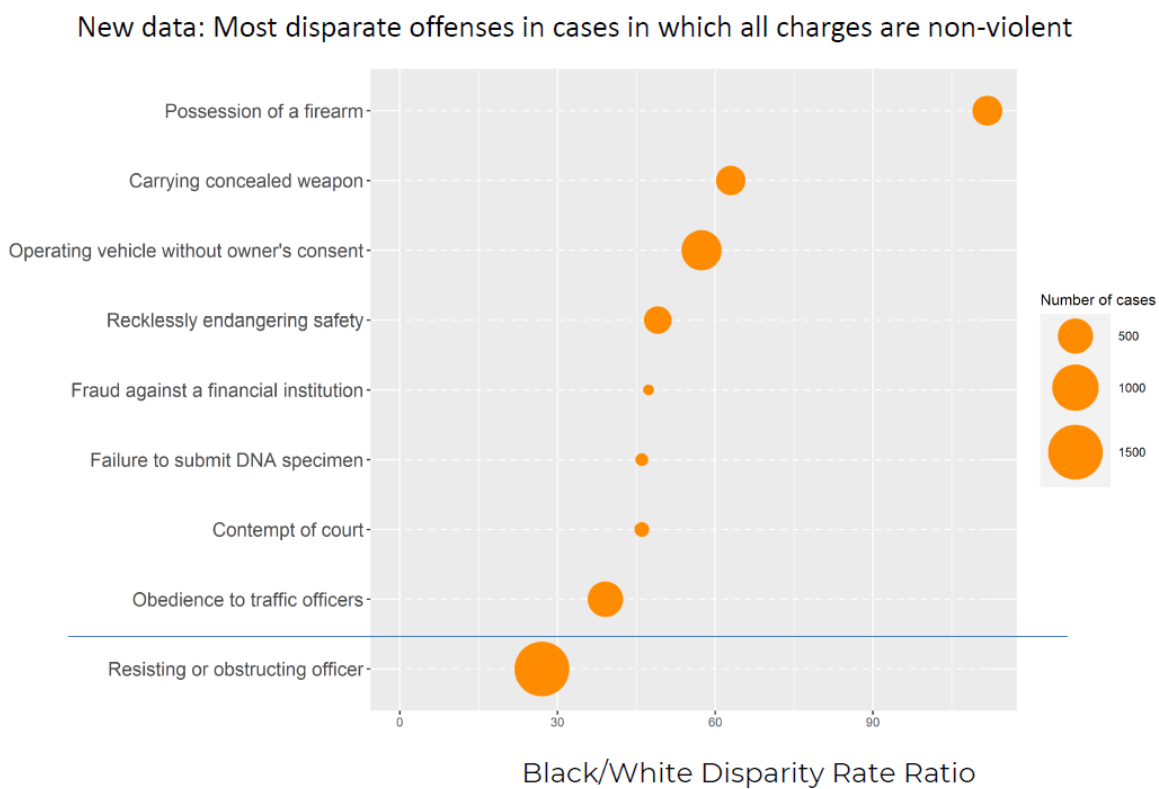


Figure 5. Most B/W disparate offenses for ages 17-35 and disparity ratios and resisting/obstructing an officer.<sup>31</sup>

<sup>28</sup> Available at: <chrome-extension://hbgjkiolmpbmemlmbkfcckopochbgjpl/https://www.wicourts.gov/courts/programs/docs/pretrialopguide.pdf>

<sup>29</sup> E.g., a person charged with disobeying a traffic officer had a 20% co-occurrence rate of being charged with resisting or obstructing an officer on the same case.

<sup>30</sup> See “Dane County Data from a System Lens Follow-up” available at: <https://dane.legistar.com/View.ashx?M=F&ID=12138714&GUID=2D199207-7DBC-411F-9926-DC9DF736A8C6>

<sup>31</sup> From “Dane County Data from a System Lens” presentation on June 20, 2023 by Dane County staff. At the time of data presentation, it was not known that data included disqualifying violent offenses that are not BJA eligible.

Based on discussions regarding the first data presentation, the data was re-analyzed to eliminate cases that had violent offenses (disqualifying) charges paired with non-violent charges presented in the first data analysis, with very little difference between those two data sets. Additional analysis included an examination of the top ten most common non-violent offenses and their disparity rates to get a fuller picture of offense and disparity rates. While not within the top ten most disparate offenses, resisting or obstructing an officer was also added to the offense matrix as the most common offense among the 17-25 age group, and it was the twelfth most disparate offense.

After the second data analysis, it was determined that possession of a firearm was a disqualifying offense under Bureau of Justice Assistance requirements, and that charge was removed from consideration, although carrying a concealed weapon by itself was not a disqualifying offense. Subsequent discussion of other offenses on the list revealed that recklessly endangering safety as charged in Dane County will nearly universally be considered a violent offense through the presence or use of a weapon and/or serious injury and threats or attempts of violent conduct, and therefore was disqualified from the pilot offense list. Additional information provided by CCAC members detailed that the contempt of court cases were typically child support issues rather than another sort of criminal activity, and that the failure to submit a DNA specimen was ultimately not a critical issue worth the time of the community court process. Additionally, the District Attorney's Office and Victim's Witness communicated potential concerns about including operating a vehicle without owner's consent as a target offense.

In determining the eligible pilot offenses, multiple CCAC members reiterated the importance of the original contemplation of the community court program to handle more serious cases. A further consideration for offense selection was to not duplicate services or take clients away from other diversion programs, but rather to offer another pathway for individuals who cannot be appropriately served in an existing program (e.g., felony offenses that would be deemed ineligible for pre-charge diversion), as well as for individuals who may require more robust wraparound services and did not qualify for another diversion option.

Once a large portion of the most disparate offenses were eliminated for the pilot phase as ineligible or otherwise inappropriate for community court, additional data analysis was conducted to determine other possible offenses to include in the pilot offense list. This included offenses with a significant rate of occurrence, similar to the other possible pilot offenses, even if the rate of disparity was lower. This led to the examination of lower-level drug offenses, including low-level trafficking and possession cases,<sup>32</sup> that have a similar occurrence rate to the resisting/obstructing/obedience to a traffic officer at approximately 375 cases per year.<sup>33</sup> These drug offenses do have a lower disparity rate<sup>34</sup> than some of the other most common offenses,

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<sup>32</sup> Offenses include manufacture, distribution, delivery; possession with intent; possession. Statutes are 961.41(1), 961.41(1m), and 961.43(3g).

<sup>33</sup> See "Perspectives on Initial Pilot Offenses – Community Court" presentation by Dane County staff on September 12, 2023.

<sup>34</sup> See *id.* Race of defendants of drug offense cases was 49% white and 47% Black. The inclusion of these offenses can still have an impact on disparities based on the population composition of Dane County.

such as criminal damage to property and disorderly conduct, but both of those offense types are already eligible for the CRC.

Ultimately, the contemplated lower-level drug offenses (that are otherwise ineligible for referral to drug court) were added to the initial pilot potential offense list (Appendix G), along with operating a vehicle without owner's consent, resisting or obstructing an officer, and obedience to a traffic officer.

\*\*It should be noted that further discussion expressed support for the continued expansion of the offense list to include more of the racially disparate offenses and offenses involving violence in the post-grant phase as appropriate to attain the vision of a community justice center that emerged in the CCAC's meetings.<sup>35</sup>

### Services & Support

Multiple framing discussions, group activities, and the visioning process considered the elements of a community and restorative approach as based on needs and responsivity. This started with a facilitated group exercise examining the largest areas of need through several questions:

1. What resources would help lower crimes and/or criminal justice involvement?
2. What needs do victims of crime have? Are they readily available?
3. What services should be available to those who have committed an offense, but are willing to engage in supportive service?<sup>36</sup>

There was a deeper follow-up discussion from the targeted perspective of potential offenses that could be handled by the community court (low-level drug trafficking, unarmed car theft, and resisting/obstructing arrest). This discussion centered on responses to four questions and their resulting word clouds:<sup>37</sup>

1. What services or support would be useful?
2. What gaps currently exist in support or providing services to community members' needs?
3. What types of community organizations can we partner with?
4. How do we build a space that the community wants to come to?

CCAC also discussed what it viewed as the top services that are the most critical to start with.

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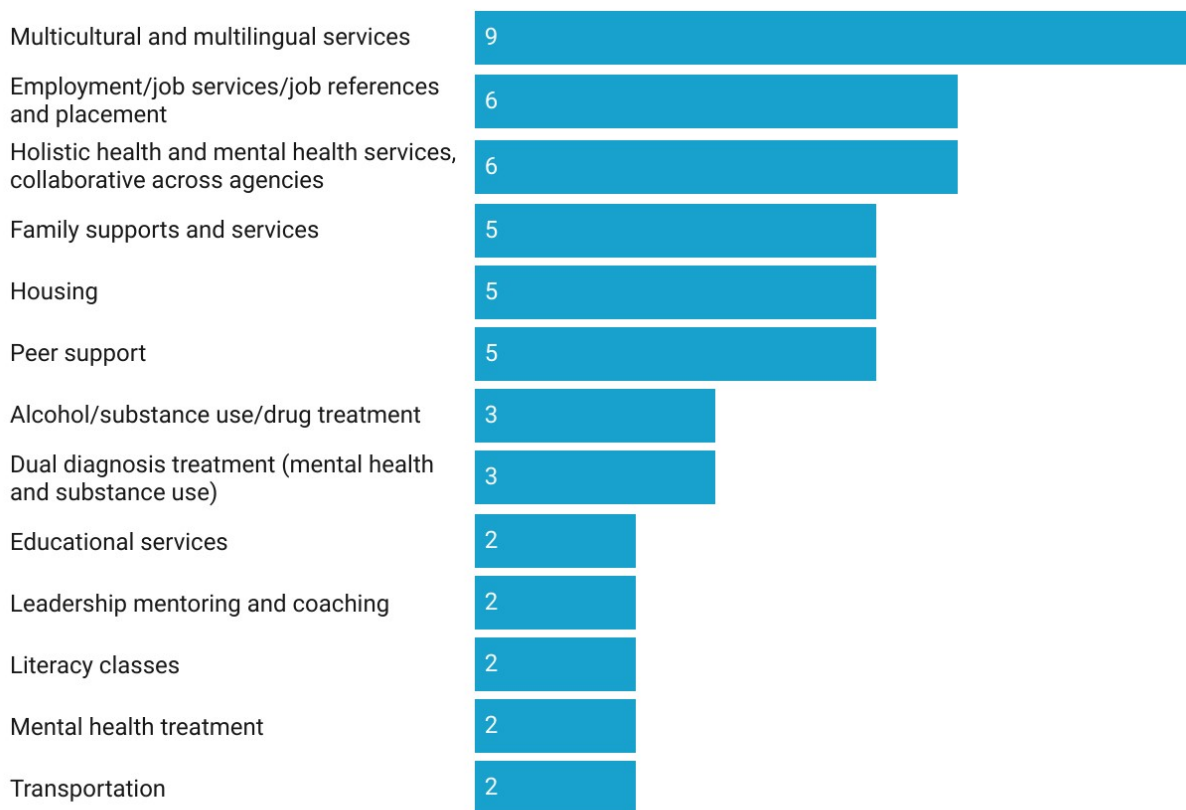
<sup>35</sup> See Minutes for September 12, 2023 CCAC meeting

<sup>36</sup> See Minutes for April 18, 2023, CCAC meeting.

<sup>37</sup> See Appendix H – Brainstorm Word Cloud Results from September 26, 2023 CCAC meeting.

## What are the top three services that you see as most critical tools to start with?

Number of votes, 14 people total



Created with Datawrapper

Figure 6. Top critical services areas (from 9/26/23 CCAC meeting discussion)

### Location

Throughout the CCAC’s visioning process, discussions about possible locations often centered on selecting a community space for the community justice center,<sup>38</sup> though there was no consensus on an exact location. The overarching theme was a space that looks and feels dramatically different than a traditional courtroom space. Significant discussion was focused on the desired qualities and traits of the location and space, with a hope for multiple possible

<sup>38</sup> Suggestions from the Pre-Report Discussion included creating a welcoming space: the south side of Madison; the north side of Madison; near a location where most offenses being referred occurred utilizing the data analysis conducted by the county; a location with access to public transportation; a location with access to services or co-located with services (e.g., library, public health, etc.); examine a partnership space with the University of Wisconsin, the Multicultural Center, or Urban Triage; or in a supported housing development. See CCAC meeting minutes for September 12, 2023 for further discussion.

locations as the program grows to increase overall access. This has been the common trend for many places with community courts - they start with one location and expand to other locations to serve different needs, geographic areas, or service arrays. CCAC reviewed maps generated by staff that showed the addresses of people charged with potential target offenses and used that information to evaluate potential court locations.<sup>39</sup>

In the Pre-Report Discussion on location selection, a potential issue with a community-based location surfaced in the context of Wisconsin Supreme Court Rules Chapter 68: Court Security, Facilities, and Staffing (SCR Ch. 68) (Appendix I). The possible implications of SCR Ch. 68 are that a location within the existing courthouse may need to be considered, even if only for the pilot phase, while searching for other suitable locations that could be modified to meet any necessary requirements.

Two main options were proposed if SCR Ch. 68\*\* considerations could not be resolved prior to the launch of the community court:

1. The community court judge initially using their own courtroom; and
2. Building out an unfinished courtroom within the Dane County Courthouse.

The second option of building out an unfinished space within the courthouse was viewed more positively by CCAC members, with the possibility of creating a much different space in that room than in any judge's existing traditional courtroom.

The courthouse-based option raised many questions for CCAC about how to create a safe, welcoming, and trauma-informed space, with particular concern for the immigrant community.<sup>40</sup> Other concerns for the location were the potential presence and specifications of court security and personnel, whether and what community support might be present, and the types of services and mobile resources that would be available in the location.

The Red Hook Community Justice Center's physical location, layout, and aesthetics and Judge Alex Calabrese's courtroom was used as a reference point for what can be accomplished even in a courtroom.

\*\*SCR Ch. 68 will be addressed more fully in the "Phase 1: Pilot Phase" and "Challenges" sections of this report.

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<sup>39</sup> See Appendix F – Dane County Data from a Systems Lens slide 7 for geo-located offense data.

<sup>40</sup> The Healing Ethno-And Racial Trauma (HEART) framework was offered up as an example approach to creating sanctuary and trauma-informed space. It has been utilized through a community partnership with the University of Wisconsin-Madison and Centro Hispano for "Health Equity from the Inside Out". *See generally*: Chavez-Dueñas, N. Y., Adames, H. Y., Perez-Chavez, J. G., & Salas, S. P. (2019). Healing ethno-racial trauma in Latinx immigrant communities: Cultivating hope, resistance, and action. *American Psychologist*, 74(1), 49–62. <https://doi.org/10.1037/amp0000289>

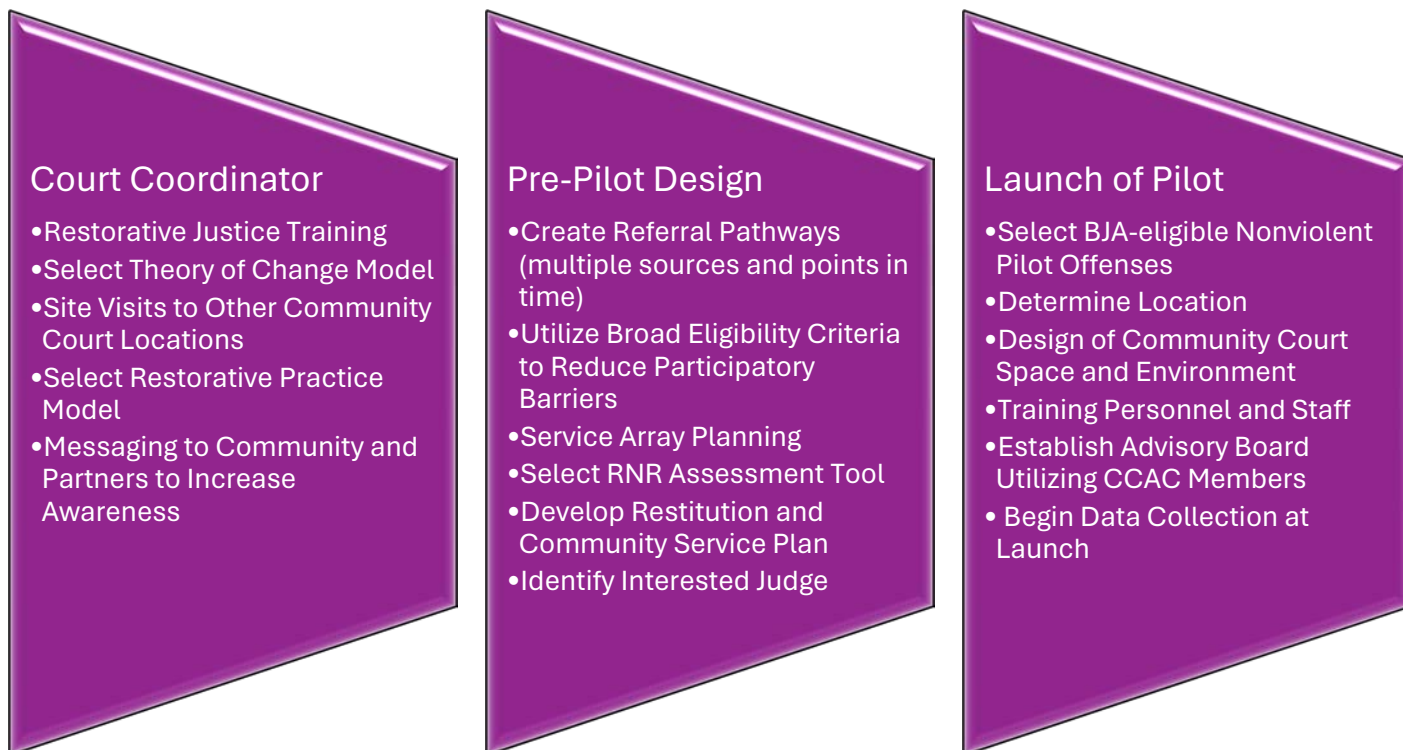


## RECOMMENDATIONS

In preparation for this report and for the purpose of making recommendations, the report writer conducted a comprehensive review of previous reports, including but not limited to: 2015 CCI site visit report; 2020 January Advisors report on opportunities for deflection and diversion; 2021 Community Justice Center Facilitated Community Conversations Report (also known as the Pre-Engagement Report); 2021 Community Justice Center Initiative Final Needs Assessment Report from CCI; and jail population statistical reports. Additional material review and preparation consisted of: viewing the Community Justice Center Virtual Town Hall from October 2020; attending and viewing recordings of all CCAC meetings; reviewing each CCAC presentation and data analysis; conducting additional review of all minutes, discussions, and results from all of CCAC's facilitated activities; and reviewing SCR Ch. 68.

Additionally, the report writer offered the opportunity for one-on-one meetings with any interested CCAC member who wanted to provide any additional information for consideration after the Pre-Report Discussion at the CCAC meeting on September 12, 2023. Seven CCAC members participated in individual meetings with the report writer prior to the Initial Community Court Recommendations discussion at the final CCAC meeting on September 26, 2023. The recommendations were then presented to the CJC at a meeting on September 28, 2023.<sup>41</sup>

## PROGRAM DESIGN



<sup>41</sup> See Appendix J

## Court Coordinator

Once the community court coordinator is in place, many crucial steps can be taken and process design decisions can be finalized.

- Restorative Justice Training: It is recommended that the court coordinator receive training in restorative justice practices (if not already well-versed in peacemaking circle and/or restorative justice conferencing practices) and gain experience in the restorative process so they are able to assist with program operation and co-facilitate community court processes.
- Theory of Change Model: It is recommended that the court coordinator work jointly with the Office of Criminal Justice Reform (OCJR) Director to choose and develop a theory of change model to explore how community court interventions and related support services will lead to desired results and determine what might be missing as the program develops.
- Site Visits: The coordinator, preferably along with the OCJR Director, should visit other community court locations to gain additional insight into operations, strengths, and weaknesses of different community court practice methods and service areas.
  - The Orange County Community Court should be one of the sites visited due to their acceptance and handling of felony matters.
  - The other site visits should be selected based on their specific model and practice of restorative justice and similarities to the models being considered for the Dane County community court.
- Selection of Restorative Justice Practice Model: The OCJR Director and Court Coordinator should work with the CRC to determine the type of restorative justice practice model(s) that the court will use. The community court should coordinate with the CRC for at least the duration of the pilot and second phase. The choice of practice model will also influence the design decisions for the community court space.
  - Based on the success and broad support of the CRC since its creation, it is recommended that the community court lean into that particular circle practice and utilize a similar human services intervention approach to the broader community peacemaking process.<sup>42</sup>

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<sup>42</sup> The CRC already utilizes a blend of different practice models to have an appropriate, flexible process that can be applied based on different types of crime, circumstances, and victim interest in participation. This includes the use of surrogate victims, enhanced roles for peacemakers for non-direct victim/community as primary victim, and small groups or panels of respondents for applicable cases.

- Additional blended models of restorative practice should also be considered for implementation after the community court is successfully in the pilot phase and ramping up towards full implementation, such as peer-led circles of support and accountability.
- Messaging: The importance of appropriate and effective messaging at launch for community buy-in cannot be overstated. This should involve the coordinator, advisory board, and director engaging in significant public awareness activities.
  - Public awareness efforts should be conducted repeatedly and via mixed media. These efforts should include informational sessions and town hall presentations that are conducted both virtually and in-person in the affected communities and more broadly across Dane County.
  - It will be similarly important for these messaging events to continue whenever the program seeks to expand, and especially when moving from the pilot phase to the second phase of full implementation.
  - Where possible, messaging should include both “the numbers and the story” to effectively tell the fuller picture of the program. Compared to other restorative diversion processes that do not have any public court element, there are additional elements of transparency that should be built into the community court setting to ensure the success of the process.

### Pre-Pilot Process Design

Each step of the design process should be infused with restorative philosophy and informed by the six guiding principles for community courts: centering people, co-creating justice, advancing equity, prioritizing community-based solutions, promoting accountability, and staying vigilant to emerging issues and possible solutions.

- Referral Points/Sources: This will be an entirely new process, utilizing community-based approaches in responding to higher-level crimes than other diversion programs in a collaborative rather than adversarial way. There should be as many referral pathways as possible. As a post-charge diversion program, each of the relevant system actors should have an opportunity to suggest cases and individuals for consideration. This includes the recommendation that both judges and defense attorneys also have a space to suggest referrals to the community court rather than only limiting referrals to the District Attorney’s office.

- It is further recommended that these opportunities to refer are not limited to a single space in time and that an individual can be reviewed for potential referral at multiple times during a traditional court process, particularly as circumstances change over time.
- Other Referral Considerations:
  - Both at the pre-pilot design stage and at each subsequent stage (if not already done), the community court program should explore possible pathways for municipal judges to make referrals. While such referrals would not directly impact the disparity numbers on their own, the financial impact of citations can certainly have disparate effects. Additionally, the creation of such a pathway aligns with the principle of prioritizing community-based solutions.
  - Similarly to the interest of the municipal judiciary, a CCAC member asked about community organizations serving as an additional pathway for referrals, especially for people who may be more reluctant to engage with systems. While this was not on the initial list of recommendations, it is an interesting model innovation to explore.
- Eligibility Considerations: Leaning on the guiding principle of advancing equity, the recommendation is to keep any eligibility criteria as broad as possible.
  - Regardless of the pilot offenses selected, all program requirements and eligibility criteria should be carefully scrutinized in the development of policy and procedure for the program. The program should carefully consider the implications of who is and is not eligible under a particular schema, as well as who is possibly screened out before ever being contemplated for this program.
  - As each referring agent is a discretionary decision maker, it is recommended that additional training on bias in decision-making be offered broadly across agencies and organizations.
  - Participatory Barriers/Programmatic Requirements
    - o The program should be aware of possibly masquerading needs and social and economic disadvantage as criterion for participation (e.g., reliable/verifiable mailing address or upfront/ongoing participation fees, etc.)
    - o Likewise, the program should attend to the possibility of language impairments or deficits that may be present.
- Service Array Planning: It is recommended that the Court Coordinator and the OCJR Director survey the local wraparound service providers and plan for what the service array will look like:

- This comprehensive examination should include, at a minimum, mental and behavioral health, substance use disorders, employment (e.g., both job training and a job coach to assess/address when challenges occur, and employment assistance), education, and housing.
- Examine access/capacity with partner organizations, noting concerns about number of treatment beds and extremely long waiting lists.
- Holistic, culturally specific, and culturally appropriate services and providers should be prioritized, including service providers who offer accessible multilingual programming with culturally competent and responsive staff, as these are incredibly scarce resources in Dane County.
- Similar consideration should be given to service providers with flexible hours to account for both participant work schedules and the need for childcare, or providers who can provide onsite childcare while delivering services.
- Begin conversations regarding the feasibility of blended funding opportunities and the coordination and collaboration of services (i.e., ways to build or bundle wraparound services through collaboration) between contracted service providers.
- As the service array is solidified, implement contracts with service providers to provide guaranteed slots for access purposes.
- Consider an analysis of and possible collaboration with organizations who work with youth and young adults as the individuals they serve may come through the community court as they get older.
- Risk Need Responsivity (RNR) Assessment Tool: An appropriate RNR assessment tool for intake will need to be selected prior to beginning operation of the community court to help guide decision-making on intensity and dosage of services and interventions.<sup>43</sup>
- Restitution and Community Service: It is highly recommended that the Court Coordinator collaborate with the advisory board and any other necessary system and community partners to develop a comprehensive plan for handling restitution/alternative restitution plans, as well as how to handle issues of community service, to be able to clearly communicate that to participants from the very beginning of the pilot phase.

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<sup>43</sup> If necessary, the coordinator and other staff should become familiar with the SAMHSA materials on screening an assessment.

## Launching the Community Court

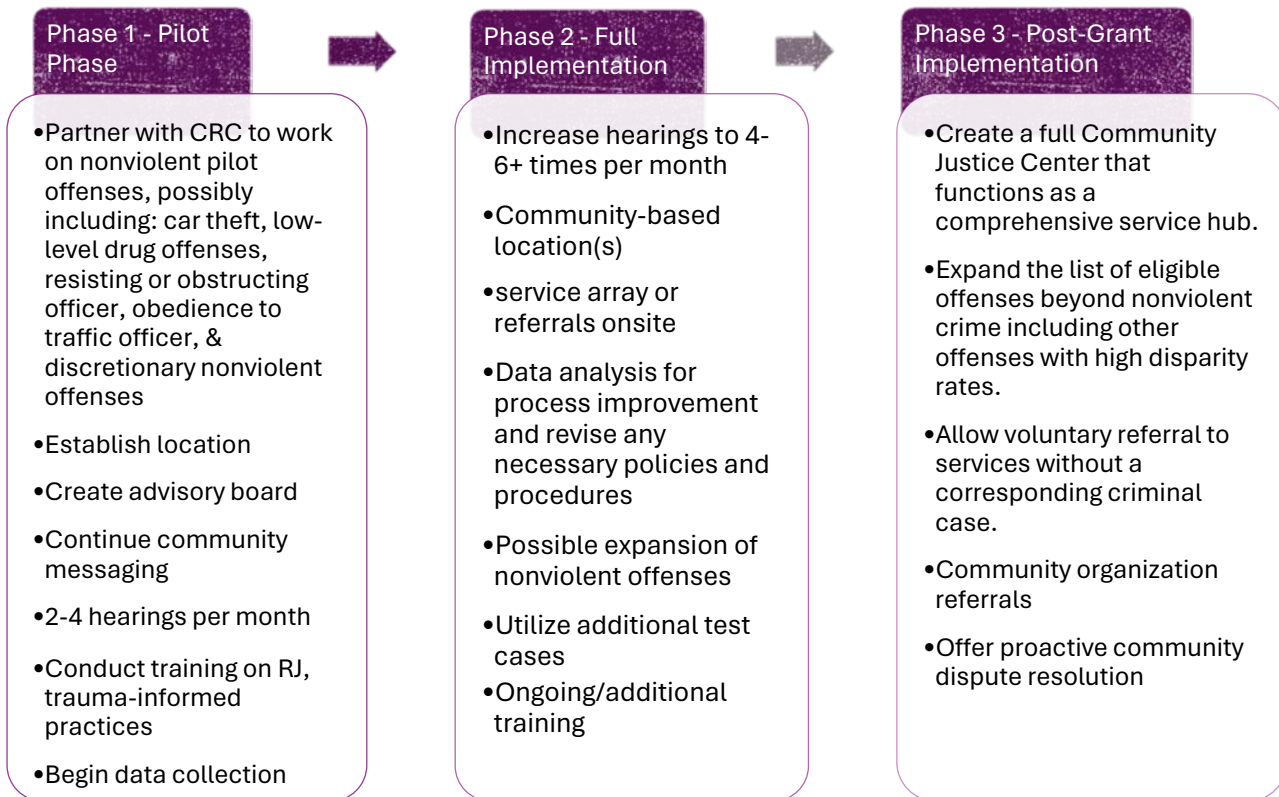


Figure 7. Phases of Community Court Implementation.

### **PHASE 1: PILOT PHASE**

#### Pilot Offenses

##### 1. Initial Offense List

The initial offense selection criteria focused on finding racially disparate, non-violent offenses (Bureau of Justice Assistance requirement) that also do not duplicate other programs (i.e., diverting or funneling cases from existing diversion programs). Given the targeted age group (17-35) and the parameters of the grant, combined with the prevalence and disparity data, several offenses should be considered within the initial list:

- Operating Motor Vehicle without Owner's Consent (without the use of weapon)
  - 2<sup>nd</sup> most disparate non-violent offense and in the top ten most common non-violent offenses (after disqualification of Felon in Possession of a Firearm as a violent offense under Bureau of Justice Assistance guidelines).

- Obedience to Traffic Officers
  - 7<sup>th</sup> most disparate non-violent offense and 6<sup>th</sup> after additionally disqualifying Contempt of Court (per additional information that that offense was frequently related to failure to pay child support cases) and moved further up the offense priority list after Failure to Submit DNA specimen was also removed due to not being worth the community court's resources. Obedience to Traffic Officers also has a dramatically higher prevalence rate within the targeted age group than several other offenses combined that are higher on the disparity list.
- Resisting or Obstructing an Officer
  - This is just outside the top ten most disparate offenses with a prevalence rate more than double the incidence rate of the top disparate offenses (5<sup>th</sup> highest incidence rate overall). While a portion of these cases can potentially be considered for CRC, they can also be of a more serious nature where pre-charge diversion may not be considered by referring agencies.
- Manufacture, Distribution, Delivery; Possession with Intent; Possession
  - Lower-level drug trafficking and possession offenses not otherwise eligible for drug court (i.e., without substance use disorder treatment needs). While also not one of the most disparate offenses, drug cases have the 3<sup>rd</sup> highest prevalence rates, with a slightly higher incidence rate than Resisting/Obstructing cases.
- Burglary (unarmed), Receiving Stolen Property, and Criminal Trespass
  - These offenses have nearly an identical racial breakdown and disparity rate as the Resisting or Obstructing cases but occur at a significantly lower prevalence rate<sup>44</sup> and without the same level of existing non-duplicative diversion options (when accounting for those that may be eligible for pre-charge diversion through CRC).

## 2. Retain Discretion to Refer Individuals for Other Offenses

Referral agents should retain discretion to consider other more serious offenses that fit Bureau of Justice Assistance criteria of non-violent crimes. This can provide two possible benefits for the pilot phase. First, it can keep the referral pool from having zero potential eligible candidates or referrals. Second, the ability to select individuals who are not otherwise diverted/eligible for other treatment courts or deferred prosecution but need the level of service and response that the community court provides can serve as test cases for Phase 2 during the pilot phase.

Note: Disorderly Conduct has the 6<sup>th</sup> highest disparity level when looking only at the top ten most common offenses and is the most prevalent offense on that list. While it is a lower-level offense, there may be some disorderly conduct cases that are suited for community court and not eligible for other diversion programs.

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<sup>44</sup> Data provided by Dane County staff.

## Location

Due to the uncertainty surrounding the implications of SCR Ch. 68, the recommendations for possible pilot locations for the community court follow both tracks where:

- Outcome Scenario 1 – SCR Ch. 68 is not an issue that impacts the location of the community court, and any community-based site can be considered.
  - In this scenario, the recommendation is to consider suitable community locations outside of the traditional courthouse. Under the six guiding principles for community courts, choosing an appropriate site in the community provides a vastly different environment that reflects the visioning of a space that feels safe and welcoming and can more readily be inviting and inclusive. Further embedding into the community affords the opportunity to make the court more accessible to potential participants. Additionally, co-locating resources, support, and service providers purely from a space perspective should be less challenging in a community space than a traditional courthouse.
- Outcome Scenario 2 – SCR Ch. 68 is found to preclude community sites and the pilot community court must be located inside the courthouse.
  - In this scenario, the recommendation is to utilize and build out the unfinished courtroom in the courthouse to create a space that can come as close to reflecting the values and vision for the community court space as possible. Creating a space designed for this process with tangible distinctions that de-emphasizes the court aspect of the location separates the community courtroom from traditional courtroom for all parties involved.
- Design of Space: Regardless of where the community court is ultimately located, the recommendation is to select an architectural firm that holds a design philosophy for creating justice spaces. Fundamentally, this requires the firm to understand the processes being conducted in that space and create a synergistic link in design between the desired outcomes and that physical space.<sup>45</sup>
  - The same recommendation will apply to any larger construction or renovation project for a full community justice center in co-located space with service providers and resources.
- Security Staff, Personnel, and Training: Through research into court rules and administrative codes and direct outreach to community courts in other jurisdictions, the reality is that deputies and other forms of security will need to be present in the

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<sup>45</sup> See generally Designing Justice + Designing Systems, an Oakland based nonprofit architectural firm that specializes in creating justice spaces for an example of the type of recommended firm: <https://designingjustice.org/>



community courtroom or community justice center, whether it is physically located in the courthouse or in a community space like a church basement. There are still proactive steps that can be taken to affect the overall impact this has on the space:

- Invite community support and peer supporters/specialists into that space in addition to the service providers. Following the guiding principles will mean that those support individuals should be hired members from the geographic community.
- Provide additional training to security screeners and any law enforcement stationed on the first floor, courtroom personnel, security personnel/deputies, and other staff on restorative justice, trauma-informed practices, and procedural fairness.
- If the community court is housed within the courthouse, review environment, procedures, and policies from the participant perspective (i.e., user experience). Examine the culture and climate of the first-floor entrance area with particular attention toward accessibility and comfortability of the first-floor space.

### Advisory Board

To engage community groups and neighborhood stakeholders, an advisory board for the community court should be created and involve as many of the community groups from the CCAC as possible. Individuals with lived experiences and crime victims' voices should be highlighted on the advisory board, along with additional treatment service providers.

- Based on the CCAC's composition, adding mental health and substance use disorder treatment providers would round out the service array representation. The CCAC community groups have already indicated that they would like to transition to community roles on an advisory board.
- Constructing the advisory board in this way creates a direct link to decision-makers and the decision-making process. In a practical sense, it gives the stakeholder community groups and organizations access to the choices and changes relevant to the direction of the community court. As one CCAC member stated, it will give community "a real voice at the table going forward."
- Additionally, an advisory board allows for multi-directional accountability of the organizations and service providers themselves and enhances the collaboration and coordination between providers and agencies by having them at the table.

## Pilot Process & Initial Staffing

The recommended approach to maximize success of the new community court (whether located in the courthouse or in a community-based site) is to create an immediate, direct link to the CRC and start by utilizing their restorative peacemaking process in the community. Under this initial arrangement, the community court coordinator will serve as the direct liaison between the CRC and the judge for the community courtroom, providing updates and relevant information on where the individual participant is in the process at the check-in hearings. This method of operation will allow the restorative peacemaking process to remain confidential, while progress in the overall preparation phase and then monitoring of the resulting repair harm agreement will occur with the judge in the community courtroom.

The community court's cases are expected to be more complex than the CRC's cases due to dealing with more serious offenses. More complex cases will likely require greater time, preparation, and front-end work during the intake and circle preparation process by the community court coordinator and the CRC, and may also require multiple circles to get to a repair harm agreement.<sup>46</sup>

- Community Court Judge: The judge for the community court should be an individual who volunteers to add it to their responsibilities as a specialty docket and not a full-time court. The pilot launch anticipates that the community courtroom will be limited in use for hearings and status conferences to monitor progress and success with hearings held in the community court two to four times per month.
- Dane County District Attorney's Office: During the initial phases of the community court, the expressed plan is for the District Attorney's Office to utilize multiple prosecutors in their office to cover the community court from other courtrooms rather than having a dedicated prosecutor.
- Office of the State Public Defender: The Public Defender's Office plans to staff the community court in the same way as they staff drug court, to address community court hearings and status conferences.
- Consider Alternate Hours for the Community Court: There are two relevant factors in the recommendation to explore flexibility of scheduling for court personnel and attorneys,

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<sup>46</sup> In more serious cases, any baseline requirements/accountability elements from the DA's office or the court that are needed for inclusion in the repair harm agreement in addition to the terms crafted by the restorative process will need to be known on the front end before going into the peacemaking process. Repair harm agreements need to represent the totality of requirements for a participant as the binding agreement. As the restorative process is voluntary outcomes are consensus driven, participants need to have a clear pathway forward once the repair harm agreement has been crafted so that the peacemaking process isn't invalidated or undermined by trying to add additional unanticipated conditions at the back end once they parties return to community court to report on the progress.

shifting the hours to slightly later in the day. The first factor, seeking to accommodate the working schedules of community court clients, would be applicable regardless of the pilot location for the court (courthouse or community site). The second factor relates only to a traditional courthouse location, where shifting the time later will benefit the social environment for community court participants because it will be a lower activity time at the courthouse with fewer people present than during business hours. Additionally, when this becomes the regular time for community court in a courthouse setting, the courthouse and courtroom staff and security will know that people are present specifically for community court. With the recommended restorative justice and trauma-informed practice training for staff and security personnel, this will hopefully lend a different feel to the general courthouse and courtroom environment. As trials and court proceedings currently demonstrate, there are times that the courthouse goes beyond regular business hours and bailiffs are present as well during those days and times.

- Provide ongoing training on restorative justice and the community court program broadly across system actors and referring agencies.
- Offer additional training on bias in decision-making for anyone who did not receive it in the pre-pilot planning stage. It is strongly recommended that all actors in a position to make referrals or eligibility decisions for the community court receive this training.

#### Data Collection to Begin in Pilot Phase

Data collection and analysis will be crucial to evaluate the impact and effectiveness of the community court, as well as provide guidance on what elements may need to be changed over time as the program evolves. As one of the critical aims for the creation of the community court is reducing racial disparities in Dane County, the court will need to create a programmatic data collection system to track and monitor comprehensive demographic data and offense information for analysis.

- Target Population & Program Fidelity: Who is coming to the community court?
  - Continue to evaluate design/selection processes to see if existing criteria are impacting targeted issues and reaching or not reaching different populations.
  - Conduct ongoing monitoring of offense disparity rates.
    - What is happening to the number of offenses charged? Does it reduce overall disparity numbers, or does it shift to other offenses?
    - If offense-based eligibility remains a major selection factor, are different arrests/referrals for charging or different charges being issued instead?

- If the court observes disparate referrals, then examine what is happening upstream from a bias-informed lens. What elements of the selection process/criteria are significantly impacting referrals?

The guiding principle for community courts of advancing equity recognizes current system realities and expects that policies and practices within a program that seeks to address disparities will need to evolve as an iterative process:

When inequities are identified, community justice programs take decisive action to remedy them by changing policies and practices to achieve equity in program access, services, monitoring, outcomes, and other areas. If people of color are underrepresented in—and therefore denied access to the benefits of—a community court, for example, the court can expand its eligibility criteria to include individuals with more significant criminal histories, thereby acknowledging that over-policing and selective enforcement have led to disparities in criminal history. If women have lower rates of treatment engagement than others, the court can offer more gender-responsive treatment services.<sup>47</sup>

- Comparative Analysis with Deferred Prosecution, Drug Court, and CRC referrals: Who is going to which programs? What are the referral numbers and trends?
  - Obtain and analyze data from the other major diversion programs to examine any noticeable disparity trends across and within programs.
- Lengths of Time Between Events:
  - Monitor the distance between significant case events, including arrest, charging decision and screening for community court, referral to community court, and relevant community court activities to understand the flow of cases from start to finish. This can be used to inform process modifications if, for example, differences are observed in successful outcomes based on the length of time between key events.
  - This information can also provide comparative data for the average length of time for both other programs and traditional processing.
  - Examining the case completion time, repair harm agreement terms, and the length of any related and required monitoring can provide additional information for analysis from a disparity lens.

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<sup>47</sup> *Community Justice Today: Values, Guiding Principles, and Models*, Center for Court Innovation (New York: 2022), pg 5.

- Measuring Success: Recidivism and Beyond
  - While tracking and measuring recidivism will be important, the community court should also consider recidivism differently to understand the related impacts of community court participation and answer additional questions even about participants who do not successfully complete the program or who do re-offend. As one member of the CCAC put it, the focus needs to be on “looking for progress, not perfection.” What are the trends from those who re-offend? Is there a positive effect from the community court process even on individuals who don’t remain crime-free?
    - Does it take community court participants longer to re-offend compared to other similarly situated individuals?
    - Do their offense types change such that less serious crimes are being committed after participating in community court? How does that compare with other individuals?
  - Under the principle of putting people first in the community court process, success should also be measured by helping participants “lead healthy, fulfilled lives, and promote community safety, resiliency, and well-being.”<sup>48</sup> What are the inherent benefits of the program as experienced by the people coming to it? What do we gain by doing it and what do we avoid by choosing a community court process rather than a traditional court process?
    - Has the person been able to obtain stable housing?
    - Do they have a stable job that provides a living wage?
    - Have they been able to improve their level of education?
    - Have they been able to engage with services? How are services being used, and how successful are they?
  - Conduct entrance and exit surveys of all community court participants (both harmed parties and responsible parties) to obtain qualitative and quantitative data to understand overall participant satisfaction related to:
    - How successful it was for each person
    - The level of support they received
    - Accountability for the respondent through the community court process
    - Procedural fairness
    - Outcome fairness
    - Thoughts and feelings about the community court process versus the traditional court process

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<sup>48</sup> Id.

- Comparative analysis for those who have had prior experience with the traditional court process
- Relative well-being (i.e., better place after than before)
- What are the other benefits that both sides can realize along the way?
  - Is there an increase in empathy scales for a responsible party?
  - Do the thoughts and feelings about the other party change through the process? (e.g., Understand them better? View them more positively? etc.)
  - Additional metrics for harmed party (e.g., Did they experience justice? Are they less fearful of being victimized/re-victimized in the future? Do they have less fear of the respondent?)
- Inquire about resources that participants could have used or any additional support that was not offered or available through the community court process. Are there any unmet needs? Utilize the experiences of participants to inform the community court coordinator and advisory board about gaps in the service array offered through the court process to inform future budget requests.

## **PHASE 2: FULL IMPLEMENTATION**

Phase 2 should have less reliance on the CRC for conducting the community court's restorative processes, as well as an expansion of potential clients served.

- There should also be an expectation that the frequency of hearings will increase to four to six times per month, or the hours of operation expanded.
- If there is not an established community-based location by this time, the coordinator should find a second location (e.g., public library, other county building, shared space, or co-located space).
- There should be significant service array support or referrals available onsite with the community court in Phase 2. Utilize data from pilot phase to expand service array and address gaps in service.
- Find additional ways to improve its overall environment of the community court for participants and work to implement even more of the visioning recommendations for the space (e.g., evaluation and rearrangement/reapportionment of space to meet the needs of participants and the process, community art, etc.).
- Examine all the program and comparative data to evaluate possible areas for bias and disparity, including comparative assessment of other diversion programs, and act accordingly.
- Revise eligibility requirements, policies, and procedures to address any observed disparities and seek additional upstream changes to maximize the impact of the community court.
- Consider expanding the general range of non-violent crimes eligible, utilizing the information gained from test cases in the pilot phase.
- Expand the use of test cases from the pilot phase, both alternate referral sources and more serious non-violent offenses.
- Provide additional and ongoing training on restorative justice, trauma-informed practice, and bias in decision-making.

## **PHASE 3: POST-GRANT CONTINUED IMPLEMENTATION**

Phase 3 moves out of the grant-funded portion of the community court and into the county budget. The current plan for this phase of the project culminates around two key elements:

1. Expand the list of possible offenses: By this point, the pilot and full implementation phases should provide useful information, reliable data, and results for the broader determination of eligibility based on the RNR assessments. The hope is to target more of the racially disparate offenses that were ineligible during the grant-funding period (e.g., felon in possession of a firearm, carrying a concealed weapon, recklessly endangering safety, etc.) and to address violent crime and more serious cases through the community court process.
  - Open the process to referrals from community organizations, if that has not already been contemplated/implemented.
  - Expand community court services to include more proactive conflict resolution mechanisms for community members.
2. Establish a full Community Justice Center: This represents the culmination of the visioning conducted by the CCAC with the complete implementation of a community justice center that acts as a comprehensive services hub. The design should include the elements highlighted by the CCAC: spaces for peacemaking, spaces for community, and spaces to access resources.

The vision is for a center that supports and affirms people and an environment that is not just less adversarial than a traditional courthouse, but also intentionally aspires to be non-adversarial and non-hierarchical. Ideally, the courtroom and services space can be co-designed by the judge, the community, and other relevant stakeholders and officials. Any potential SCR Ch. 68 location-related issues should be resolved before Phase 3 or taken into consideration for the design of the full center.

- The recommendation to use an architectural firm that specializes in designing social justice and healing spaces remains in place.
- Funding for the construction or renovation of an appropriate space for a full center will need to be secured from the county budget and/or external sources.
- Increase the number of staff to meet the need for service across all sites.
- As a comprehensive services hub, the community justice center should bring together:
  - Pretrial services
  - Social workers/human services (e.g., Joining Forces for Families, other wraparound services)
  - Reentry team
  - Peer support



- An added element of the service hub is to incorporate voluntary referrals to services within the center, even for those without an active criminal case.

Examples of these sorts of co-location service hubs can be found in the:

- o Bexar County Family Justice Center,<sup>49</sup> which offers intake services to assist community members in identifying appropriate resources, such as:
  - Basic Needs Assistance
  - Criminal Justice Intervention
  - Civil Legal Services
  - Chaplain Services
  - Child Care
  - Child Protective Services (CPS)
  - Counseling Services
  - Law Enforcement Services
  - Life Skills
  - Medical Services
  - After Hours Emergency Calls
- o Las Vegas Township Community Court/Community Impact Center,<sup>50</sup> which offers referrals for the following and more services:
  - Onsite Representative Assistance for SSI/SSDI
  - Hygiene Kits for the Homeless
  - Food Pantry Listings
  - Substance Use Disorders Referrals
  - Mental Health Treatment Referrals
  - Education Assistance Referrals
  - Pet Assistance Referrals

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<sup>49</sup> See more about the Bexar County Family Justice Center at: <https://www.bcfjc.org/>

“The Family Justice Center (FJC) is a collaborative community response to domestic violence. It is the co-location of a multidisciplinary team of professionals who work together, under one roof, to provide coordinated services to victims of domestic violence.” And

<sup>50</sup> See more about the Las Vegas Township – Community Court/Community Impact Center at:

[https://www.lasvegasjusticecourt.us/divisions/las\\_vegas\\_township\\_-\\_community\\_court\\_\\_\\_community\\_impact\\_center/las\\_vegas\\_township\\_\\_\\_community\\_impact\\_center.php](https://www.lasvegasjusticecourt.us/divisions/las_vegas_township_-_community_court___community_impact_center/las_vegas_township___community_impact_center.php)

## SHORT-TERM CHALLENGES

### Office of Criminal Justice Reform Director & Community Court Coordinator Positions

With the suspension of the hiring process for an OCJR interim director in August 2023, the community court project described in this report will not be able to move forward until a permanent OCJR director is hired in 2024. After the OCJR director is in place, they will need to initiate a hiring process for the Community Court Coordinator position. Many key decisions regarding the community court process and operation cannot be determined until both these positions have been filled.

Additionally, as county leadership changes, the new leaders will need to be informed about the Community Court program to update them on the progress of the program and the scope of the undertaking.

### Physical Location & Courtroom Design (SCR Ch. 68)

SCR Ch. 68 was adopted in 2012. It replaced and expanded upon earlier rules, with a recent set of minor revisions at the end of 2022. SCR Ch. 68 applies to all existing facilities, new construction, remodeling, and relocation of court facilities,<sup>51</sup> which implicates it in the selection and design process of a community court. The term “court facility”<sup>52</sup> is defined quite expansively, including any facilities used in the operation of a court or where court proceedings happen. At the same time, the purpose of the chapter is to provide a flexible framework for “decision-making regarding court facilities while recognizing the wide range of needs and circumstances which exist in counties across the state.”<sup>53</sup>

It is important to note, as possibly the most relevant factor for any subsequent analysis, that the use of the word “should” is only directory rather than mandatory in applying the standards of this chapter, which may offer additional flexibility.<sup>54</sup>

The intent articulated in the purpose of SCR Ch. 68 is to attend to the safety and security of everyone involved in the court process, and those considerations should be addressed appropriately regardless of location.<sup>55</sup>

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<sup>51</sup> SCR 68.01(3)

<sup>52</sup> SCR 68.02(1)(b): “Court facility” “means the facilities used in the operation of the circuit court including without limitation the courtroom, court chambers, the office and storage area of any court commissioner, court reporter, clerk of circuit court, register in probate, clerk of juvenile court, family court counseling, the jury room, jury assembly areas, judicial staff areas, areas that may affect the security of a court, court staff and the public using a court, areas used for access to a court and any other facilities used in the operation of a court, where court proceedings are conducted or judicial staff is housed.”

<sup>53</sup> SCR 68.01(2)

<sup>54</sup> SCR 68.02(1)(d): “Should” is directory only, not mandatory, and connotes a duty or obligation to pursue a goal or objective.

<sup>55</sup> SCR 68.01(4)

In preparation of this report and recommendations for both the CCAC and the CJC, the report writer conducted a brief multi-state analysis related to security and personnel where other community courts are located to determine if similar provisions and restrictions exist, or if Wisconsin is unique in this matter.<sup>56</sup> Examining rules for court security and facilities found many similar elements in each of the other states, but did indicate that the Wisconsin rules are considerably more prescriptive and specific regarding facility spaces and security. Further, significant discretion is frequently granted to the courts, presiding judges, judicial councils, and relevant law enforcement agencies (typically the local county sheriff's office) on those matters, depending on the specific jurisdiction.

One example that highlights some of the design considerations between Wisconsin and other states can be found in the standards related to windows:

**WI SCR 68.06(2)(d):** Any court facility design shall take into account security considerations in the placement and type of windows and window coverings.

COMMENT: While providing natural light and aesthetic benefits to a building's design, windows can compromise security and confidentiality. Windows are of particular concern due to the risk of attack on building occupants, particularly when located on lower-level floors.

**New York State Rules of Court § 34.0 (VI.6): Doors and Windows.** The *design of windows and doors should deter access without compromising aesthetic, natural light and view considerations.* (emphasis added) The use of better components at somewhat higher initial cost should be considered in order to provide better security than afforded by traditional windows, doors, locks and keys. The use of impact-resistant glass or plastic material should be considered in strategic locations.

SCR Ch. 68 also contains significant prescriptive building and access specifications beyond the general elements in 68.09 for facilities planning, such as:

- Minimum height of the judicial bench to be raised above the floor (68.10(6)(a) elevated at least 20 inches).
- Minimum square footage, ratio of square footage separating parts of the courtroom, and the minimum amount of public seating for both jury and non-jury courtrooms (68.10(3)-(4)).

As a built-out space of a non-jury courtroom, a determination may be required about whether building out an unused courtroom counts as a "significant" remodel that necessitates the creation of a design subcommittee.<sup>57</sup>

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<sup>56</sup> Initial review included: New York State Rules of Court § 34.0; California Rules of Court Rule, California Government Code, and some local Superior Court rules; and Illinois' Counties Code and local rules of different judicial districts/circuits.

<sup>57</sup> 68.09 details that a design subcommittee should invite participation by the county public works director, district court administrator, and a county board member.

The additional considerations that become more relevant as community-based spaces are contemplated are:

- 68.06(3): Courtrooms
- 68.06(2)(d): Separate, monitored parking for judges
- 68.11: Court facilities: Auxiliary areas

### Messaging

Any justice reform effort as significant as the community court and broader community justice center requires buy-in from all relevant stakeholders (e.g., community, law enforcement, justice partners, system actors, possible/eligible participants, etc.). While this program originates in a subcommittee to the Community Justice Council, broader information will need to be shared throughout relevant departments and agencies. Consistent and expansive communication with the Dane County communities is equally important to build awareness and trust beyond the organizations and individuals involved with the CCAC.

## **ADDITIONAL ACTION PLAN**

Once the permanent OCJR director is in place, several tasks in addition to launching the search for the community court coordinator can begin in the pre-pilot planning phase. The recommended tasks for the OCJR director include:

- Address any SCR Ch. 68 implications with the community court as part of the continued planning phase.
- Determine the judge or judges who are willing to add the community court as a part-time specialty docket.
- Explore the possibility of the expanded hours for community court operation.
- Create a partnership with the CRC.
- Engage with the other, broader parts of community safety and community wellness in the county. This includes beginning the larger coordinated process of community messaging.
- Start the search for a possible RNR assessment and compile additional instruments and assessment tools for later consideration with the community court coordinator.
- Begin setting up the system and collection tools for the database.
- Initiate preliminary baseline community analysis/assessment of procedural fairness in the traditional court process.

## **CONCLUSION**

Despite the short-term challenges, Dane County is well-positioned to move forward with a successful launch of their pilot community court. One issue will be resolved as soon as the OCJR director position is filled, and the other potential issue regarding the community court location has more than one possible solution.

The CRC is a strong partner for the community court. The CRC has nearly a decade of experience doing peacemaking and restorative justice diversion in Dane County. Through the CRC, the main criminal justice actors and agencies in Dane County are already working collaboratively and are supportive of this new opportunity. In many ways, the creation of this community court program builds on the creation and successful history of the CRC.

The creation of the CCAC also forms the foundation for an advisory board with the community organization members of CCAC who have already indicated their interest in being part of the community court advisory board. An additional challenge for the advisory board may be determining the composition and number of additional members and organizations. The CCAC demonstrated excitement for the pilot and implementation phases of the community court, the possibility of shaping a grander vision of what is possible in Dane County, and the potential a full community justice center has for addressing racial disparities and promoting access to services.

I commend Dane County for continuing these efforts to reduce racial disparities and the pursuit of a more equitable criminal justice system for all its residents. The level of commitment to community engagement in a collaborative planning process was evident through the rare approach of bringing community and stakeholders together from the very beginning to help guide the visioning process. Establishing the CCAC opened up the possibility for co-creation of community-centered responsive programs and can provide valuable guidance for future justice efforts.

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# Restorative Justice Community Court - Avondale Dane County Site Visit. August 4, 2023, Cook County, IL

Participants:

**Carlo Esqueda**, Dane County Clerk of Courts

**Supervisor Dana Pellebon**, Dane County Board of Supervisors

**Honorable Everett Mitchell**, Branch 4-Dane County Circuit Court

**Isabel Anadon**, Dane County Office of Justice Reform and Equity

**Kirbie Mack**, JFMJ Leadership

**Linda Ketcham**, Just Dane

**Sarah Jensen**, Dane County Community Justice Council





# RESTORATIVE JUSTICE COMMUNITY COURT- AVONDALE



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TIMOTHY EVANS – CHIEF JUDGE OF THE CIRCUIT COURT OF COOK COUNTY

BEATRIZ SANTIAGO – PRESIDING JUDGE OF THE AVONDALE RJCC

JAMAL JACKSON – ASSISTANT STATE'S ATTORNEY

MELANIE NUBY – PUBLIC DEFENDER

MARGARET KULUJIAN – COURT COORDINATOR

# ELIGIBILITY

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- Must be 18 to 26 years old
  - Have been charged with a nonviolent felony or misdemeanor
  - Live, work, or worship in one of the neighborhoods which has a community court
  - Have a non-violent criminal history
  - Accept responsibility for the harm caused
- ❖ Note: victim must agree to participate in the process

# WHAT IS REQUIRED OF THE RJCC PARTICIPANT?

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- Be willing to accept responsibility for the harm caused
- Actively participate in all RJCC processes including pre-circle work and peace circle meetings
- Appear in the court meetings and meetings with case managers as scheduled
- Follow all of the requirements of the Repair of Harm Agreement
- Complete all of the requirements of the Repair of Harm Agreement created in the peace circle

# DEFERRED PROSECUTION

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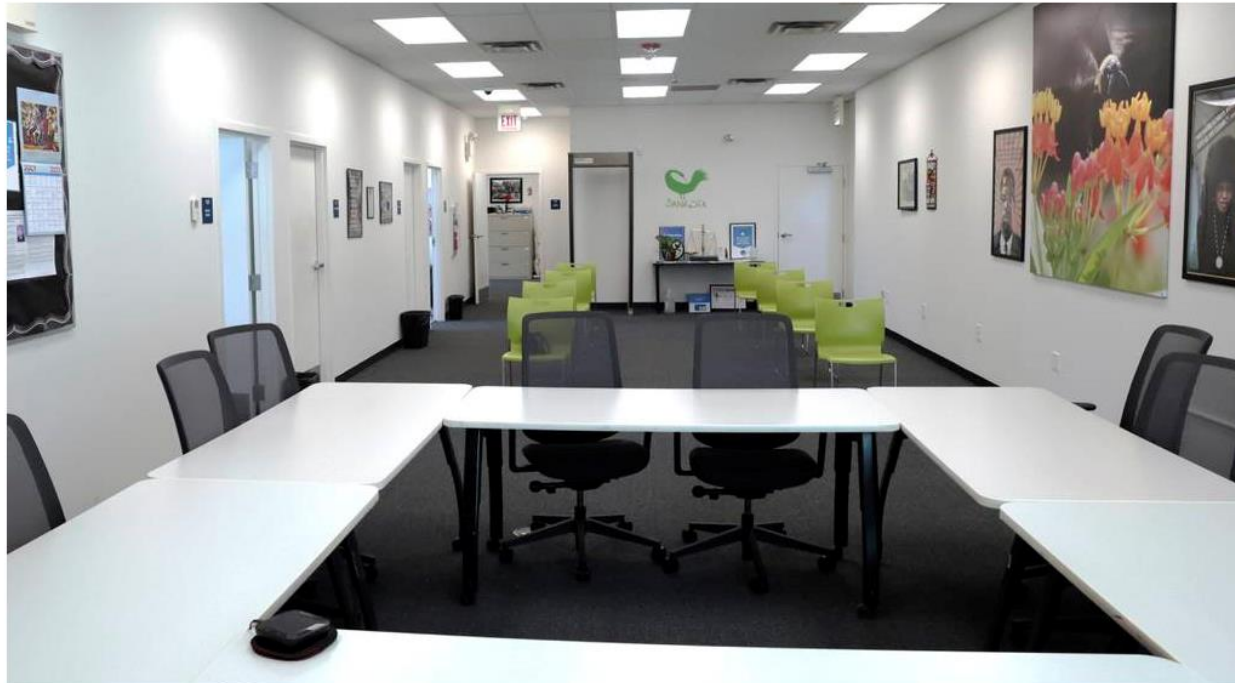
- Allows offenders a chance to avoid a Felony Conviction
- Non-violent offenders only
- Victim must agree
- Misdemeanor & Felony offenders included
- Restitution must be fully repaid
- One time only offer
- Offer made anytime in criminal process pre-plea
- Charges are dismissed upon successful completion
- Expungeable

# COMMUNITY OUTREACH AND INVOLVEMENT

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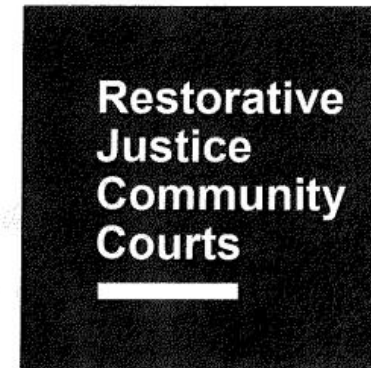
- Community events, meetings, and open houses
- Partnering with local elected officials, churches, organizations, community groups, neighborhood associations, chambers of commerce
- Being part of community events, church festivals, back to school fairs, and community meetings
- Cooperating with local social and family service organizations
- Inviting community members to the court and to RJCC peace circles

Between 2020 and 2022, more than 200 people were admitted to the restorative justice programs in Cook County, more than 80% on a weapons possession charge. The program admits what they call emerging adults from 18 to 26, working off studies that show that adults' brains do not fully develop until later into their 20s. It's meant to be an intervention — putting someone on a different path before it's too late. An internal study undertaken by the courts found that about 13% of participants who had been released from the program for at least a year were charged with a new offense, compared with about 65% in a peer control group of defendants with similar characteristics and charges. Of those, one restorative justice participant was charged with a violent offense, compared with seven in the control group, including one charged with murder, the study said. As of March, of the 218 participants admitted since 2020, about 3% were found guilty and about 43% had their charges dropped or dismissed. The rest were still pending.



A restorative justice courtroom in Chicago's Englewood neighborhood. The county opened its first community court in North Lawndale in 2017. (Antonio Perez/Chicago Tribune)

**State of Illinois  
Circuit Court of Cook County**



**Restorative Justice  
Community Court**  
A Restorative Approach to Crime & Conflict

**Participant Handbook  
Guidelines and Program Information**

Honorable Timothy C. Evans, Chief Judge

# Dane County site visit to RJCC – Avondale August 4, 2023



# Dane County site visit to RJCC – Avondale

## August 4, 2023



RJCC – Peacemakers



Honorable Judge Evans addresses Dane County delegation



# Dane County site visit to RJCC – Avondale August 4, 2023



# Reflections & Testimonials.

# RESTORATIVE JUSTICE COMMUNITY COURT- AVONDALE



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TIMOTHY EVANS – CHIEF JUDGE OF THE CIRCUIT COURT OF COOK COUNTY

BEATRIZ SANTIAGO – PRESIDING JUDGE OF THE AVONDALE RJCC

JAMAL JACKSON – ASSISTANT STATE'S ATTORNEY

MELANIE NUBY – PUBLIC DEFENDER

MARGARET KULUJIAN – COURT COORDINATOR

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“Welcome to the Restorative Justice Community Court, where healing is the goal rather than punishment, and the quest for justice becomes a collective effort.”

Honorable Timothy C. Evans, Chief Judge



# WHAT IS RESTORATIVE JUSTICE?

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- Restorative Justice is a philosophy that creates responses to conflicts and harm
- Restorative Justice is healing not hurting
- Restorative Justice is a response to crime that is less concerned about punishment and more concerned with participant behavior change and better results for the community

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## TRADITIONAL JUSTICE SYSTEM

- What laws have been broken?
- Who did it?
- What does the offender deserve?

## RESTORATIVE JUSTICE

- What happened?
- Who was hurt?
- What can be done to heal and repair the harm?

# RESTORATIVE JUSTICE COMMUNITY COURTS

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- Restorative Justice Community Courts are community-based criminal courts that resolve non-violent cases committed by young individuals.
- Restorative Justice Community Courts are the first courts of their kind in Cook County to adopt peace circles as the resolution process for criminal cases for adults.
- In addition to resolving cases, Restorative Justice Courts are committed to helping their participants with finding jobs, education, transportation, and other needs that they might have to succeed in life and avoid falling back into the court system.

# ELIGIBILITY

---

- Must be 18 to 26 years old
- Have been charged with a nonviolent felony or misdemeanor
- Live, work, or worship in one of the neighborhoods which has a community court
- Have a non-violent criminal history
- Accept responsibility for the harm caused

❖ Note: victim must agree to participate in the process

## GOALS OF THE PEACE CIRCLE

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- Healing relationships
- Giving victims a voice
- Holding participants accountable
- Determining what is needed to repair the harm from crime to the community
- Empowering the community to heal its issues
- Restoring and transforming RJCC participants
- Help to determine a path to productive adulthood
- Create a Repair of Harm Agreement (ROHA)
- Confidentiality – whatever is shared in the peace circle remains within the circle.

## THE REPAIR OF HARM AGREEMENT (ROHA)

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- The Repair of Harm Agreement is an agreement by all members of the circle that delineates the steps necessary to repair harm caused by crime the RJCC participant committed. The ROHA reflects the consensus decision arrived upon during the circle.

## METHODS TO REPAIR THE HARM MAY INCLUDE, BUT ARE NOT LIMITED TO:

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- An apology (oral or written) to those affected by harmful actions
- Reflection letter
- Restitution to victims or the community
- Community engagement hours

## METHODS TO CREATE A PATH TO PRODUCTIVE ADULTHOOD MAY INCLUDE:

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- Participation in educational programs
- Completing educational goals
- Participation in counseling or therapy sessions
- Addressing substance use issues
- Parenting classes
- Obtaining a part-time or full time job
- Obtaining an ID or Driver's License

## WHAT IS REQUIRED OF THE RJCC PARTICIPANT?

---

- Be willing to accept responsibility for the harm caused
- Actively participate in all RJCC processes including pre-circle work and peace circle meetings
- Appear in the court meetings and meetings with case managers as scheduled
- Follow all of the requirements of the Repair of Harm Agreement
- Complete all of the requirements of the Repair of Harm Agreement created in the peace circle

## DEFERRED PROSECUTION

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- Allows offenders a chance to avoid a Felony Conviction
- Non-violent offenders only
- Victim must agree
- Misdemeanor & Felony offenders included
- Restitution must be fully repaid
- One time only offer
- Offer made anytime in criminal process pre-plea
- Charges are dismissed upon successful completion
- Expungeable



# COMMUNITY OUTREACH AND INVOLVEMENT

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- Community events, meetings, and open houses
- Partnering with local elected officials, churches, organizations, community groups, neighborhood associations, chambers of commerce
- Being part of community events, church festivals, back to school fairs, and community meetings
- Cooperating with local social and family service organizations
- Inviting community members to the court and to RJCC peace circles

## APPENDIX C - COMMITTEE AND ORGANIZATION FEEDBACK

Please spend some time with your community and networks and ask the following questions:

### ***Q1. What would most help people avoid being involved with criminal activity?***

#### **Q1 Committee Feedback:**

Understanding why people get involved in criminal activity by asking them why they got involved in the first place. Example provided regarding 3 to 4 shoplifting offenders committed the crime because their friend said they would get away with it.

*Responses received via social media engagement from a variety of people who work in system or are formally incarcerated.*

Education, skill development, providing quality access to education and vocational training will support individuals from becoming involved.

Finances. The lack of accessible resources to address the situations people are facing including healthy food, quality shelter, affordable and accessible transportation.

The racist drug war and unchecked capitalism leading to poverty.

Pointing to root cause analysis to reframe question about activity happening/something has happened to ask how we even got there.

Funding. We do not have enough funding to sustain or address anything on root causes.

Early intervention when children are young. More support for families, traveling nurses.

Programs to engage families early.

*Responses from staff and participants from reentry groups include similar responses.*

Funding and greater access to treatment and health care services.

Jobs that pay an actual living wage and have paid time off to afford taking care of family emergencies and to make ends meet.

Employment opportunities, affordable and stable housing.

Having positive outlets and activities in the community such as computer labs, game rooms, a space for families, kids, and adults to interact with one another in positive environments including hobbies, etc.

To ensure a sense of purpose and hope.

One that is not fueled specifically by capitalism, but to make programming to keep people productive rather than joy.

Stop felony convictions from happening.

Personal, family and collective healing.

Addressing long waiting list accessing services that may increase trauma because people are just waiting.

Lack of cultural and linguistic appropriate services. Difficult to envision the community court having these things as the system still lacks in this area.

***Q2. What would most help victims of crime in your community?***

**Q2 Committee Feedback:**

Using a restorative approach and resources. As a victim it is difficult to get a response no matter what part of the system it is. An approach that a victim is able to access the system.

A more immediate method to make a victim whole especially on the monetary side.

Not having to relive the trauma many times having to relay the trauma to several different agencies at one time. For example, a Safe Harbor for adults.

Victims of IPV need safe, emergency housing and case management services. More restorative options.

Reduce the access of guns in the community.

Safe roads to drive on.

Childcare during court appearances.

Payment of restitution when defendants are not able to pay and its not covered by crime victim compensation.

Grief support.

***Q3. What words would you use to describe a safe neighborhood and a safe community?***

**Q3. Committee Feedback:**

Restorative.

Diversity, Diverse Communities, Non-judgmental, Welcoming.

Available green space.

Neighbors connected to each other.

Education based in values.

A safe community and neighborhood is heaven. You don't have to lock your doors, people look out for one another, and you can sleep at night.

Sense of belonging, respectful landlords, advocacy, collective and shared leadership, access to affordable housing, accessibility, green/clean parks and playgrounds, walkable, mutual aid, and empathy.

Affordable and safe childcare.

Walkability, services, service providers, grocery stores, a bus within a few blocks.



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2001 Zeier Road Madison, WI 53704

## **Survey Question**

**1.)What would most help people avoid being involved with criminal Activity?**

1. Know your Rights Brochures/Pamphlets
2. Having people with lived experience participate in panel discussions
3. Offer more community- based programs
4. Create and fully fund more programs with preventive services
5. Know the Race to Equity Report/Data

**2.)What would most help victims of crime in your community?**

1. Resources
2. Trust
3. Having reliable agencies readily available in my community
4. Service providers
5. A Fully Funded community
6. Having access to the Victim Program



---

2001 Zeier Road Madison, WI 53704

**3.)What words would you use to describe a safe Neighborhood and safe community?**

1. Pedestrian Friendly
2. Bike paths
3. Park
4. Restaurant
5. Business
6. Pedestrian crosswalks
7. Accessibility to schools,
8. Public transportation
9. Neighborhood Grocery store
10. Healthcare clinic nearby
11. Mixture of family housing types, condos, single family, Habitat for Housing
12. Neighborhood Association
13. Planning councils
14. Joining forces for families office
15. Library
16. Workforce Housing Developments

**Sincerely,**

**Ms. Lisa Burrell**

**President**



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2001 Zeier Road Madison, WI 53704

## Survey Question

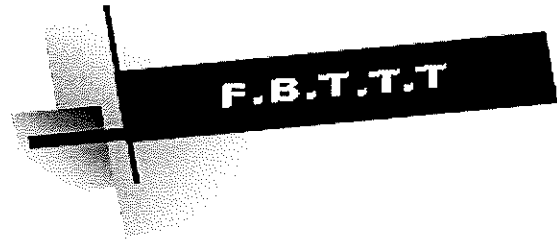
**1.)What would most help people avoid being involved with criminal Activity?**

1. Avoid criminals. The more you associate with criminals, the more likely you are to commit crime.
2. Deal with peer pressure. People you know might pressure you to commit crime with them.
3. Complete your education.
4. Get a job.
5. Fix your finances.
6. Control your anger.
7. Seek treatment for substance abuse.

In addition, active communities are the best partners the police have when it comes to fighting crime. By showing that small crimes and nuisance activities will not be tolerated in your neighborhood sends clear signals to criminals to stay away.

That means painting over graffiti, knowing your neighbors and reporting suspicious activity.





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2001 Zeier Road Madison, WI 53704

**2.)What would most help victims of crime in your community?**

1. Provide information about options for reporting a crime.
2. Explain steps victims can take to improve their personal safety.
3. Connect the victim to appropriate counselling or medical services.
4. Provide advice on eligibility for financial or other types of assistance.
5. Listen carefully.
6. Spend time with the victim.
7. Offer assistance, even if they haven't asked for help.
8. Help with everyday tasks like cleaning, cooking, caring for the family or minding their children if need be.
9. Give them private time.
10. Express sympathy and sorrow for what has happened.
11. Communicate our willingness to support the victim of crime in whatever ways we can.

**3.)What words would you use to describe a safe Neighborhood and safe community?**

- Good neighborhood
- Sure neighborhood
- Certain neighborhood
- Conservative neighborhood
- Safe zone



---

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- Neighborhood safe
- Nice neighborhood
- Peaceful area
- Quiet area
- Quiet district
- Quiet neighborhood
- Quiet residential area
- Safe area
- Safe neighborhood
- Safe space
- Safer place
- Secure area
- Secure district
- Secure place

**Sincerely,**

**Ms. Lisa Burrell**  
**President**

# What would most help victims of crime in your community?



What words would you use to describe a safe neighborhood/vecindario and safe community/comunidad?



## APPENDIX D – WORLD CAFÉ VISIONING EXERCISE RESPONSES

In thinking about Dane County's future Community Justice Center:

1) When you envision “Community” what do you want to see? - for the PEOPLE

Art

Basic Needs are met

Diversity in spaces with people who look like and have same experiences as you

Safety

Communication

Access

Involvement of Dane County residents

Sustained stability

Valuing lived experience

Sufficient and sustained funding

Transparency and trust building

Problem solving without punitive measures

Language access -> multilingual staff in person multi-cultural

Network of caring people

Room for all abilities

Seeing the whole person and how they are already connected

Shared power

Spaces for fun for each age group

Comfortability in spaces

Organizations working together! Not silos with agencies community and government

Dare to dream -> not limited by \$ or traditional process/rules

Multiple access points

Harm reduction

Policies for social issue

Shared resources

Ability to share knowledge

Community knowledge respected

Suspend judgment

Recognition/celebration activities

Gathering places

Community agreements that encourage reciprocity

Community norm setting – allow community to decide what success/failure looks like

Individualized responses and let them shape decisions/actions accordingly

Community's input in designing shared spaces

Hire/have people from neighborhood serve as designing, co-creating spaces

Compassionate space

How to create/build trust? Eg. Social media/lived experiences

Outreach respondents, community members, victims

Safety/ working together

Trustworthy people  
Parents peer/support/family group counseling  
Do 100% different of what we have now  
Listening sessions for youth  
Antiracist community  
Ongoing assessment of community court

2) When you envision “Justice” what do you want to see? – for the PROCESS

Culturally specific – mental health services  
Language, legal support  
Housing, Job Security, counseling  
Supportive Services  
Employment, education  
Reentry wrap around services  
Addressing racial inequality in criminal justice  
Safe place for victims. Safety!!  
Police are working with their communities not against!  
Transparency in the system processes  
Acceptance of responsibility/accountability  
Repair Harm  
Empowering victim/community in outcomes  
Center humanity  
Move away from traditional  
Whole person  
Complexities within  
Restorative  
No cages  
Basic needs met/exceeded  
Accountability that satisfies victim and offender  
Recognize true safety issues of victims and resources needed for them  
Reasonable and swift consequences -> not necessarily punitive  
Pathways to justice without legal systems  
Address root cause -> find and address  
Collaboration with multiple stakeholders  
Community education -> change the narrative  
Less adversarial system -> multiple points of access  
Sufficient and sustained resources  
Partnerships with media  
CCAP->streamlined and not punitive  
Reduction of judgment

3) When you envision a “Center” what do you want to see? – for the PLACE

Architectural design that's trauma-informed  
Not traditional court-room  
Childcare access/amenity  
Food and other amenities  
Series of geographical places  
For accessibility/travel entity  
Nonprofits as hosts  
Different sites/schools  
Access to other resources in a more immediate/timely manner  
Feels inclusive and welcome, multicultural/multi-lingual  
How would it impact staff and capacity if its different locations (increase participation/access vs. capacity.)  
Green spaces and spiritual/healing  
Churches  
Non-traditional security  
Peace-keepers (paid) and community neighbors as peace-keepers and responders to non-emergency police related calls  
Financial infrastructure to pay food, utilities, peace-keepers, etc.  
How many locations across Dane County?  
Concern about over-policing if in various locations  
Accessible, disability, etc.  
Build to empower participants  
Need for confidentiality  
Neutral spaces  
Special attention paid to hiring practices  
Sustained funding  
No metal detectors  
Non-traditional supports  
Self-care spaces, quiet rooms  
Pharmacy access  
Parking (free) bus routes  
No uniforms if law enforcement is present  
Community gathering spaces  
Lots of community art  
Computer, phone, etc. access  
News media access  
Comfortable  
Café (pay what you can)

## Appendix E - Mission and Vision Statement Discussion

Looking back at our activity from last week where we spent some time thinking about Dane County's future Community Justice Center, we focused on three things:

- 1) What do we envision for the People
- 2) What do we envision for the Process
- 3) What do we envision for the Place

Today, we are going to go a little deeper and spend some time looking back at what you all discussed and think about the mission/vision that is needed to help guide the work of a Community Justice Center.

**The mission statement drives the work of the Community Justice Center.** It is the core of the work, and from it come the objectives and finally, what it takes to reach those objectives.

Mission statement questions look like:

- What do we do?
- Whom do we serve?
- How do we serve them?

**The vision statement gives directions to the work of the Community Justice Center.** The vision statement is about what we want to become. What we aspire to be.

Vision statement questions look like:

- What are our hopes and dreams?
- What problem are we solving for the greater good?
- Who and what are we inspiring to change?

**Instructions:** Below, is a list of values that can be ascribed to a Community Justice Initiative. In groups of 3-4, review and identify which words are relevant to you, and which ones aren't, and jot down any that are missing. Using the values you've selected, write some thoughts on how these values could help refine the mission/vision of the Community Justice Center. Be prepared to share out with the larger group.

### Community Justice Initiative Values

Repair	Reintegration	Respect
Safety	Commitment	Results
Human Centeredness	Restoration	Individualism
Integrity	Healing	Transformation
Precision	Accountability	Partnerships
Inclusivity	Adaptability	Knowledge
Resilience	Diversity	Strength
Learning	Community	Anti-Racism
Race	Inclusion	Delivery
Accountability	Responsibility	Freedom
Truth	Equality	Success
Support	Courage	Connection
Harmony	Peace	Justice
Caring	Growth	Collaboration
Authenticity	Fairness	



# Dane County Data from a System Lens

For the Community Court  
Advisory Subcommittee



May 2023

1

Presented By : Tamarine Cornelius,  
Community Justice Council Research Analyst

## Today's data dive

Enhanced Information is one of the principles of community courts. Better information can improve decision-making.

- Provide a system overview to give an idea of scale involved
- Highlight most racially disparate offenses
- Share information on substance abuse and behavioral health issues
- Go over additional resources

2

Calls for service: 400,000

Property crimes: 10,000  
Violent crimes: 1,300

Arrests, adult and juvenile  
combined: 14,000

New criminal court cases: 6,000

## Ballpark annual numbers for Dane County

- Figures represent events rather than individuals
- Court cases are misdemeanor, felony, and criminal traffic cases
- Caveat: system patterns changed during the pandemic so these are estimates

3

## About the data

### CCAP data

Charging data is from CCAP, about 30,000 cases initiated 2018-2022.

### Types of cases

Analysis includes felony, misdemeanor, and criminal traffic cases.

### Non-violent

Offenses not in list of violent offenses developed by WI Pretrial Pilot Project.

### Age-limited

Ages 17 to 35

4

# Most racially disparate offenses

As measured by Black-White disparity rate ratio

$$\text{Rate per 100,000 residents} = \frac{\text{Court cases that include that offense} \cdot 100,000}{\text{Number of Residents}}$$

$$\text{Disparity Rate Ratio} = \frac{\text{Rate}_{\text{Black}}}{\text{Rate}_{\text{White}}}$$

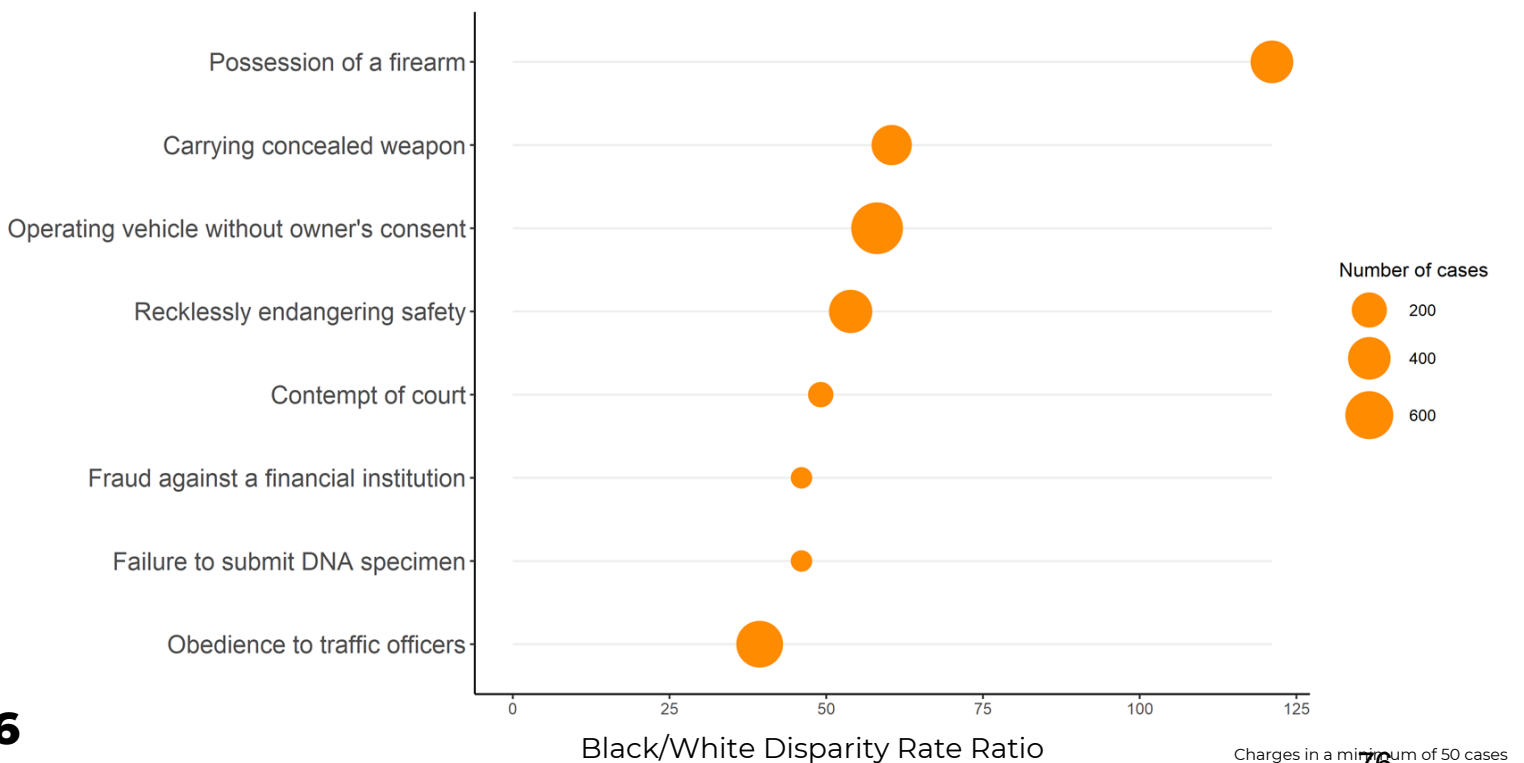


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## Non-violent categories of charges with largest black/white disparities

Years 2018-2022

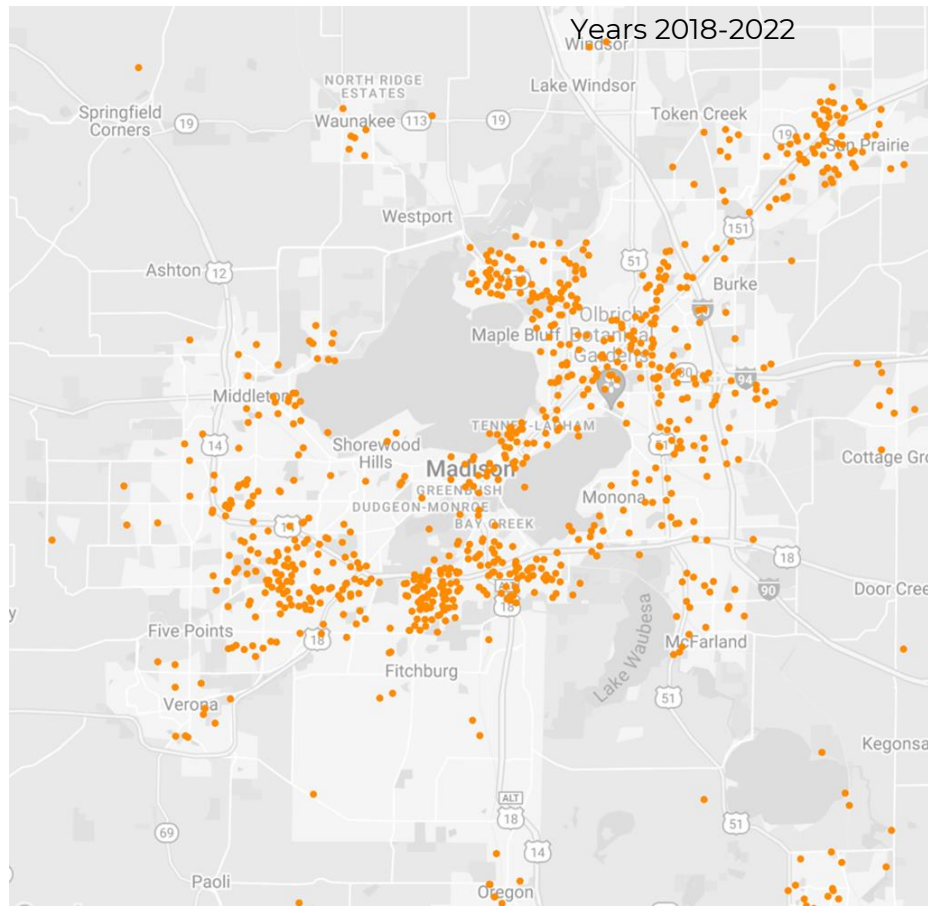
Chart shows disparity ratio, calculated by dividing the rate of Black residents of Dane County charged with this offense divided by the rate of White residents charged with this offense. For residents ages 17 to 35.



6

## Addresses of people charged with the most racially disparate categories of non-violent offenses

Defendants age 17 to 35  
 Dane County Jobs Center and Dane County Jail excluded from map  
 2018 to 2022

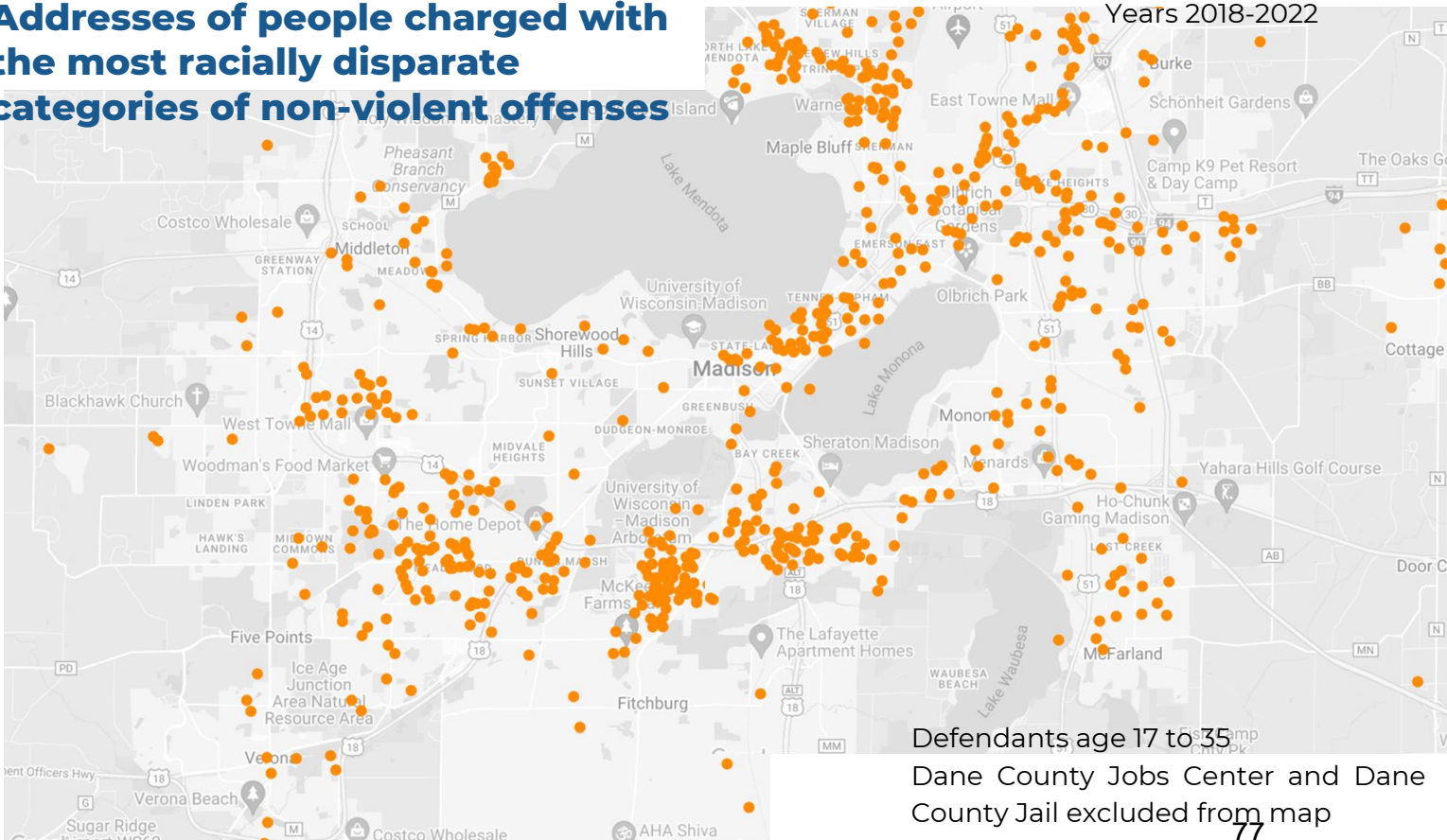


7

## Addresses of people charged with the most racially disparate categories of non-violent offenses

Years 2018-2022

Defendants age 17 to 35  
 Dane County Jobs Center and Dane County Jail excluded from map



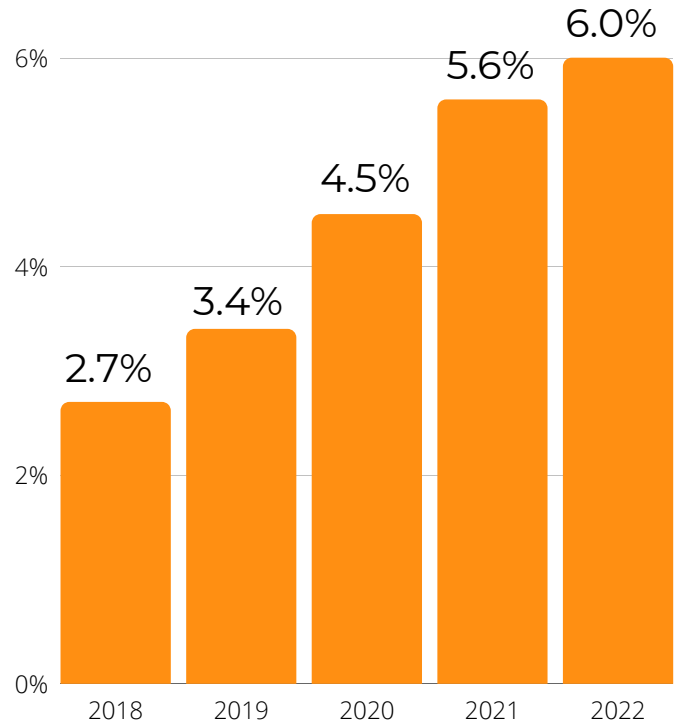
8



## Share of all criminal cases that include one of the most disparate category of charges

Of all felony, misdemeanor, and criminal traffic cases filed in a year for 17 to 35 year olds, this is the percentage of those cases that include one of those most-disparate charges.

Although relatively small, the share has steadily increased.



## 9



## Have defendants in these cases had a previous case filed in the past three years?

About half the defendants in the most disparate charges had a different case filed in the previous three years.

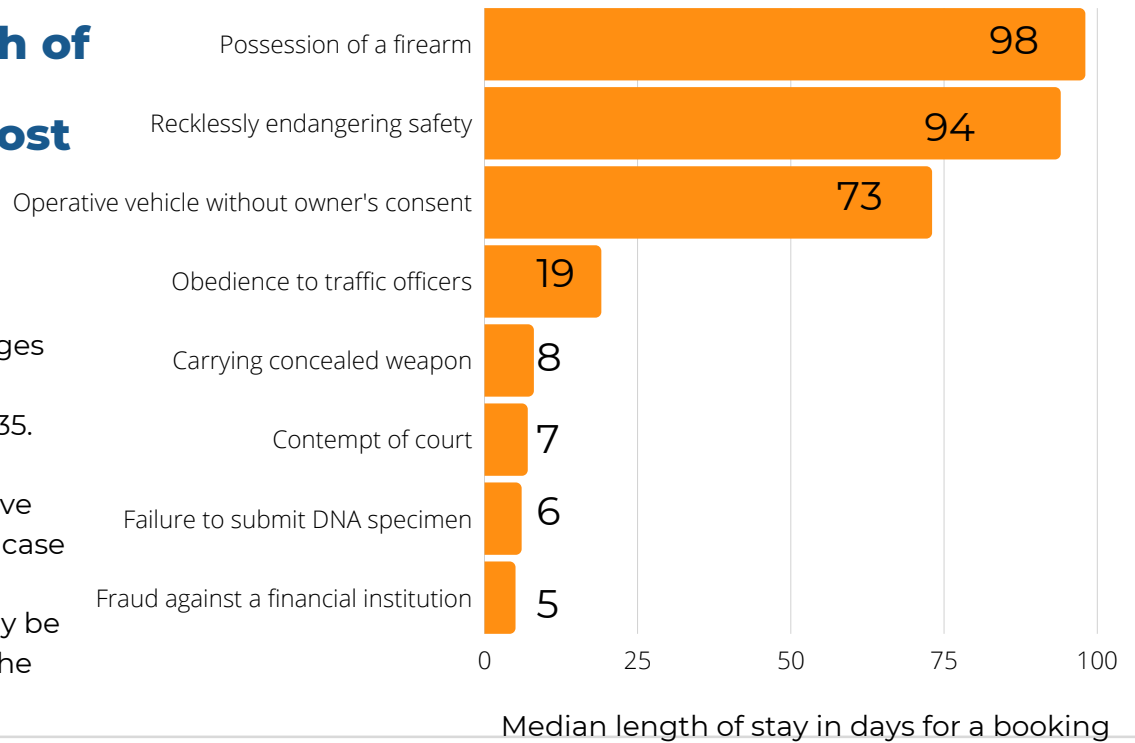
Years 2018-2022



## Median length of stay in jail in cases with most disparate charges

This analysis included cases in which all charges were non-violent, and defendant is age 17 to 35.

The defendant may have other charges on their case in addition to the ones shown here. There may be other things keeping the person in jail.



11

## Three key takeaways about most racially disparate offenses

- Different offenses have different black-white disparity ratios
- The most racially disparate non-violent offenses have to do with weapons, car theft, and reckless behavior
- Defendants in the most racially disparate offenses live in many different areas, with more concentration near McKee Farms, Park/Fish Hatch/Beltline, the Isthmus, and Warner Park.

12

# Substance use and mental health

For purposes of this analysis, substance use cases are considered felony, misdemeanor, or criminal traffic cases with an offense name that includes any of the following keywords: OWI, PAC, intoxication, alcohol, or interlock device OR includes an offense in Chapter 961 of the Wisconsin statutes which has to do with drugs.

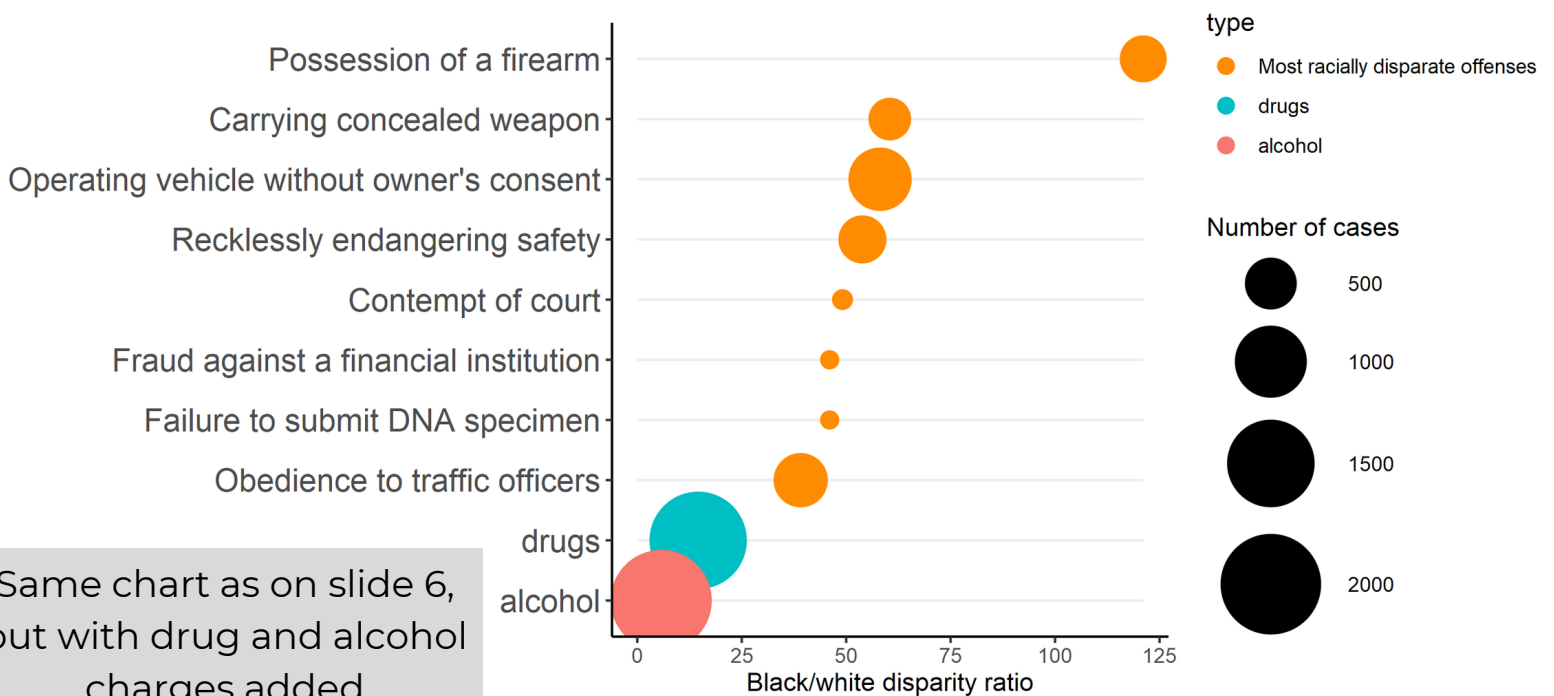


13

## Comparison of disparity rate ratios

Chart shows disparity ratio, calculated by dividing the rate of Black residents of Dane County charged with this offense divided by the rate of White residents charged with this offense. For residents ages 17 to 35.

Years 2018-2022

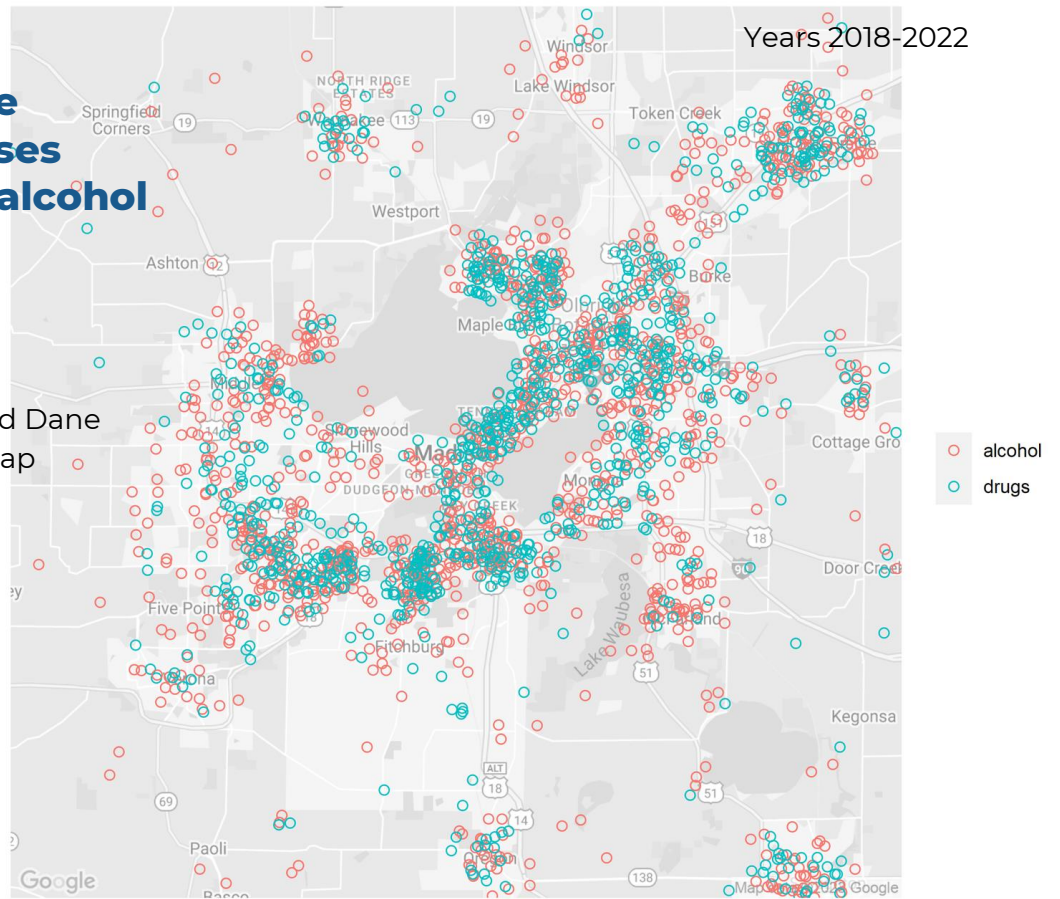


Same chart as on slide 6, but with drug and alcohol charges added

14

## Addresses of people charged with offenses related to drugs or alcohol

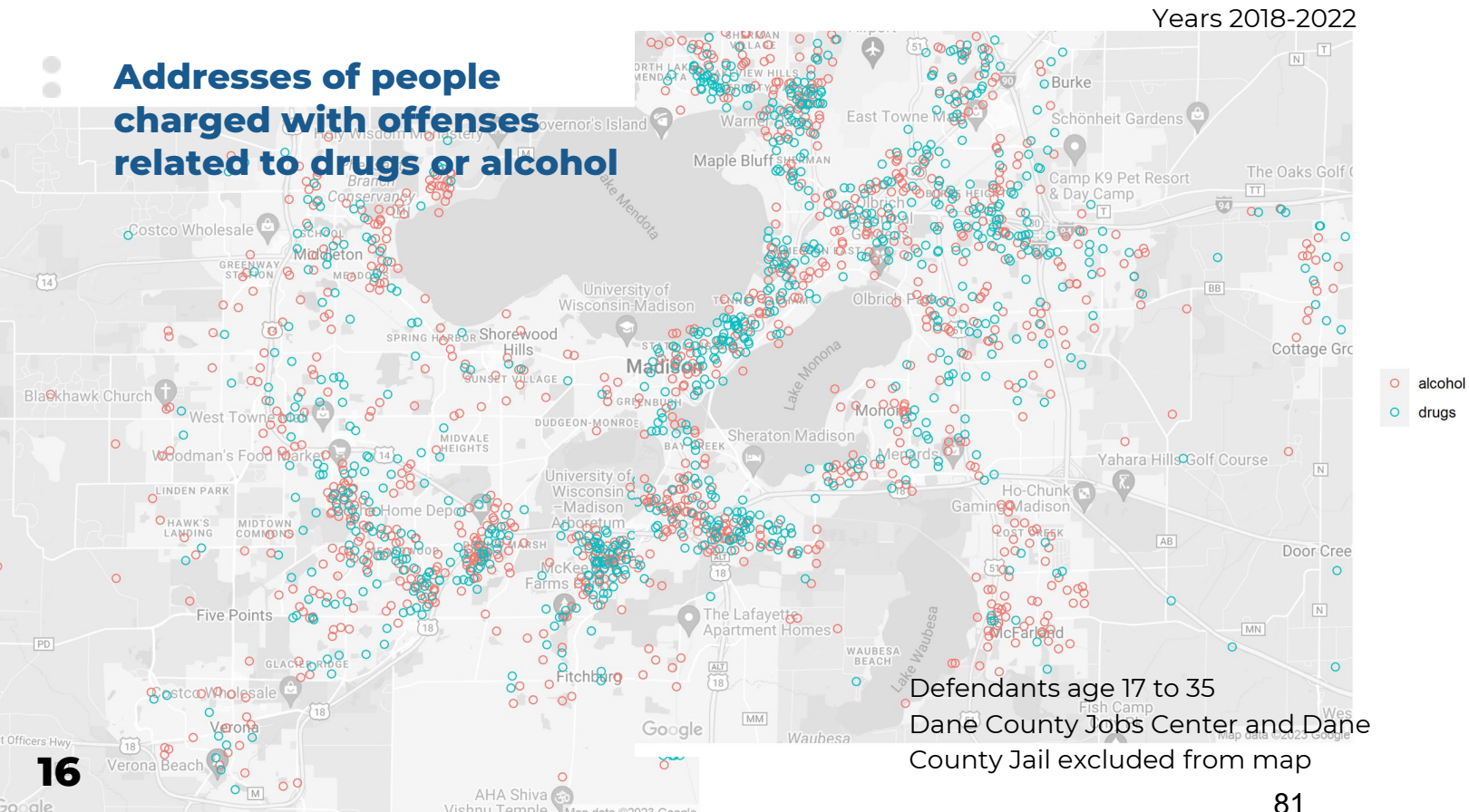
Defendants age 17 to 35  
Dane County Jobs Center and Dane County Jail excluded from map



15

## Addresses of people charged with offenses related to drugs or alcohol

Defendants age 17 to 35  
Dane County Jobs Center and Dane County Jail excluded from map



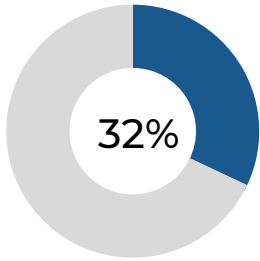
16



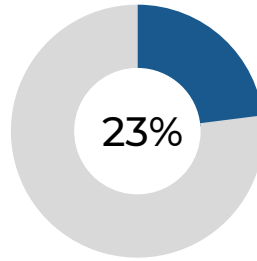
## Mental health for people booked into Dane County jail

Data are from 2,200 mental health screens administered by the jail as part of a pilot program in 2021 and 2022.

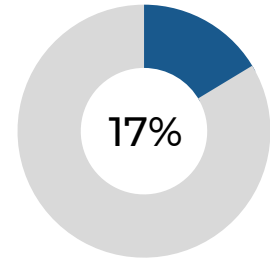
The Brief Jail Mental Health Screen has eight yes/no questions and is designed to alert staff to the need for further evaluation.



Flagged as needing additional mental health evaluation



Respondents said they were taking prescribed meds for mental health



Respondents said they have had a hospital stay for mental health reasons

17

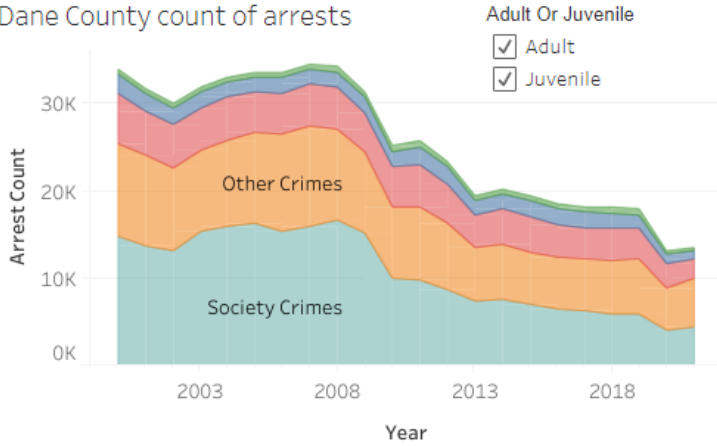
## Three key takeaways about substance use and mental health

- Substance-related charges have a lower Black-White disparity ratio than some of the other charges we looked at
- Drug charges are more racially disparate than alcohol charges.
- People getting booked into jail have documented mental health needs.

18

**Click on this chart to filter all charts**

Dane County count of arrests



# Other resources

More data at [cjc.countyofdane.com/Data-and-Dashboards](http://cjc.countyofdane.com/Data-and-Dashboards)

- Calls for service
- Crime
- Arrests

Coming soon....daily jail population and people in prison who were convicted in Dane County.



19

# Questions?

Tamarine Cornelius  
[cornelius.tamarine@countyofdane.com](mailto:cornelius.tamarine@countyofdane.com)



# Reflection & discussion

Step 1, SOLO: Silently reflect on the questions and jot down your ideas.

Step 2 in PAIRS: Generate ideas in pairs, building on ideas from self-reflection

Step 3, in FOURSOMES: Gather into small groups of 4. and identify the similarities and differences between the ideas stemming from the pairs. agreements and discussing any divergent points of view.

Step 4, ALL: Each group shares their main idea(s) that emerged from your group discussion.



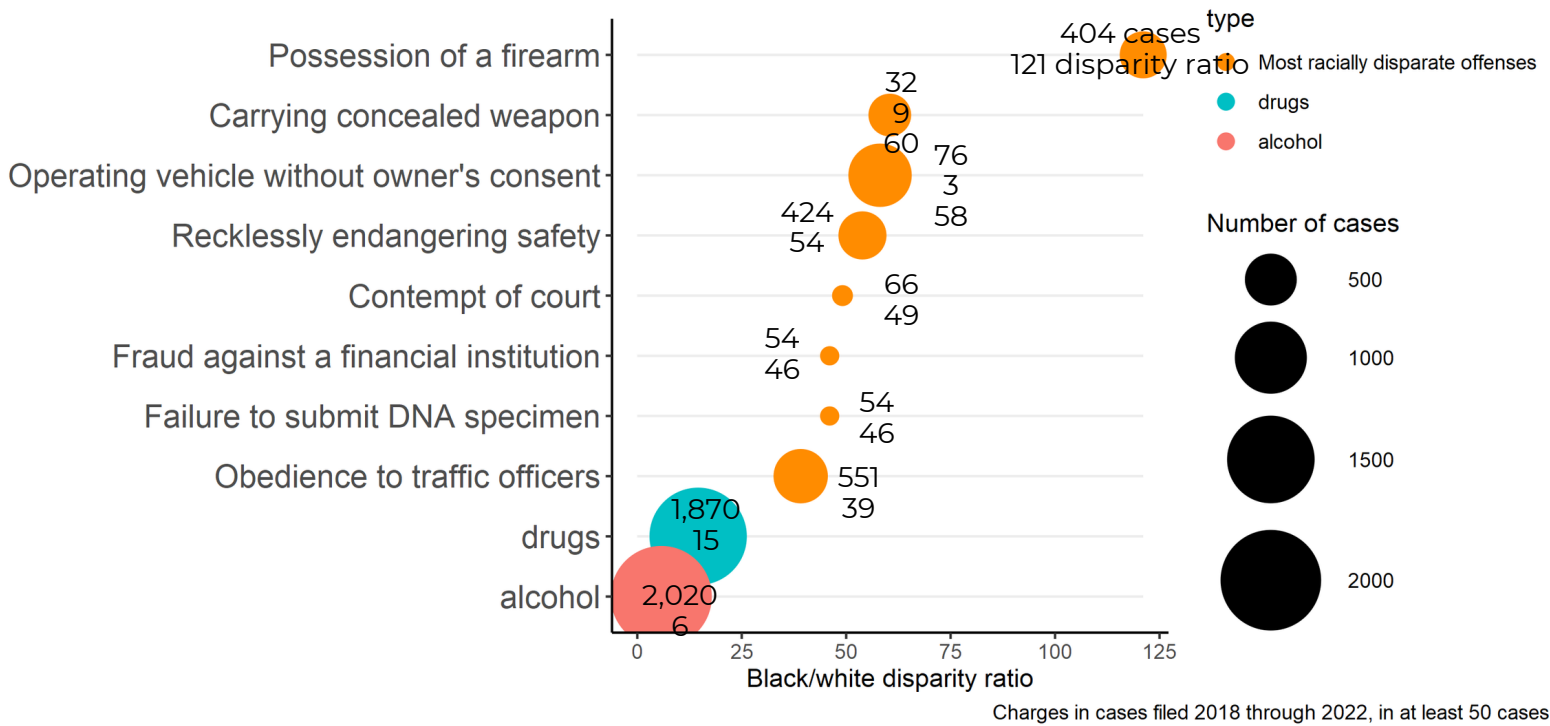
## QUESTIONS

Does the data shared so far mirror what you are seeing in the community? If not, how do the two perspectives differ?

2. What hasn't been part of the data conversation so far and needs to be?

### Comparison of disparity rate ratios

Chart shows disparity ratio, calculated by dividing the rate of Black residents of Dane County charged with this offense divided by the rate of White residents charged with this offense. For residents ages 17 to 35.



group	group_description	rate_ratio	Number of cases
941.29	Possession of a firearm	121.09913	404
941.23	Carrying concealed weapon	60.44296	329
943.23	Operating vehicle without owner's consent	58.11296	763
941.30	Recklessly endangering safety	53.72708	424
785.01	Contempt of court	49.12190	66
943.82	Fraud against a financial institution	46.05178	54
946.52	Failure to submit DNA specimen	46.05178	54
346.04	Obedience to traffic officers	39.11247	551

Appendix G: Initial Pilot Offense List

Summary of Potential Target Offenses Considered			
Offense	Disparity	# of cases	Note
Operating vehicle without owner's consent	Highest	699	DA expressed concerns that this offense may not be a good fit for the Community Court.
Obedience to traffic officers	High	511	
Resisting or obstructing officer	High	1,503	
Drugs	Low	1,853	
Burglary, Receiving Stolen Property, Criminal Trespass	Moderate	397, 127, and 164 respectively	
Possession of a firearm	Highest	328	BJA prohibits using its funds to serve people charged with offenses that are committed while possessing a weapon and have a maximum sentence of a year or more, which would include possession of a firearm.
Carrying concealed weapon	Highest	313	Maximum sentence is less than a year so does not appear to have limitation on BJA funds
Recklessly endangering safety	High	263	Although is offense is not on the PSA list of violent offenses, committee members noted it is often committed in a violent manner with a weapon, and may not be appropriate to include.
Fraud against a financial institution	High	51	Considered low priority
Contempt of court	High	63	Considered low priority
Failure to submit DNA specimen	High	64	Considered low priority
Number of cases represents cases in which all offenses are non-violent, the defendant is 17 to 35 year olds, the case was filed between 2018 and 2022, and the case is in CCAP.			

**Question 1: What services or supports would be useful?**



**Question 2: What gaps currently exist in supports or providing services to community members' needs?**





## SCR CHAPTER 68

### COURT SECURITY, FACILITIES, AND STAFFING

#### **SCR 68.01 Purpose.**

(1) This chapter is promulgated by the supreme court to promote communication among circuit courts, county officials, court planners, architects and contractors concerning court facilities and security issues. It recognizes the constitutionally appropriate participation of the supreme court and circuit courts in addressing their facilities and staffing needs and priorities within the constraints established by funding limitations and budget priorities. This chapter recognizes the court's authority to direct activities and policies of the director of state courts and of the judiciary. It is intended to assist counties and courts in making sound decisions about the court facilities that serve the citizens of their Wisconsin communities.

(2) This chapter establishes a flexible framework for courts' participation in decision-making regarding court facilities while recognizing the wide range of needs and circumstances which exist in counties across the state.

(3) The standards in this chapter apply to existing court facilities, to the construction, remodeling and relocation of court facilities and to the review and approval of court facilities under SCR 68.03 (2) and (4).

(4) All court facilities should be designed and maintained to support the security and safety of judicial officers, participants in court proceedings, staff, and members of the public.

#### **SCR 68.02 Definitions.**

(1) In this chapter:

(a) "Committee" means the security and facilities committee under SCR 68.05.

(b) "Court facility" means the facilities used in the operation of the circuit court including without limitation the courtroom, court chambers, the office and storage area of any court commissioner, court reporter, clerk of circuit court, register in probate, clerk of juvenile court, family court counseling, the jury room, jury assembly areas, judicial staff areas, areas that may affect the security of a court, court staff and the public using a court, areas used for access to a court and any other facilities used in the operation of a court, where court proceedings are conducted or judicial staff is housed.



(c) "Presiding judge" means the judge appointed under SCR 70.265 or means the judge in a single branch circuit.

(d) "Should" is directory only, not mandatory, and connotes a duty or obligation to pursue a goal or objective.

(e) "Judicial officer" means a circuit court judge or court commissioner.

(f) "Sworn officer" means a deputy sheriff or police officer.

(g) "Court security officer" means a non-sworn officer whose principal function is to provide security in and about the courtroom and court facility.

(h) "Court aide" means a civilian who works with juries, provides routine information and directions to the public, and assists the court.

### **SCR 68.03 Remodeling, construction, or relocation of court facilities or personnel.**

(1) The circuit judges shall promptly notify the chief judge of the judicial district, in writing, of the county's intent to remodel, construct or relocate any court facility or to relocate any court personnel.

(2) The circuit judges and the chief judge, in cooperation with appropriate county officials, shall review any proposals under sub. (1) together with any drawings or plans. The circuit judges and the chief judge shall participate in the planning process to ensure that the proposals under sub. (1) are consistent with current court facility standards, including those relating to functional design, audio-visual and acoustical adequacy and security of the courts and the public, and that they conform to the requirements of the Americans with Disabilities Act and other federal, state and local laws.

(3) The director of state courts shall provide technical assistance and advice on any proposals under sub. (1), within the resources available to the director's office.

(4) The chief judge shall review every new, remodeled or relocated court facility and grant or deny approval for its use, subject to review by the supreme court.

(5) No circuit judge or court staff may occupy a new, remodeled or relocated court facility until the court facility is approved under sub. (4).

### **SCR 68.04 Judicial Officer Authority.**

Day to day security decisions and case specific security are within the discretion of each individual judicial officer. The judicial officer shall consult as needed, with the chief judge, the sworn officers, or the court security officers.

## COMMENT

This provision confirms the authority of a presiding judge in his or her own courtroom. Stevenson v. Milwaukee County, 140 Wis. 14, 121 N.W. 654 (1909).

### **SCR 68.05 Security and Facilities Committee.**

(1) The presiding judge for each county shall appoint a security and facilities committee composed of all of the following:

- (a) One circuit judge to serve as chairperson.
- (b) The chairperson of the county board.
- (c) The county executive, county administrator, or administrative coordinator.
- (d) The clerk of the circuit court.
- (e) The county sheriff.
- (f) The district attorney.
- (g) The Wisconsin State Public Defender.
- (h) A circuit court commissioner.
- (i) One lawyer designated by the president of the local bar association. If there is no association, the presiding judge shall appoint a lawyer residing in the county.
- (j) One representative of a victim-witness support organization.
- (k) One representative of the facilities/maintenance department.
- (l) Such other persons as the committee considers appropriate.

A person specified in sub. (b) – (g) may designate a person for appointment to the committee in his or her place.

(2) In the absence of a presiding judge or if the presiding judge is unable to act, the chief judge of the judicial administrative district in which the county is located shall act on behalf of the presiding judge under this subsection.

## COMMENT

The creation of a committee which includes all of the designated persons is essential to achieve the overall goals of these standards. The purpose of this rule is to insure that the court system is proactive, geared to prevention, not merely reactive, responding to violent, perhaps tragic, incidents. Committees are encouraged to consider if it is appropriate to include a member of the public on the committee. Committees created under this rule generally are not subject to requirements of the Wisconsin Open Meetings Law. See State ex rel. Lynch v. Dancy, 71 Wis. 2d 287, 238 N.W.2d 81 (1976). However, if public officials in attendance generate a quorum of a different public body, open meetings guidelines for that body must be followed. See, e.g., State ex rel. Badke v. Village of Greendale, 173 Wis. 2d 553, 573-74, 494 N.W.2d 408 (1993) and State ex rel. Newspapers, Inc. v. Showers, 135 Wis. 2d 77, 398 N.W.2d 154 (1987).

(3) The committee shall meet quarterly.

(4) The committee shall coordinate and develop general court security and facilities policies and procedures including:

(a) A system for collecting data related to threats and incidents occurring in court facilities or against court officials or staff.

#### COMMENT

Collection of county-level security threat and incident data is useful in prioritizing the allocation and placement of security equipment and personnel, including data regarding prohibited items identified or confiscated during security screening.

(b) A policy for the submission of security threat and incident reports to the director of state courts (electronically or using form CS-265, or successor form) within 10 business days following a security incident or threat.

(c) A policy for the submission of annual reports to the district court administrator regarding courthouse construction, remodeling, or security improvement activities, and regarding active shooter drills or other training events that support court security operations or preparedness.

#### COMMENT

A systematic reporting procedure for threats to judicial officers, court staff, or their families should be established in each county pursuant to SCR 70.34. This serves the beneficial purpose of allowing persons other than the object of the threat to assess its seriousness, as there may be a tendency by the person threatened to minimize it as "part of the job." The policy should designate the person to whom threats are to be reported, establish the responsibility for investigation or other response, and provide for the retention of records of all reported threats.

(d) A policy for the screening and secure distribution of mail and deliveries. Such screening should take place in a dedicated, secure area.

(e) A policy for the issuance, control, and collection of keys and electronic access devices for each court facility, governing access before, during and after business hours.

(f) A policy to control access to court facilities for third party subcontractors and vendors.

(g) An annual training program for all employees in coordination with the county sheriff. Training should be provided to all new employees and existing employees upon change in assignment, as appropriate.

(h) Procedures for a sworn officer/court security officer to patrol the halls and public areas.

(i) A policy regarding possession of firearms by law enforcement officers who appear as witnesses, litigants, or who are present on personal business in the court facility.

(j) A procedure for allowing the possession of firearms by those who are statutorily authorized to do so.

(k) A list of prohibited items not allowed to be brought into the court facility.

(L) A notice to the public and employees regarding prohibited items not allowed in the facility and warning that persons entering the facility are subject to search.

(m) A procedure to calibrate screening equipment consistent with manufacturers' directions.

(n) A plan for addressing disruptions at court proceedings.

(o) A policy for searching each courtroom or other vulnerable area for explosives or other dangerous instrumentalities before the commencement of court proceedings each day.

#### COMMENT

The need for this regular practice is greatest in those counties where courtrooms are used for non-judicial purposes on evenings and weekends. Courtrooms should be locked when not in use.

(p) A preparedness plan for disasters impacting or affecting court operations in coordination with the local emergency management department.

(q) A procedure to review exterior building features with security in mind, such as an electronic surveillance system and external lighting.

#### COMMENT

The dangers created by external features of a court facility building may be significant. Wide variations among counties as to their local needs and the designs of their courthouses render a uniform standard impracticable. Each committee should assess risk factors and consider solutions to minimize danger.

(r) A policy for the monitoring, surveillance, and safety of all parking areas including public, employee, and other designated parking areas.

## COMMENT

The best practice is to prohibit vehicular parking in close physical proximity to the building.

- (s) A juror safety policy.

## COMMENT

Jurors must be safeguarded from those who would seek to intimidate or engage in reprisals. Juror safety issues may extend outside the court facility and beyond the time of trial.

- (t) A procedure whereby each judicial officer may complete and submit a judicial profile for law enforcement purposes and a process for updating the document on an annual basis.

## COMMENT

The judicial security profile provides a template for judicial officers which addresses Wisconsin law, including Wis. Stat. Ch. 19. Use of the profile requires cooperation with each county sheriff as well as other applicable law enforcement agencies.

- (u) A policy for periodic security audits.
- (v) A policy on money collection and the safeguarding of money.

## COMMENT

Offices in courthouse facilities collect substantial amounts of money. An enhanced protection program for these funds will not only safeguard the taxpayers' treasury but will also deter any efforts to engage in violence for financial gain.

- (w) A policy for the handling and storage of firearms, other dangerous instrumentalities and contraband received as evidence during court proceedings.

## COMMENT

Documents and other exhibits received during judicial proceedings must be safeguarded as part of the court record. Certain items of evidence present reasons for special attention to their handling during breaks, overnight in multi-day proceedings and following the conclusion of the proceeding in which they are introduced.

- (x) Consideration of whether the committee can assist the municipal courts in its county in security matters.

## COMMENT

Municipal courts generally are not located in the county courthouse but convene in various public buildings. All courts share certain basic security concerns. If the committee is considering municipal court security or facilities the committee should consider appointing a municipal judge as a committee member.

### **SCR 68.06 Security: Structure and design.**

(1) A court facility housing courtrooms should have a sectoring system that divides the building into the following 3 types of areas according to the nature of access to them:

- (a) Public areas where the general public has relatively free access.
- (b) Restricted access areas where generally only the following are permitted access: judicial officers, jurors and designated personnel.
- (c) Secure access areas where only prisoners and law enforcement personnel are permitted.

(2) PERIMETER DESIGN CONSIDERATIONS. (a) *Public Entrance and Exit.* A court facility should have a single entrance with appropriate screening mechanisms in place to screen all persons, carry-in items, and packages. Screening stations should have a bullet-resistant barrier and should be equipped with a magnetometer, x-ray for packages and carry-in items, duress alarms, and video surveillance. Exits should be physically and spatially separated from entry areas.

(b) *Restricted Access Entrance.* All judicial officers and designated personnel should enter through a secure and separate entrance equipped with screening the same as the public entrance in sub (2) (a).

(c) Building entrances and exits other than the public entrance and exit should be alarmed and secured with controlled access.

(d) *Windows.* Any court facility design shall take into account security considerations in the placement and type of windows and window coverings.

### COMMENT

While providing natural light and aesthetic benefits to a building's design, windows can compromise security and confidentiality. Windows are of particular concern due to the risk of attack on building occupants, particularly when located on lower-level floors.

(e) *Ductwork systems.* Ductwork openings and other components of heating, ventilation, and air conditioning systems should be located so that they are not easily accessible from grade level.

(f) *Parking.* Judicial officer parking areas should be separate from public parking areas and offer controlled, secured access. Public parking areas should be separated from court facilities in order to create a buffer zone that minimizes

proximity to building structures. All building parking areas should be adequately lit and monitored.

## COMMENT

Any new court facility should incorporate sectoring principles if it is to provide the most basic security that can be attained through structural design. Existing facilities present a wide range of structural variations that create barriers to the effective use of sectoring. However, in many existing courthouses there are opportunities to achieve some sectoring that will improve security. In addition, remodeling projects undertaken for non-security purposes offer cost-efficient opportunities to enhance the overall sectoring of a courthouse.

Secure prisoner transport and designated holding areas eliminate prisoner interaction with the public until they are in a courtroom and are critical to the safety of the public, court staff, and the prisoners themselves. The need for an area where attorneys can meet with their clients should be considered as well.

**(3) COURTROOMS.** A courtroom should be constructed to include all of the following:

(a) A single public entry that accommodates a security checkpoint for use as needed.

(b) Entrances for judges and court staff that are adjacent to the bench and entrances for jurors that are as close to the jury box as possible.

(c) Other access to the courtroom, such as windows or maintenance access, that inhibits unauthorized entry.

(d) A judge's bench should be of a size and height to deter physical attacks, shall have a built-in bullet-resistant barrier and should provide a direct sight line to the public entrance.

(e) Court reporter stations, clerk stations, and witness stands shall be equipped with a built-in bullet-resistant barrier.

(f) Lighting controls that are located in areas where only court staff have access to them.

(g) Lighting that enhances safety and is supported by an emergency power source that is located in a secure area.

(h) A clear separation and barrier between the spectator area and the area used by staff and the participants in court proceedings.

## COMMENT

Courtrooms have often been the site of violent and tragic incidents, and their design is an important aspect in preventing such occurrences. The personnel and equipment standards in this rule are also integral parts of the overall security strategy. In the American system of justice, most court proceedings are public and security concerns cannot unreasonably interfere with this principle. However, a design that ensures the opportunity for proper screening of those who enter the courtroom and the proper physical arrangement of those present will create a safer setting in which citizens may exercise their right to participate in or observe public judicial proceedings. A single public entrance to the courtroom makes it easier to screen those who enter, though building codes may require that there be a second means of egress from the courtroom. Construction of courtrooms without windows reduces the

security threat from outside the building. When windows are included in courtroom design, care should be taken to shield courtroom participants from outside view.

Because judges are the official representatives of the judicial system, they have often been the targets of violence. Attacks on judges also endanger those working closest to them. A bullet-resistant barrier should be installed in every courtroom to provide a place of increased protection in the event a weapon is displayed. The separation between spectator area and the participants' area should be sufficient to prevent spectators' physical contact with attorneys, litigants and jurors and to ensure the privacy of conversations between attorneys and their clients. If a courtroom is used for proceedings which frequently draw an audience of hostile or contentious individuals, consideration should be given to erecting a physical barrier to the well area which permits spectators to hear and see the proceedings but not to have physical access to the litigation well.

**(4)** A jury deliberation room should be located where the public cannot have contact with jurors as they move to and from the courtroom and should be designed to ensure their safety and the secrecy of their deliberations.

#### COMMENT

Because of the importance of their impartial deliberations, jurors must be safeguarded from those who would seek to intimidate or engage in reprisals. The secrecy of jury deliberations must be guaranteed. Each committee should consider adopting policies on protecting jurors following a trial, juror parking and other matters affecting juror safety.

**(5)** Any court facility used for court commissioner hearings should be designed in a manner that incorporates the security principles set forth in sub. (3).

#### COMMENT

The extent to which court commissioners are used varies widely from county to county. In a county where a court commissioner handles criminal and traffic, divorce, small claims or juvenile proceedings, the dangers present while doing so are similar to those facing judges in their courtrooms. All too often, court commissioners are called upon to perform their roles in small, crowded rooms where they are in close proximity to litigants, witnesses and spectators, as well as to attorneys and judicial staff. The dangers must be recognized and reflected in the design of these areas.

The design of court commissioner hearing rooms and office areas and the types of security personnel and equipment needed should be considered by each committee, using the features of courtroom security for guidance and as a measurement in assessing their adequacy.

**(6)** A secure room in close proximity to locations where criminal, family, juvenile or domestic violence proceedings are conducted should be provided for victim and child witnesses waiting to appear in such proceedings. Child and adult victims and witnesses shall be separated from alleged juvenile or adult offenders, their friends and family members.

#### COMMENT

This standard is a reflection of the statutory directives in ss. 950.04(1v)(e), 938.2965, and 967.10(2), stats.



### **SCR 68.07 Security: Personnel.**

(1) COURTROOM. There should be no fewer than two sworn officers in each courtroom and each court commissioner hearing room when court is in session. The judicial officer may expressly direct otherwise.

(2) PUBLIC ENTRANCE STAFFING. The public entrance should be staffed by at least one armed sworn officer with access to law enforcement communications by radio, and other qualified court security officers as necessary. At least one sworn officer should be available to patrol the public areas and assist with public entrance staffing as needed.

### **COMMENT**

The presence of sworn officers serves as a deterrent to violent outbursts and provides the ability to respond to incidents that may arise. In this respect, the open and obvious presence of uniformed officers is an example of basic court security principles designed to deter those intent on harm, detect those who have breached security, and limit the damage caused by the breach. It is impossible to predict the type of case that might lead to a violent incident. Therefore, it is essential to provide court security for all types of cases. The National Center for State Courts' Steps to Best Practices for Court Building Security considers the presence of sworn officers at the public entrance an extremely important area of security that provides a foundation for the implementation of additional security measures throughout the court facility.

(3) TRAINING. All court security personnel should receive regular training on courtroom security techniques and policies developed by the committee.

### **SCR 68.08 Security: Equipment.**

(1) Duress alarms should be in each of the following locations:

(a) Courtroom (near judge, court reporter, clerk, and in other courtroom locations as appropriate).

(b) Court commissioner hearing room.

(c) Judicial chambers and court staff areas.

(d) Clerk.

(e) Locations where staff interact with members of the public.

(f) Other courthouse locations where there are security risks.

(2) Duress alarms should be connected to an appropriate law enforcement office that will provide the immediate response of armed personnel.

(3) Each courtroom should be equipped with a telephone or other device to enable interactive emergency communication.

(4) The use of surveillance cameras should be considered in courtrooms and other areas of the courthouse.

## COMMENT

Duress alarm systems should be in easily accessible locations and should be tested regularly. Alarms should be able to immediately summon law enforcement or court security staff to respond. It is advisable that alarms be installed in other locations that have the potential for violent incidents or other breaches of security. Integrated technology systems, including computers or phones with emergency notification systems or public address functionalities, should be employed where available and all staff should be trained on use of such systems. A camera should not take the place of a sworn officer in the courtroom. In considering whether to use cameras in addition to security personnel, the committee should determine whether there is adequate staffing to perform real-time monitoring and recording, and consider the expected response time for officers.

(5) Officers providing security should have access to portable metal detection devices, if needed.

(6) Officers providing security should be equipped with law enforcement communication equipment.

(7) Each building that houses a court facility should be equipped with a public address system that permits all of its occupants to be given notices and instructions during an emergency.

### **SCR 68.09 Court Facilities: Planning.**

(1) The committee should immediately establish a design subcommittee for any contemplated reconstruction or significant remodeling of court facilities in the county. The committee shall consult with the chief judge. The subcommittee should invite participation by persons not on the committee, including the county public works director or comparable official, the district court administrator; a member of the county board and other persons the committee believes would be of assistance to the specific project.

## COMMENT

Having those most intimately affected by a planned project involved from the earliest stages is the single most effective step in assuring that the project will be both functional and cost-effective. The subcommittee should be created prior to and should participate in the selection of an architect and other consultants and should remain involved until the project's completion. The subcommittee should consult with the committee during the design phase. The creation of a design subcommittee is consistent with the underlying purposes of this chapter.

(2) Each county should develop a long-range plan for its court facilities.

## COMMENT

This type of plan usually can be developed through the efforts of county staff and judges working cooperatively and without the necessity of expensive outside consultants. Such a plan can reflect local conditions and practices and provide an on-going guide in considering the advisability, scope and other aspects of any contemplated project. Long-term planning is a cost-saving approach to facilities issues.

**SCR 68.10 Court facilities: Courtrooms.**

(1) Each circuit court judge should be provided with a separate courtroom.

COMMENT

While the assignment each day of a courtroom to a judge may in some counties not require that the judge preside in the same location at all times, each judge must have available to him or her a suitable courtroom in which to conduct judicial business.

(2) The minimum ratio between jury and nonjury courtrooms should be as follows:

<u>Number of judges in county</u>	<u>Number of jury courtrooms</u>
1-3	All
4-5	3
6-7	4
8	5
9-10	6
11-12	7
13	8
14-15	9
16-17	10
18	11
19-20	12
Over 20	60-65%

COMMENT

In counties with 4 or more judges, it may not be necessary that every courtroom be designed to accommodate jury trials. However, in some larger counties, because of local practice and judicial rotation plans, each courtroom may need to be a jury courtroom.

(3) The size of a jury courtroom should be a minimum of 2,000 square feet, including the litigation well (back wall to the rail) of at least two-thirds of the total square footage, and public seating for at least 25 people at 24 inches per seat.

## COMMENT

Based on expert, experienced, and professional recommendations, including from architects experienced in courtroom design, jury courtrooms should be at least 2,000 square feet in order to accommodate daily litigation, considering evolving developments in technology and ADA requirements. There should also be at least one jury courtroom of approximately 2,300 square feet available in each county to accommodate complex or multi-party litigation.

(4) The size of a non-jury courtroom should be a minimum of 1,700 square feet, including the litigation well (back wall to the rail) of at least two-thirds of the total square footage, and public seating for at least 25 people at 24 inches per seat.

(5) Courtrooms should be designed to impress upon the public and the litigants the fairness and dignity of the judicial system.

(6) Courtrooms should include all of the following in addition to the specifications that are set forth in SCR 68.07:

(a) A bench for the judge, elevated at least 20 inches and having a spacious work surface, in a location that permits the judge to enter and exit the courtroom through an adjacent private door.

(b) A well-lighted, ventilated and temperature controlled environment, with controls accessible only to court staff.

(c) Microphones and acoustics that will eliminate noise from outside the courtroom and permit all participants to hear one another clearly.

(d) Courtrooms should be equipped with adequate video, audio, and data technology to support the needs of all participants in a proceeding.

(e) One or more conference rooms at least 125 square feet in size in close proximity to each courtroom.

(f) An elevated witness stand located where the judge, jurors, attorneys and parties, and the court reporter can see and hear the witness clearly.

(g) A clerk's work place located immediately adjacent to the judge's bench to permit private communications and the transfer of documents between the judge and the clerk.

(h) A court reporter's work place located to provide an unobstructed view of all participants and to permit the court reporter to clearly hear all statements of the judge, attorneys and witnesses.

(i) In a jury courtroom, a jury box with seating capacity for a minimum of 14 jurors to provide an unobstructed view of the judge, witnesses, parties, attorneys and evidence displays and at sufficient distance to prevent private conversations from being overheard and as far as possible from public spectator areas.

(j) For a jury courtroom, an adjacent jury deliberation room of at least 400 square feet in size, exclusive of restrooms, and have access to adjacent, private restrooms with a vestibule. Jury rooms should be located to minimize contact

between jurors and the public while jurors are in transit. Jury rooms should include a sink, refrigerator, and adequate electrical outlets for small appliances.

## COMMENT

The judge's bench is the focal point of the courtroom and its design most directly conveys the dignity of the court. Elevation of the bench contributes to that effect and affords the judge an unobstructed view of the courtroom. The bench should be large enough to provide for secure separation between the judge and witness and to allow the judge to access the documents, books, and technology used during the course of proceedings.

Temperature, sound and light levels should allow all participants to be comfortable and remain alert. The ability to hear clearly what is being said is of paramount importance. Security and efficiency concerns require that only court staff have access to temperature, lighting and microphone controls.

New technologies are being introduced into courtrooms and design accommodation should be made to permit their efficient and safe use. Increased use of videoconferencing and remote hearing technology with incarcerated persons may reduce costs and increase convenience, but in designing and using this technology it is important to make arrangements for private telephonic communication between parties and their counsel if they are not at the same location. This may require the addition of a dedicated phone line for this purpose. See Subchapter III of Chapter 885 of the statutes, Use of Videoconferencing in the Circuit Courts. Design subcommittees should also be mindful that traditional or evolving methods of evidence display are located so as to insure that the judge, witnesses, jurors, attorneys, litigants and the public can clearly view it.

Conference rooms adjacent to each courtroom facilitate confidential conversations between attorneys and their clients and witnesses and negotiations between attorneys. They also provide waiting areas for witnesses, including victims. The witness stand should enhance the ability of all to see and hear the witness but it should not be as high as the judge's bench or so close to the bench as to permit sidebar discussions between attorneys and the judge to be overhead. The size and design of the space within the witness stand should take into account the need to accommodate interpreters, child witnesses, and those with special needs.

The jury box needs only 14 seats but it should be designed to permit additional temporary seats where more than 2 alternate jurors are used and accommodation should be made within the box or immediately adjacent to it for temporary seating during voir dire. Space within the jury box should be available to accommodate wheelchairs. Jury box dimensions and chair style and size should allow for adequate legroom, ease of entry and exit, and inclusion of technology, such as display monitors and microphones, as appropriate. Minimum dimensions should include 48 inches from the back of the chair to the front of the next chair, a 21-inch minimum seat width, and adequate spacing between chairs. If used, swivel chairs should have the ability to rotate at least 30 degrees.

Jurors perform an honorable, essential role in our system of justice and it is critical that they have a private, comfortable and functional environment in which to conduct their deliberations. Tables in the deliberation room are recommended to reflect the equality of all jurors. To insure privacy, bathrooms for jurors should be separated from the jury deliberation room itself by a vestibule or hallway inaccessible to the public.

Design requirements for federal courts note that the witness box should accommodate a witness and an interpreter. The jury box should have a clear line of sight to the judge, attorneys, witnesses and evidence presentation displays. The maximum allowable distance between a juror and a litigant sitting at a counsel table across the courtroom well is 40 feet. Jurors should be separated by at least 6 feet from attorneys, litigants and the public. The same design requirements suggest that the furniture and equipment used by the court reporter should be movable so that it can be rearranged to suit each court reporter and judge.

Under Supreme Court rule, cameras are permitted in most Wisconsin court proceedings. No uniform method of providing space for them is practical and design subcommittees should be aware of the need to provide space for them in planning new courtrooms and in the renovation of existing ones. Any filming and photographing of remote or in-person proceedings must comply with SCR Ch. 61 Rules Governing Electronic Media and Still Photography Coverage of Judicial Proceedings.

**(7) Courtrooms and court commissioner hearing rooms in which juvenile or other confidential proceedings are conducted should be located and designed to ensure the confidentiality of those proceedings.**

## COMMENT

State law provides that juvenile and certain other cases are to be closed to all but the persons participating in them. This confidentiality cannot be achieved if persons waiting to appear in such a case are required to wait in hallways or other areas where the nature of their business is displayed to the public.

### **SCR 68.11 Court facilities: Auxiliary areas.**

**(1)** An adequately-sized jury assembly area should be provided.

## COMMENT

The area provided to prospective jurors for orientation and assembly before being brought to an individual courtroom keeps them apart from the public and litigants and reflects their important role in the justice system. Prospective jurors should be provided a comfortable place to await being called, which at times is a considerable period. The jury assembly room may also be designed to serve other purposes.

**(2)** Each judge should have a private chambers of 400 square feet in size, with a private restroom.

## COMMENT

The judge's chambers should lend dignity to the judicial office. The chambers should be large enough to accommodate conferences with colleagues and staff. Chambers should provide adequate soundproofing and privacy.

**(3)** An area should be provided immediately adjacent to the judge's chambers for court staff and a reception area.

## COMMENT

Given the variations among the counties in staffing of courts, it is not practicable to establish a uniform standard for the size and configuration of support staff areas. Location of support staff adjacent to the judge's chambers not only enhances efficiency but also allows screening of persons seeking access to the judge.

**(4)** Every court facility should provide a location where members of the public may access legal research.

## COMMENT

Access to legal research is critical to the proper functioning of the court system. A pro se service center or space with dedicated computer terminals or interactive kiosks may provide members of the public with access to legal information and self-help resources.

(5) Offices and hearing rooms of court commissioners should provide respect, privacy and function and be designed to impress upon the public and the litigants the fairness and dignity of the judicial system.

#### COMMENT

Court commissioners in Wisconsin perform a number of important roles in the judicial system and are often called upon to make key preliminary orders in a case at a time when emotions are particularly high. The importance of those roles should be emphasized in the design, configuration and furnishings of the space in which the court commissioners perform their duties. The setting in which persons appear before a court commissioner should instill respect for the authority of the court commissioner. Given the wide variations among counties across the state in the use of part-time and full-time court commissioners and the functions they perform, a uniform standard on size or features of court commissioner offices or hearing rooms is not practicable. Hearing rooms should be designed in accordance with the standards for courtrooms, with modifications to reflect the somewhat different nature of the proceedings conducted by the court commissioner.

#### **SCR 68.12 Staffing.<sup>1</sup>**

(1) Each branch of circuit court should be staffed by one full-time judicial assistant.

#### COMMENT

The trial court system faces ever increasing caseloads and cases of ever increasing complexity. The judge today must take charge and aggressively manage his or her caseload. To do so the judge needs a full-time judicial assistant. This staff position will permit each judge to devote more of his or her efforts to the primary judicial task-presiding over and judging lawsuits.

The position of judicial assistant should be in the state service. It will perform for the court the following work: type opinions, correspondence and decisions and prepare reports, dispositions, memoranda, agendas, jury instructions, verdict forms, orders and notices; assist with calendar management, including scheduling of court hearings, trials, conferences, legal appointments, meetings and activities of the judge; hold scheduling conferences; assist with file and record acquisitions; organize and maintain judge's files and records; post court calendar daily, update weekly calendar; maintain judge's law library; act as receptionist in answering telephone, handling visitors and processing mail; requisition office supplies; contact attorneys and parties concerning court dates, appointments and cancellations; such other work as required by the court. See s. 758.19(h), stats. "The director of state courts shall establish a description of the qualifications and duties of . . . a judicial assistant . . . ."

Judicial experience and expertise support the long-standing position of the Wisconsin Judicial Conference that this staff position is vital to a well-functioning court. Where judicial assistants now exist as part the court staffing, caseloads are much more current and the oldest cases are disposed of with priority consideration. The citizens of this state have a right to communicate directly with each judge's office during normal work day hours and get immediate answers to their questions and service on their requests without waiting for return calls from the judge, court reporters, or court clerk who at the time of the call are working in the courtroom. Scheduling of cases should take place throughout the day, not just when court is out of session and the person in charge of the calendar has time to work on case scheduling. Also, judges must be protected from ex parte communications by having their telephone calls screened by knowledgeable staff.

<sup>1</sup> The provisions pertaining to staff in SCR 68.12 were not reviewed as part of the repeal and recreation of SCR 70.38-70.39. S. Ct. Order 11-03, 2012 WI 25 (issued Mar. 15, 2012, eff. Mar. 15, 2012).

In some counties, court reporters are still required to do clerical tasks for judges. The creation of this position statewide would relieve those court reporters of that highly paid clerical duty and allow them to concentrate on their job-court reporting.

**(2) Each branch of circuit court should be staffed by one full-time law clerk.**

#### COMMENT

A law clerk works with and for a judge doing specific legal research of both immediate and future needs. The law clerk may report to the judge orally or in writing. If in writing, the report may be in memorandum form or in the form of a decision draft. This staff position should be in the state service and will permit each judge to devote more of his or her effort to the primary judicial task-presiding over and judging lawsuits. Judicial experience and expertise support the long-standing position of the Wisconsin Supreme Court and the State Bar of Wisconsin that this position is vital to a well-functioning court.

Clearly, a trial court with research assistance will produce higher quality legal decisions. Higher quality decisions may decrease the number of appeals. One county already has met the proposed standard and its court disposes of cases at a much higher rate than other trial courts in the state.

**(3) Each circuit judge should appoint a full-time court reporter to serve primarily in the branch to which the judge was elected or appointed.**

#### COMMENT

Current law provides for each circuit judge to appoint a court reporter for his or her court or branch of court, s. 751.02, stats. Additionally, where "floating" court reporter positions have been created and assigned to specific judicial administrative districts, the chief judge or district court administrator assigns the court reporter to fill in where needed because of illness, vacations, leaves of absence, or backlog problems.

Historically, the court reporter was the only staff directly responsible to the judge and in many cases assumed a number of clerical and administrative duties for the judge's court. It is wasteful of an important court resource to have court reporters performing tasks other than taking and transcribing the verbatim record. The court reporter shall be available to assist in other circuit court branches as assigned by the chief judge or district court administrator to assure adequate coverage of all reported proceedings.

**(4) Each branch of circuit court should be staffed by one full-time or part-time courtroom clerk.**

#### COMMENT

In some counties the workload in the judge's office may require the position of courtroom clerk to be a full-time assignment to the court. In other counties the courtroom clerk may be needed only when the court is in session and may return to the clerk's office for other duties when court is not in session. In small counties this function may be performed by the clerk of the circuit court.

**(5) Each branch of circuit court should be staffed by one full-time or part-time court aide.**



## COMMENT

The position of court aide should not be confused with that of the court security officer. The responsibility of the court aide is to attend to the needs of juries and see that they are secure from contact with the parties, attorneys or witnesses and free from influence from any source outside the courtroom. Generally, only one aide should be required to assist and secure a jury. On occasion or when a jury is sequestered, additional aides will be needed to attend to a jury. The standard is consistent with actual practice, as the courts in most counties currently have part-time court aide.

### **SCR 68.13: Responsibilities of director of state courts.**

(1) The director of state courts shall maintain a list of significant construction and remodeling projects affecting court facilities in the state.

(2) The director of state courts shall maintain information pertaining to court security training for use by counties statewide.

(3) The director of state courts shall maintain a list of resources related to court security, facility construction, and design.

(4) The director of state courts shall maintain resources to enable committees to submit court security threat and incident reports to the director's office as required in SCR 68.05 (4).

(5) The director of state courts shall present to the planning and policy advisory committee an annual summary of security threats and incidents, training activities, and courthouse construction and remodeling projects that have resulted in security improvements.

Adopted March 15, 2012; Amended April 22, 2019, December 7, 2022.

# INITIAL COMMUNITY COURT RECOMMENDATIONS

JONATHAN SCHARRER, JD

## AGENDA

- Brief History & Prep
- Location & Design (Background SCR 68)
- Pilot Offenses
- Process, Services, & Data Collection
- Action Plan
- Future Steps

## BRIEF HISTORY & PREP



Work of the Subcommittee to be Included in Report



Research

## SCR CHAPTER 68

**assist** counties and courts in making decisions about court facilities

**establish** a flexible framework for courts' participation in decision making process, with regards to facilities

**suggest** standards for existing court facilities, new construction, remodeling and/or relocation of court

**"Should" is directory only, not mandatory, and connotes a duty or obligation to pursue a goal or objective.**

## OBJECTIVES: SECURITY AND SAFETY



Judicial officers



Participants in court proceedings



Staff



Members of the public

## STRUCTURE AND DESIGN CONSIDERATIONS: PERIMETER

- Separate Public & Restricted Access Entrances, with screening mechanisms in place
- Exits should be physically and spatially separated from entry areas
- Parking:
  - **Judicial parking separate from public parking**
  - Public parking minimizes proximity to building structures

## STRUCTURE AND DESIGN CONSIDERATIONS: 68.06(2)(D)

- Example of Differences between Jurisdictions: WI & NY
- Windows – WI: must take into account security considerations in placement and type of windows and window coverings
  - Comment that while windows can offer natural light and aesthetic, they may compromise security and “are of particular concern due to risk of attack...”
- NY: **VI.6: Doors and Windows.** The design of windows and doors should deter access without compromising aesthetic, natural light and view considerations

## STRUCTURE AND DESIGN CONSIDERATIONS: COURTROOMS

- Entrances for Courtrooms:
  - Public entry - singular to accommodate a security checkpoint if needed
  - Judges and court staff - adjacent to the bench
- Judge’s bench
  - 68.06(3)(d) designed to deter physical attacks
  - **68.10(6)(a) elevated at least 20 inches**

## SECURITY PERSONNEL

- **COURTROOM:**
  - two sworn officers in each courtroom/court commissioner hearing room
  
- What is Possible in a Community Court Courtroom?

## STRUCTURE AND DESIGN CONSIDERATIONS: COURTROOMS

- 68.10(4) **Non-jury Courtroom** (min. 1,700 square ft)
  
- Other elements found in Ch. 68:
  - Lighting, including emergency back ups – secured controls
  - Separation between the spectator area and the area used by staff and the participants in court proceedings

## COURT DESIGN SUBCOMMITTEE

- Establish for contemplated reconstruction or **significant** remodeling of court facilities in the county.
- The committee shall consult with the chief judge.

## DANE CO. COURTHOUSE LOCATION – DESIGN CONSIDERATIONS

Unused  
courtroom space  
in the  
courthouse

Architecture and  
Design of  
Restorative  
Justice

Balanced and Safe  
Space

## PILOT OFFENSES

- Low level drug offenses (not otherwise eligible for drug court)
- Operating Motor Vehicle without Owner's Consent
- Resisting an Officer (that was not eligible for pre-charge CRC)
- *+RESERVE DISCRETIONARY AUTHORITY*
  
- Other Possible Offenses to expand pilot population pool size:
  - Select Burglary cases where no weapons involved
  - Disorderly Conduct
  
- (Discussed on 9/12: Unlikely to Qualify – Recklessly Endangering Safety)

## DESIGN REMINDER – INTENTIONAL DESIGN

- Careful Development & Review of Eligibility Criteria
  
- Awareness of Potential for Bias



# PROGRAM DESIGN

- Design Philosophy = Restorative Justice
  - Principles
  - Practices
  - Connection of the pilot Community Court to existing programs and resources
- Referral Points:
  - DA's Office
  - Judges
  - Space for Defense Bar to Consult/Seek Referral
  - Explore Possible Pathway for Municipal Judges

# DESIGN & OPERATION

- Community Court – Circuit Court Judge with Specialty Docket (part-time only coverage only)
- Collaborative Model
- Linkage to CRC for Peacemaking process
  - More serious offenses = greater preparation and more front-end work (e.g., multiple circles, etc.)
- Community Court Coordinator serves as liaison between the CRC and the CC and assists with wraparound service coordination

## DESIGN & OPERATION

- Staffing
  - DA's Office – utilizes multiple prosecutors from other courtrooms
  - PD's Office – staff Comm. Court similar to how they staff Drug Court
- Consider Flexible Scheduling

## DESIGN & OPERATION

- Referrals and Possible Conditions
  - Contemplate front-end conditions for Agreement where needed/required:
    - DA
    - Court
- Clear Pathway to Offense Removal/Reduction

## DESIGN & OPERATION

- Intake and Assessment Process
  - Risk-Need-Responsivity (RNR) Assessment
- Service Array (Wraparound)
  - SUD, mental health, employment, education, etc.

## RECOMMENDED TASKS FOR COURT COORDINATOR

- Once Community Court Coordinator hire is made:
  - Visit other community court sites: NY, CA, OR
  - Select RNR Tool
  - Service Array and Provider Selection for Wraparound Services
    - Access/capacity
    - Contracted slots
    - Blended Funding Opportunities + Coordination & Collaboration between Orgs
  - Theory of Change Model
  - Plans with Restitution and Community Service

## RECOMMENDED TASKS FOR COURT COORDINATOR

- Cont.
  - Community Advisory Board
    - Direct connection to decision makers
    - Multi-directional accountability
  - Messaging to Community to build Buy-In
    - Info Sessions
    - Town Halls
  - Database/Infrastructure/Surveying (Some can begin beforehand)

## DATA

- Programmatic Data
- Evaluation Data
  - Entrance and exit surveys of participants for qualitative as well as quantitative

# DATA

- “Measuring Success”
  - Recidivism (and deeper)
  - Beyond Recidivism:
    - Other metrics (restitution, community service, stable housing, employment, education, etc.)
- Inherent benefits?
- Engagement with Services?

## POST-PILOT / FULL IMPLEMENTATION PHASE

- Expansion of offenses beyond the pilot list and restrictions of the grant
  - Broader determination of eligibility based on RNR
  - Expand to take cases with some violence
  - Target more of the disparate offenses: FIP?, CCW?, Recklessly Endangering Safety?

## POST-PILOT / FULL IMPLEMENTATION PHASE

### ■ Community Justice Center

- Design Space: possibility for variance/exceptions? Modification of SCR?
- Comprehensive Service Hub

### ■ Realization of Visioning Work

## THE WORK CONTINUES

In the meantime...

- Examining What's Possible with SCR 68
- Developing Procedure
  - Linking with CRC
  - Determining Means of Effective Liaison
  - How Does the Court Act & What Do They Expect at the Hearings?
- Develop Database for the Future and Growth
- Finding Possible Assessments/Tools

## TIMELINE - DELIVERABLES

- 9/26/23: CJC-CCAC subcommittee presentation
- 9/28/23 – Today: CJC presentation
- By 1/1/24: Report with Additional Research