

Agenda
Eau Claire County
Committee on Judiciary and Law Enforcement
Thursday, May 14, 2020 – 10:45 AM
Virtual Meeting via Cisco Webex

Public Access Participation Information:

Dial In: 1-415-655-0001
Access Code: 924 701 137

Notice Regarding Public Comment: *Members of the public wishing to make comments must email Eric Huse at Eric.Huse@da.wi.gov at least 30 minutes prior to the start of the meeting. You will be called on during the Public Comment session to make your comments.*

1. Call to Order
2. Confirmation of Public Meeting Notice
3. Call of the Roll
4. Public Comment
5. Approve Minutes from May 01, 2020 Meeting – discussion/action (Page 2)
6. TRY Mediation Department Introduction and Presentation – discussion
7. Joining Our Neighbors Advancing Hope (JONAH) Presentation – discussion
8. ACLU “Smart Justice” Presentation – discussion (Page 4)
9. Sheriff’s Office Introduction and Presentation – discussion
10. Set Future Meeting Date(s) – discussion/action
 - a. Wednesday, May 27, 2020 at 3:00 PM
 - b. Wednesday, June 24, 2020 at 3:00 PM
11. Set Future Agenda Item(s) – discussion/action
 - a. 1st Quarter Department Fiscal Updates
 - b. Stop & Think program presentation
12. Adjourn

Posted: 05/12/2020

Note: Upon reasonable notice, efforts will be made to accommodate the needs of individuals with disabilities through sign language, interpreters, or other auxiliary aids. For additional information or to request the service, contact the County ADA Coordinator at 715-839-6945, (FAX) 715-839-1669, or (TDD) 715-839-4735 or by writing to the ADA Coordinator, Human Resources Department, Eau Claire County Courthouse, 721 Oxford Ave., Eau Claire, Wisconsin 54703

Minutes
Eau Claire County
Committee on Judiciary and Law Enforcement
Friday, May 01, 2020 – 11:00 AM
Virtual Meeting via Cisco Webex

Members Present: Melissa Janssen, Sandra McKinney, Zoe Roberts, Connie Russel, and Gerald Wilkie.

Others Present: Criminal Justice Director Tiana Glenna, Register in Probate/Clerk of Juvenile Court Jean Gay, Clerk of Circuit Court Susan Schaffer, Admin. Services Division Manager Danielle Powers, District Attorney Gary King, and Eric Huse.

Call to Order

The meeting was called to order by Chairperson *pro tempore* Wilkie at 11:00 AM.

Call of the Roll

The Clerk called the roll. Attendance is noted above.

Confirmation of Public Meeting Notice

The Clerk confirmed this meeting was properly noticed to the public.

Public Comment

No public comment was made.

Election of Committee Officers

Chairperson *pro tempore* Wilkie opened the floor for nominations for Chairperson of the Committee. Supervisor McKinney nominated Supervisor Wilkie. Nominations were closed after three calls for additional nominations. Supervisor McKinney moved for vote; Chairperson *pro tempore* Wilkie called for a roll call vote: JANSSEN aye; MCKINNEY aye; ROBERTS aye; RUSSELL aye; WILKIE aye. The motion passed; Supervisor Wilkie was elected Chairperson.

Chairperson Wilkie opened the floor for nominations for Vice-Chairperson of the Committee. Chairperson Wilkie nominated Supervisor Russell. Nominations were closed. Roll Call vote. Nominations were closed after three calls for additional nominations. Chairperson Wilkie called for a roll call vote: JANSSEN aye; MCKINNEY aye; ROBERTS aye; RUSSELL aye; WILKIE aye. The motion passed; Supervisor Russell was elected Vice-Chairperson.

Appointment of Committee Clerk

Eric Huse was appointed Committee Clerk by Chairperson Wilkie, with consent of the Committee.

Appointment of Representative to Criminal Justice Collaborating Council

Chairperson Wilkie appointed, with consent of the committee, Vice-Chairperson Russel as the Committee Representative on the Criminal Justice Collaborating Council.

Approve Minutes from March 11, 2020 Meeting

Supervisor McKinney moved to approve the minutes from the March 11, 2020 meeting. The minutes were adopted as published in the meeting materials via 5-0 voice vote.

Department Introduction and Presentations

- **Clerk of Courts**
 - Clerk of Court Susan Schaffer presented an overview of the department. The Clerk of Courts Office is the official record keeper of the Circuit Court. They accept filings, send notices, and collect fines, fees, and forfeitures. The Committee asked general questions. Currently, the courts are still open and functioning while dealing with the various restrictions and changes brought by COVID-19 including no in-person court appearances and rotating department staff within the office. However,.

- **Circuit Court**
 - Clerk of Court Susan Schaffer presented an overview of the Circuit Court. The Circuit Court, unless otherwise stated by law, has jurisdiction over all criminal and civil matters within Eau Claire County. As noted in the Clerk of Courts segment, the courts are still open and functioning while dealing with the various restrictions and changes brought by COVID-19. Zoom video conferencing has been utilized to accomplish court hearings. Other topics/issues on the horizon include installation of Digital Audio Recorders as there is a limited pool of court reporters available and the potential for the addition of 6th Circuit Branch. The previous projection was for the addition to occur in 2021. The Committee is unsure if that timeline will be adjusted now due to the COVID-19 pandemic.
- **Criminal Justice Collaborating Council**
 - Criminal Justice Director Tiana Glenna presented an overview of the Criminal Justice Collaborating Council (CJCC). Informational documents were provided prior to the meeting in the agenda packet. The CJCC was founded in 2006 with the intention to better the criminal justice system in Eau Claire County. The CJCC is comprised of elected officials in Eau Claire County in addition to public members. Selected highlights of the CJCC include Evidence Based Decision Making (EBDM) grant awarded in 2010. In 2013, the Community Service Program was added under CJCC. Also in 2013 a Data Analyst was hired.
- **District Attorney**
 - District Attorney Gary King presented an overview of the department and spoke to the information was provided in the meeting materials. The committee asked various questions of DA King.
- **Register in Probate/Clerk of Juvenile Court**
 - Register in Probate/Clerk of Juvenile Court Jean Gay presented an overview of the department. Separate, yet similar, to the Clerk of Court Office. The Register in Probate is an appointed position, appointed by the Circuit Court with approval of District Chief Judge. The office is the official record keeper of all Probate, Guardianship, Mental Commitment, and Juvenile proceedings. All proceedings, with the exception of Probate, are confidential.

Future Meeting Date

The next committee meeting is scheduled for Thursday, May 14, 2020. The meeting will occur between 10:30AM – 2:15 PM, with exact time to be determined.

The typical meeting schedule will be the fourth Wednesday of every month at 3:00 PM. The next regularly scheduled meeting will be June 24, 2020 at 3:00 PM.

Future Agenda Items

- Sheriff's Office Introduction and Presentation
- TRY Mediation Introduction and Presentation
- ACLU "Smart Justice" Presentation
- JONAH Presentation
- Stop & Think program Presentation

Adjourn

The meeting was adjourned by Chairperson Wilkie at 12:26 PM.

Respectfully Submitted:

Eric Huse
Committee Clerk



Presentation to
Committee on Judiciary & Law Enforcement
May 14th, 2020
ACLU Collaborative Under Rights For All Campaign

David Carlson

Regional Organizer for the
Rights For All Campaign

*Smart Justice Objectives in the context of
COVID-19*

Anthony Ledford

Criminal Justice Advocate

A Formerly Incarcerated Perspective

Paul Savides

JONAH Executive Board

*Collaboration between JONAH
and
ACLU Collaborative Under Rights For All
Campaign*

Susan Wolfgram

PhD, LICSW

Professor Emeritus, UW-Stout
Criminal Justice Reform Advocate

The “Urgency of Now”

Kim Cronk
RN
County Board Supervisor

The Path Forward...

Presentation of ACLU of Wisconsin's Smart Justice, by David Carlson, Eau Claire County Regional Organizer for the Rights for All Campaign...

The ACLU of Wisconsin Campaign for Smart Justice is a multiyear effort aimed at reducing the jail and prison population and fighting racism within the legal system. This effort is of utmost urgency in Wisconsin, where we have one of the highest Black male incarceration rates in the country, coupled with the highest incarceration rate for Native Americans. "A Black male incarceration rate that not only leads the United States but is today eight times that of apartheid South Africa in 1993, *Lounsbury 2019*." In Wisconsin, Black people and Native Americans are more than twice as likely to be incarcerated than the national average—this is remarkable considering the United States is 5% of the world's population, yet accounts for 25% of the world's incarcerated population. We are the worst incarcerators in the world, *Lounsbury 2019*.

Eau Claire County's population is 1.2% African American and 0.6% Native American, *U.S. Census Bureau 2019*. As of May 9th, 17.5% of the secure inmate population of Eau Claire County Jail was African American and 2.34% were Native American, *Eau Claire County Data 2020*. 76.61% of the ECC Jail was white, as compared to the 91.8% representation of whites in the overall Eau Claire County populace. Two of THE most discriminated, oppressed, and disenfranchised demographics in the United States are currently THE most overrepresented populations within the Eau Claire County Jail.

Under the threat of COVID 19, congregate living facilities are at the highest risk of mass spread, as confirmed in Lieske Giese's health department memo to Sheriff Cramer dated 4/26/2020, and according to the Center for Disease Control and Prevention. Both organizations are listed in communications from ECC Jail and sheriff department representatives as collaborating bodies in the effort to prevent an outbreak of COVID 19 within the jail, yet, multiple recommendations made by the ECC Health Department on April 21st confirm that proactive measures in accordance with public health expert opinion had yet to be taken. Sheriff Cramer and Captain Bresina have assured the public that all necessary measures were being taken as early as April 8th, yet there has still been no update as to how many inmates and correction's officers have been tested.

Captain Bresina stated there was no COVID 19 within the jail in an email from April 28th, but offered no evidence supporting this claim. Furthermore, the Criminal Justice Collaborative Committee has reiterated its use of evidence-based practices, yet there has been very little data shown as being the guiding basis for decisions being made in this context of COVID 19 in terms of the jail, the sheriff's department, or in efforts to allocate reentry resources to individuals who are in need of services to prevent further recidivism.

We hope you will immediately review detained and incarcerated populations and maximize the number of people – with a heightened focus on populations identified by the CDC as particularly vulnerable – who can be immediately released, including people who would be released within the next sixty days, anyway. Please [suspend all practices of holding people in local jails and prisons for civil immigration purposes](#), i.e. pursuant to a detention agreement with Immigration Customs and Enforcement (ICE) or an ICE detainer.

COVID 19 has had a disproportionately negative impact on communities of color because these communities are predominantly located in densely populated areas. This is not the only reason though.

COVID 19 is tearing through jails and prisons throughout the United States, and these jails and prisons are disproportionately populated with Brown and Black people. Eau Claire's jail is no different.

The demographic I belong to is being put at extreme risk in Eau Claire County, and throughout Wisconsin. I am asking for weekly public updates that include number of inmates and staff tested, the results of those tests, the secure portion of the jail's capacity. Jail representatives must acknowledge that there is a need for services for people suffering from mental health issues, addiction, homelessness, and lack of opportunity for housing, employment, education, and social integration. I am also asking the Committee on Judiciary and Law Enforcement to oversee and confirm that the recommendations made by the ECCC Health Department are being followed by the sheriff's department and jail staff.

Works Cited

Eau Claire County Data. 2020. *Counts of Race with Hold Type Information*. Criminal Justice Reports, Systems Data: Current Composition of the Jail. <https://www.co.eau-claire.wi.us/departments/departments-a-k/criminal-justice-collaborating-council/criminal-justice-data>

Lounsbury, Jud. 2019. *Wisconsin: The Perfect Place to Address America's Apartheid*. The Progressive: Dispatches. <https://progressive.org/dispatches/wisconsin-the-perfect-place-to-address-americas-apartheid-lounsbury-190509/>

U.S. Census Bureau Staff. 2019. *Eau Claire County, Wisconsin*. U.S. Census Bureau: Quick Facts. <https://www.census.gov/quickfacts/eauclearcountywisconsin>

Communications from Jail Administration

4-8-2020 Sheriff Cramer: “We have been working with our health professionals, health dept., Department of Corrections, and CDC recommendations.”

4-8-2020 Sheriff Cramer: “There is so much going on that you won’t understand that we have been on statewide conference calls with other sheriff’s who are running jails, listening to daily briefings from our incident command staff, and trying to call sources to find needed protection equipment for our own staff and jail.”

4-9-2020 Sheriff Cramer: “My elected responsibility as sheriff is the care of the inmates while they are incarcerated.”

4-9-2020 Sheriff Cramer: “We had the CDC recommendations out to staff, we already had talked about a staffing plan [if] staff should get sick and be unable to report to work.”

4-9-2020 Sheriff Cramer: “We were as prepared as we could be for something that we have never had to deal with before.”

4-28-2020 Captain Bresina: “We did not receive questions until recently from others related to COVID 19 and our operation.”

4-28-2020 Captain Bresina: “COVID 19 is a medical condition and much of this information is protected under law. Our draft jail action plan is law enforcement sensitive as it outlines specific operations. Therefore, because of safety and security of our facility, we are not posting or sharing the document to the public.”

4-28-2020 Captain Bresina: “If after consulting with Incident Command we feel there are notable updates to share, those updates will be provided via the press conference format. We currently do not have any active or suspected COVID 19 cases in our jail therefore no updates have been provided at the press conference.”

ECCC Health Department Inspection

4-21-2020 ECCC Health Department recommends exploring further ways to reduce jail population so each individual is in a single cell.

4-21-2020 ECCC Health Department recommends jail implements screening protocols for employees and contractors.

4-21-2020 ECCC Health Department recommends jail staff wear PPE when in 6ft distance of others.

4-21-2020 ECCC Health Department recommends finding additional time for inmates outside of cell during initial 14 day quarantine period. Incorporation of time to workout included in this recommendation.

4-21-2020 ECCC Health Department recommends public defenders wear protective mask when meeting with client and positioned within 6ft distance.

4-21-2020 ECCC Health Department recommends jail nurse and staff work collaboratively with health department.

4-21-2020 ECCC Health Department recommends Aramark employees wear a mask when working within 6ft of others. Also, actively screen Aramark employees when entering the building.

4-21-2020 ECCC Health Department: “You and your staff are the most important prevention resource we have in this setting.” “Please consider regular reporting to the public of the measures you are taking including provisions of this report.”

MEMO

To: Sheriff Ron Kramer

From: Elizabeth (Lieske) Giese, RN, MSPH 
Health Officer-Director & COVID-19 Incident Commander

Date: 4/26/2020

Re: COVID-19 Evaluation & Recommendations for the Eau Claire County Jail

Correctional and detention facilities have been identified as being at high-risk for a COVID-19 outbreak due primarily to their congregate nature. The Eau Claire County Jail has developed and implemented strategies to decrease the risk of transmission of COVID-19 at the facility. On March 11th, health department staff (Paulette Magur, Leeshia Crayton) met with jail leadership to do an onsite assessment to help with the development of the jail's COVID-19 plan. On April 9th, 2020, health department staff (Marisa Stanley, Paulette Magur, Denise Wirth), Incident Command Safety Officer (Al Bertrang), and Eau Claire County Jail leadership (Dan Bresina, Dave Riewestahl) met to conduct an onsite evaluation of the strategies being implemented and review infectious disease protocols for employees and inmates at the request of jail leadership. There were follow up meetings after this site visit to clarify details of the jail operations and discuss recommendations.

Strengths of the Eau Claire County Jail's approach include implementing strategies to reduce crowding, engaging public health early for plan development, and assuring disease prevention strategies of providing soap and access to cleaning supplies to inmates.

Below are recommendations and considerations for jail leadership to improve and expand their policies/strategies to decrease the risk of transmission of COVID-19 at the facility.

Reduction in crowding:

One of the strategies being implemented includes reduction in crowding through the supervised release of Huber inmates and a reduction in new bookings. Since March 1st, the facility has reduced its overall occupancy from 281 to 183 (53% of previous) and rate of weekly new bookings from 92 to 10 (89% of previous). In addition, jail staff have worked to identify those who may be at higher risk of COVID-19 and worked with the appropriate entities (probation, parole, or courts) to see if they could be released. The current population at Eau Claire County Jail allows for almost all inmates to have their own cell.

Recommendation:

- Continue to utilize evidence-based practices in partnership with Eau Claire County Judicial System to reduce crowding by strategies above. Explore other ways to reduce the jail population to allow for appropriate physical distancing and for each inmate to have their own cell.

Employee Screening and PPE Use:

Jail staff are being asked to self-monitor for symptoms of COVID-19 prior to coming to work and report to their supervisor if they are experiencing symptoms so they can stay home from work.

Recommendations:

- Actively screen all jail employees including contractors for symptoms of COVID-19 using algorithm that will be developed by the health department to make sure staff experiencing symptoms are not coming to work. This would include taking temperatures and having someone ask employees if they are experiencing symptoms before they start their shift. In many ways jail staff are like nursing homes workers in that they are the people moving in and out of the facility and could be a potential source of transmission to the residents. Therefore, we recommend implementing similar process for active employee screening to protect the inmates and jail workforce. *Implemented 4/21/2020.*
- Use PPE recommendations from ECCCHD for law enforcement. This includes wearing a surgical mask when any jail employees are within 6 ft of inmates to protect inmates from getting disease from the jail employees. Surgical masks should be worn only when physical distance cannot be maintained, and masks should be reused if not soiled or wet to preserve PPE. N95 masks should only be utilized in the event that extremely close and sustained contact is necessary and should only be used by those that are appropriately fit-tested. *Implemented 4/21/2020.*

Pre-booking and booking process:

The pre-booking process involves assessment of the incoming inmate for signs and symptoms of COVID-19 by the arresting officer. The inmate is asked to wear a surgical mask regardless of whether they are experiencing symptoms, the inmate is then brought to the booking area where jail staff wearing the appropriate PPE (surgical mask, face shield, and gloves) complete the booking process which includes putting the person's possessions in a property bag, completing screening questions, taking a photograph, getting fingerprints and having the inmate shower and change in to a jail uniform. The inmate's personal property is held in a yellow bag so that it is handled with gloves.

Recommendations:

- Add recent loss of taste and smell to the jail pre-booking screening form and update to reflect current practice for Medical Administrative Confinement (MAC), and the screening form only has MAC for those with symptoms. *Update completed as of 4/20/2020*

- Build in 6-ft distancing wherever possible to the booking process including continuing to have people step forward and back when having to exchange information. *Implemented 4/9/2020*

Holding Area:

Incoming inmates are held in holding cells until their 14-day MAC is completed. This strategy of a 14-day MAC was implemented based on guidance from the state to prevent disease transmission from new inmates who may have been exposed to the disease to those who have been there longer. The inmates are allowed out of their cells for phone calls, to pay bond, court appearances, and showers. Inmates in MAC get food & disposable utensils through a slot in the door. Officer checks on them hourly and a nurse and mental health professional checks on them daily. Any books read by an inmate in MAC are placed in a separate shelf and left for 1 week until being recycled to other inmates. Inmates are masked whenever out of cell for 14-day MAC. If they identified as having symptoms or if symptoms develop, the jail nurse will assess them and do testing as appropriate. Public Defenders do come into jail and sit with the inmates through court hearing. Usually less than 6 feet but less than 6 min.

Recommendations:

- Continue to find additional time for inmates outside of the holding cell while masked in the 14 days of MAC to promote mental health and try to identify alternate locations for MAC that allow more physical movement for inmates. *Updated as of 4/21/2020-When possible and behavior allows inmates are able to use a larger holding cell location for exercise.*
- Have public defenders wear a surgical mask while meeting with an inmate if within 6ft. *Implemented 4/21/2020*
- Assure jail nurse and staff work with the public health department for testing and follow up of a COVID positive inmate by explicitly stating this in the jail plan. *Implemented 4/21/2020*

Housing:

Once inmates have completed their MAC, they are assigned to a housing unit where they have their own cell if possible and can interact with other inmates in their block. Currently, inter-block mingling for programming and activities is not being allowed in an effort to contain disease spread. Correctional officers walk through each block on a regular basis to check on inmates. Each cell has a sink for handwashing and hand soap is being provided to inmates free of charge as a strategy for preventing disease transmission. Inmates are provided with fresh cleaning supplies daily in order for them to clean their own cells.

Recommendations:

- Correctional officers should wear a surgical mask when in a block for any reason and then take the mask off and store the mask for reuse if the mask is not soiled or wet. This will help prevent disease transmission from a correctional officer to the inmates when 6 ft of physical distance cannot be maintained. *Implemented 4/21/2020*
- Allow inmates to wear cloth masks if they choose.
- Actively and regularly educate/remind inmates about how to prevent COVID disease transmission including hand washing and respiratory etiquette (covering coughs and sneezes),

to avoid touching their face, and to keep physical distance of 6ft whenever possible. The review did note signage is located in all inmate location and Kiosk messages are sent when updates to the action plan occurs.

- Educate inmates about symptoms of COVID-19 and reporting process if they start to experience symptoms. The review indicated this practice is in place per the jail rules and procedures.
- Continue to provide inmates with antibacterial soap free of charge.

Visitors:

Visits with medical personnel, lawyers, and chaplains are being conducted through glass or video chat when possible. In addition, inmates can utilize video chat for visits with family and friends.

Recommendation:

- Continue to encourage electronic means of communication to prevent disease transmission through in person visits.
- Have visitor wear mask if in person visit is necessary and physical distance of 6 ft cannot be maintained. *Implemented 4/21/2020*

Medical Care/Quarantine and Isolation for COVID case:

Medical care for inmates is provided by Well Path and includes nurses that are on site Monday-Sunday and a doctor that is onsite every Thursday. Per jail rule book, inmates wanting medical care fill out a form that is given to nursing and inmates are seen by nursing or the doctor as appropriate. If there is a need for urgent medical care, jail staff work with a hospital emergency room to get the inmate care. Jail nurses would work with public health for COVID testing for inmates. Any inmates who are experiencing COVID like symptoms would be moved to medical isolation as soon as possible and be evaluated by nursing. Any contacts to the sick inmate would be required to quarantine, including all other inmates in that block. They would be quarantined to their cell and monitored for symptoms until the test result came back. If the test is negative, everyone would be released from quarantine. If the test comes back positive, quarantine continues for 14 days with symptom monitoring. The jail nurses and staff would work with public health to determine close contacts and release from isolation and quarantine for inmates and staff.

Notes:

- People who are incarcerated have access to medically necessary care regardless of their ability to pay and this would not change for access to COVID-19 assessment, testing, and care.
- Confirmed that jail nurse and staff will work with the public health department for testing and follow up of a COVID positive inmate as stated in the jail infectious disease plan

Food Service:

Food service is provided by Aramark with the help of inmate workers for the jail, Huber, and juvenile detention. Aramark employees work in close contact with inmates during meal prep and clean up. Food safety practices such as wearing gloves when working with food/trays and making sure food carts are not being shared between housing areas also help prevent COVID disease transmission.

Recommendations:

- Have Aramark employees wear a mask when working within 6 ft of others. *Implemented 4/21/2020*
- Include Aramark employees in active screening for symptoms of jail staff when entering the building. *Implemented 4/21/2020*

Deliveries:

Deliveries are received at the sally port by the kitchen and delivery times are managed by maintenance staff. Inmate workers and staff unloads food and other goods from the sally port.

Recommendation:

- Everyone wears gloves when handling deliveries. *Implemented 4/21/2020*

Laundry:

Laundry is washed by inmate workers who wear gloves when handling dirty and clean laundry. Uniforms for employees can be washed in a shared washer and dryer at the facility and changing rooms are available for the correctional officers.

Recommendation:

- Everyone wears gloves when handling laundry and change gloves when switching from dirty to clean laundry.
- Supply on-site laundry for correctional officers so uniforms do not leave the building in order to stop potential transmission of disease in clothing and to the employees' home and family through clothing.

We are encouraged that measures are being taken to limit the number of people in the jail to those that are absolutely required to have this level of supervision and that measures are being taken within the facility to limit disease introduction and spread. You and your staff are the most important prevention resources we have in this setting. Many of the jail and prison outbreaks across the nation have happened because of employee transmission to congregate setting residents. We need to assure the health and safety of both the inmates and the staff.

Please consider regular reporting to the public of the measures you are taking including provision of this report. This is helpful for the community to be assured that our most at-risk populations are being protected.

Do not hesitate to reach out to our team for support and assistance. Thank you for the work you are doing.

Declaration to Protect Incarcerated Persons, Correctional Staff, and Wisconsin Communities from COVID-19

Amanda M. Simanek, PhD, MPH
Associate Professor of Epidemiology
Joseph J. Zilber School of Public Health
University of Wisconsin-Milwaukee

Lorraine Halinka Malcoe, PhD, MPH
Associate Professor of Epidemiology
Joseph J. Zilber School of Public Health
University of Wisconsin-Milwaukee

Alan G. Nyitray, PhD
Associate Professor of Epidemiology
Medical College of Wisconsin

We declare as follows:

1. Amanda M. Simanek, MPH, PhD, is an Associate Professor of Epidemiology in the Joseph J. Zilber School of Public Health at University of Wisconsin-Milwaukee, where she regularly teaches courses in principles of epidemiology, social epidemiology and epidemiologic links between infectious disease and chronic disease. She is a member of the American Public Health Association and member of, as well as a designated COVID-19 expert, for the Interdisciplinary Association of Population Health Sciences. Dr. Simanek has been active in infectious disease epidemiology research since she was a graduate student in the University of Michigan School of Public Health where she completed a Master of Public Health in International Health Epidemiology and PhD in Epidemiologic Science. Her research focuses on understanding social patterning of disease, etiologic links between infectious and chronic diseases such as cardiovascular disease and depression, and novel immunologic pathways by which social conditions contribute to the development of chronic diseases across the lifecourse and across generations. She is currently funded by the National Institute for Minority Health and Health Disparities to study the association between maternal socioeconomic disadvantage, adverse birth outcomes and inflammatory response in children at birth. Dr. Simanek was also previously part of a research team that carried out a Centers for Disease Control-funded study of voluntary isolation on transmission of influenza and other respiratory illnesses among university students. She has been volunteering as an outside expert for the Wisconsin Army National Guard team planning response for the coronavirus pandemic since March 19th, 2020.

2. Lorraine Halinka Malcoe, MPH, PhD is an Associate Professor of Epidemiology and Undergraduate Program Director in the Joseph J. Zilber School of Public Health at University of Wisconsin-Milwaukee. She earned her PhD in Epidemiology and her MPH in Epidemiology and Biostatistics from the University of California at Berkeley. Her primary areas of expertise are in social epidemiology, community health, health disparities, and educational interventions. Dr. Malcoe has nearly 30 years of experience teaching epidemiologic methods and designing and directing federally-funded (e.g., NIDA, NIH, NIEHS, CDC, CIHR [Canada]) observational and community-level intervention research impacting incarcerated, low income, rural, urban, immigrant, African American, Native American, and Hispanic populations. Dr. Malcoe has collaborated with state-level departments of corrections, correctional institutions, community organizations, and tribal governments. Her research has informed local and national policy regarding effective re-entry strategies (New Mexico), widespread environmental exposures (the Tar Creek Superfund site in Oklahoma), and violence against American Indian women (reauthorization of the Violence Against Women's Act).
3. Alan G. Nyitray, PhD is an Associate Professor of Epidemiology at the Medical College of Wisconsin. He earned his PhD in Epidemiology at the University of Arizona in 2008 with additional training in infectious disease modeling at the University of Washington in 2013. His research has focused on the natural history infectious disease, especially human papillomavirus (HPV) infection and, more recently, cancer screening involving detection of HPV DNA and host genome/viral methylation as molecular biomarkers for increased cancer risk. This research is funded by two U.S. National Cancer Institute R01-funded clinical trials for which he is Principal Investigator and includes collaboration with multiple community-based organizations and universities. He has published more than 60 peer-reviewed papers on these topics. His research has informed policy decisions related to prevention of HPV infection through vaccination. Prior to his current position, Dr. Nyitray taught advanced epidemiology courses at the University of Texas Health Sciences Center in Houston.
4. The SARS-nCoV-2 virus, and the disease it causes (i.e., COVID-19) has become a global pandemic. The United States is now the epicenter of the outbreak with nearly 245,000 cases and more than 6,200 deaths reported, to date.
5. COVID-19 is characterized by a flu-like illness (i.e., fever, cough, shortness of breath). While the majority of cases are self-limited and generally mild, many cases have more severe disease requiring medical intervention and support such as supplemental oxygen and positive pressure ventilation. Indeed, over the past six weeks, 20.7-31.4% of cases have been hospitalized and 4.9-11.5% have been admitted to intensive care units overall, with rates even higher among those aged 65 years and older.(1) During this same time frame, the overall case fatality rate of COVID-19 has been estimated to range from 1.8-3.4%, which is 2-35 times the rate of fatality associated with seasonal influenza infection.(1)
6. In the United States, severe complications due to COVID-19 that require intensive care unit (ICU) admission or other hospital admission are more common among the elderly and among people with one or more underlying health conditions.(2) These conditions most commonly include diabetes mellitus, chronic lung disease, and cardiovascular disease, or other recognized risk factors (e.g., smoking) for severe

outcomes from respiratory infections.(2) Among laboratory-confirmed cases, those with an underlying condition had four times the rate of hospitalization without ICU admission than those with no underlying condition (27.3-29.8% vs 7.2-7.8%, respectively). Likewise, cases with an underlying condition had nearly six times the rate of ICU admission than those with no underlying condition (13.3-14.5% vs 2.2-2.4%, respectively).(2) Among cases 65 years and older with one or more underlying health conditions or risk factors, the rates of hospitalization without ICU (41.7-44.5%) and ICU admissions (20.8-22.2%) are much higher.(2)

7. The first case of COVID-19 was detected in Wisconsin on February 5th, and as of April 2nd, 2020 there have been 1,771 cases diagnosed, of which 26.6% have been hospitalized and 31 have died, with sustained community spread of the virus in numerous Wisconsin counties.
8. On March 12th, 2020, Governor Evers declared a public health emergency in the State of Wisconsin. As of March 18th, 2020, all schools in Wisconsin were closed and over the next two weeks, the Governor continued to implement other social distancing measures to limit the spread of COVID-19, such as increasingly tighter restrictions on the size of public and private gatherings, closure of restaurants and bars, and the eventual issue of a “Safer at Home” order on March 24th, 2020. This “Safer at Home” order applies to the entire state and mandates that all Wisconsinites stay at home as much as possible and that non-essential businesses cease operations, with limited exceptions for minimum basic operations and working from home. All public and private gatherings of any number of people that are not part of a single household or living unit are prohibited, with limited exceptions.(3)
9. Under the “Safer at Home” order, social distancing requirements include: 1. Maintaining social distancing of six feet between people; 2. Washing hands with soap and water for at least 20 seconds as frequently as possible or using hand sanitizer; 3. Covering coughs or sneezes (into the sleeve or elbow, not hands); 4. Regularly cleaning high-touch surfaces; 5. Not shaking hands; and 6. Following all other public health recommendations issued by the Wisconsin Department of Health Services and the Centers for Disease Control and Prevention (CDC). The CDC is also expected to soon release recommendations that individuals who leave home to obtain essential services, groceries, medications, etc., wear a cloth mask while out in public to further help prevent the spread of SARS-nCoV-2 infection. (3)
10. A primary reason for the safer-at-home order is that many of our state’s approximately 11,000 hospital beds and likely all of our state’s 2,500 ICU beds and 620 ventilators (Wisconsin Hospital Association) will likely be operating at or beyond full capacity for months, even with these social distancing measures in effect. Even with efforts to increase capacity, it is essential during this time when our healthcare system is saturated, that every effort be made to reduce outbreaks that would only further stress our ability to care for both COVID-19 patients and all other patients who need hospital care.
11. SARS-nCoV-2 infections are transmitted through inhalation of aerosolized droplets expelled when individuals cough or sneeze, or when individuals touch surfaces that may become contaminated when droplets land on them after someone coughs or sneezes. Individuals who are infected with SARS-nCoV-2 can take between 2-14

days to develop symptoms (4-6), while others have the potential for asymptomatic infection that may still allow transmission (7-10) (as many as 25% of individuals are estimated by the Director of the CDC to be asymptomatic carriers of infection). For this reason, social distancing, hand hygiene, and proper sanitizing of frequently touched surfaces are a key mitigation strategy for this infection.

12. COVID-19 is highly contagious. We have repeatedly seen logarithmic increases in cases and deaths throughout U.S. cities and counties since the start of the epidemic. ***It only takes one person, for example a single asymptomatic correctional officer, to infect an entire facility*** (including both incarcerated people and staff). Rikers Island in New York currently has an infection rate 7-fold higher than the already-very-high general New York City rate. At the Cook County jail in Illinois, the first two COVID-19 cases were identified on March 23, 2020. By April 1, 2020, just nine days later, the number of confirmed cases had risen to 167. As of April 2nd, 2020, ***nine*** Wisconsin Department of Corrections (WDOC) workers, including some medical staff, have tested positive for SARS-nCoV-2 across four facilities, including the Milwaukee Secure Detention Facility (n=3), Milwaukee Office for Community Corrections (n=3), Columbia Correctional Institute (n=2), and Waupun Correctional Institute (n=1). ***We must immediately decarcerate prisons and jails throughout Wisconsin, starting in Milwaukee - time is of the essence.***
13. Despite concerted efforts to prevent outbreaks of COVID-19 throughout the WDOC, jails and prisons throughout Wisconsin are still ripe for amplifying the spread of COVID-19 for several reasons: 1) correctional officers and other staff can easily be exposed in the community (especially those with community spread) and then transmit the virus to incarcerated persons and other staff in their workplace; 2) there is no adequate protocol for screening of asymptomatic infection in uniformed staff; 3) high population density in close confinement inhibits maintaining a 6 ft distance from others and thus social distancing is not possible to the same degree as in the general public, and 4) institutional conditions and rules common in prisons and jails exacerbate risk - these include limited medical care infrastructure and personal protective equipment as well as delays in medical evaluation and treatment; rationed access to soap, water, and clean laundry; contraband policies that forbid the use of alcohol-based hand sanitizers and masks; inadequate ventilation; and shared toileting, showering, and eating environments. (11-13) Moreover, some WDOC correctional facilities are severely overcrowded, including the Milwaukee Secure Detention Facility and the Robert Ellsworth, both of which are operating at over 200% capacity, and the Prairie Du Chien where in some cases there are eight people housed per cell. In sum, these conditions within Wisconsin jails and prisons prevent implementation of the CDC's guidance on management of COVID-19 disease in correctional and detention facilities, including social distancing to prevent overcrowding during a community outbreak, separate quarantining of all new intakes for 14 days, and medical isolation. (14)
14. Space limitations within correctional institutions also pose a challenge for following Wisconsin Department of Health Services recommendations for quarantine of those with contact to a COVID-19 case (recommended duration 14 days since exposure) as well as isolation (note that this does not equate to solitary confinement, which is well known to cause psychological harm and thus could worsen recovery) of COVID-19 cases (recommended until 72 hours have passed with

no fever and without the aid of fever reducing medication, and other symptoms have improved *and* at least seven days have passed since symptoms first appeared). (15)

15. Incarcerated persons in jails and prisons are not only at increased risk of COVID-19 because of the nature of the prison environment, they also have increased risk of adverse complications resulting from COVID-19 due to a higher prevalence (43.9% vs 31.0% in the general population) of underlying chronic conditions, including high blood pressure/hypertension (30.2%), tuberculosis (6%), asthma (14.9%), diabetes (9%), cardiovascular disease (11.6%), renal disease (6.1%), hepatitis B or C (10.9%), and HIV/AIDS (1.3%). (16) As well over 19% of the WDOC prison population is 50 years or older, further compounding their increased risk of hospitalization and ICU admission once infected. (17)
16. Governor Evers pledged during his campaign for office to close the Milwaukee Secure Detention Facility (MSDF), where re-incarceration for crimeless revocations is common, and to institute reforms that would reduce Wisconsin's incarcerated population by half. The need for the Evers administration and the Courts to act on these promises is now urgent. From a public health perspective, ***safe and rapid decarceration is among the most effective preventative measures that can be taken to reduce the spread of COVID-19 within jails and prisons*** and reduce hospitalizations and deaths from jail- and prison-acquired COVID-19 infections. Decarceration reduces population density and allows for increased social distancing.
17. Revocations account for 40% of new admissions to Wisconsin's state prisons. Directly impacted persons and other advocates have long identified Wisconsin's supervision and revocation processes as a tool for cycling Wisconsin residents in and out of jails and prisons. MSDF was erected in 2001 to imprison people on parole/probation violations. Its mission was further expanded to detaining persons in alternatives to revocation programs, persons with "temporary lock-up" status, and incarcerated persons slated to be released within one year. Operating capacities at this facility, designed to detain under 500 people, have averaged over 1,000. Lack of access to direct sunlight, air conditioning, and outdoor recreation, 20-23 hour lockdowns and extreme heat further exacerbate MSDF's conditions of overcrowding, which force incarcerated persons into triple-bunked cells, making the risk of a COVID-19 outbreak practically imminent. Communicable disease and chronic health conditions have plagued MSDF since its opening. A total of 17 people have died while confined in MSDF, a statistic made even more alarming in the context of the COVID-19 pandemic. As stated, there are already three confirmed cases among MSDF staff. ***MSDF in particular must be depopulated well below the 500 capacity for which it was designed assuming no COVID-19 pandemic.***
18. The release of detainees, especially those with increased health-related vulnerability, also protects health care surge capacity by reducing the number of people who will become ill enough to require hospitalization, which in turn reduces the health and economic burden to the local community at large.
19. There are also compelling ethical and legal obligations to decarcerate correctional institutions. Incarcerated persons have inalienable human rights conferred upon

them by international treaties and covenants, including a right to adequate health care. They also have a right not to contract disease while incarcerated, particularly an infectious disease that is potentially lethal. For correctional staff, the 1970 Occupational Safety and Health Act gives workers the right to refuse to work under unsafe working conditions without reprisal.

20. To reiterate, social distancing is our primary available means to effectively control the spread of COVID-19 in correctional institutions, barring extensive testing and contact tracing, followed by isolation or quarantine. Yet, social distancing is not possible with the current number of persons in custody in jails and prisons throughout Wisconsin. Release of detainees who present a low risk of harm to the community is thus an essential public health prevention strategy allowing for increased adherence to social distancing recommendations.
21. As of April 2, 2020, the WDOC has committed to “releasing supervision holds on 1,148 non-violent misdemeanants throughout the state, releasing others persons in custody that qualified for Certain Earned Release,” and they identified and released “65 individuals participating in an Alternative for Revocation (ATR) at the Milwaukee Secure Detention Facility (MSDF).” Of note, as of December 31, 2018, 55% of the WDOC incarcerated population had two or fewer years left to serve.
22. Several additional populations must be prioritized for safe and rapid decarceration via compassionate release, mass clemency, emergency furloughs, or other commutations of sentences: 1) persons held for non-payment of fees and fines, because of insufficient funds to pay bail, or who otherwise have not been convicted of a crime; 2) detainees in MSDF who were re-incarcerated for technical rule violations without commission of a new crime (i.e., crimeless revocations); 3) detainees convicted of low-level offenses and those nearing release with re-entry plans or on less than 12 month deferrals; 4) parole-eligible detainees; 5) pregnant women; 6) detainees with chronic conditions or risk factors predisposing to severe COVID-19 disease (heart disease, lung disease, diabetes, renal disease, immune-compromised, heavy smokers); and 7) older detainees (50 years and older). Additionally, new incarcerations and use of pre-trial detention should be limited to the extent possible and used only in those cases where there are genuine security concerns.
23. When detainees are released, it is important to ensure that each person has family or friends who can take them in safely without jeopardizing their health. For those who do not, the WDOC and other state agencies can and should use emergency money from the federal government to help secure safe housing for them. If detainees have potentially had contact with a confirmed case in correctional staff or another detainee, they should be housed in a hotel or other similar housing for 14 days to facilitate compliance with recommended quarantine before being returned to their family’s or friend’s home.
24. In sum, as epidemiologists and public health professionals, *we urge actions to safely and rapidly decarcerate Wisconsin’s jail and prison populations in order to reduce the risk of severe outbreaks of COVID-19 - and especially hospitalizations and deaths - among incarcerated persons as well as correctional staff. The time for action is now.*

Pursuant to 28 U.S.C. 1746, we declare under penalty of perjury that the foregoing is true and correct. Executed this 3rd day, April, 2020.



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Dear Governor,

We are writing to you as members of the Wisconsin scientific community. We are a multidisciplinary group of healthcare providers and public health scientists dedicated to the health and safety of Wisconsin citizens and, in particular, to vulnerable groups within our community.

We are writing to express our urgent concern about the spread of COVID-19 in Wisconsin prisons, jails, and juvenile detention centers. As you know, COVID-19 is highly contagious, difficult to prevent except through social distancing, and especially dangerous to individuals over age 60 or with a chronic disease. Moreover, recent data suggest that the virus can remain on surfaces for up to 17 days, thus rendering social distancing less effective in circumstances where the virus is present.

Jails, prisons, detention facilities and other enclosed settings have long been known to be associated with high transmission rates for infectious diseases, including tuberculosis, multi-drug resistant tuberculosis, influenza, MRSA (methicillin resistant staph aureus), and viral hepatitis.

The close quarters of jails and prisons, the inability to employ effective social distancing measures, and the many high-contact surfaces within facilities, make transmission of COVID-19 more likely. Soap and hand sanitizers are not freely available in some facilities. Hand sanitizers like Purell are banned in many facilities because they contain alcohol. Furthermore, for incarcerated individuals who are infected or very sick, the ability properly to treat them and save their lives is very limited. Testing kits are in short supply, and prisons and jails have limited options for proper respiratory isolation.

A number of features of these facilities heighten risks for exposure, acquisition, transmission, and clinical complications of COVID-19 and other infectious diseases. These include physical/mechanical risks such as overcrowding, population density in close confinement, insufficient ventilation, shared toilets, showers, and eating environments and limited availability of hygiene and personal protective equipment such as masks and gloves. **The high rate of turnover and population mixing of staff and detainees also increases likelihood of exposure.** This has led to prison outbreaks of COVID-19 in multiple detention facilities in China, associated with introduction into facilities by staff.

These populations have additional risk due to high rates of chronic health conditions, substance use, mental health issues, and, particularly in prisons, aging and chronically ill populations who may be vulnerable to more severe illnesses after COVID-19 infection, and to death. Given that Wisconsin prisons, jails, and juvenile detention centers incarcerate high numbers of marginalized populations, **African Americans will be disproportionately affected by these risks.**

Prison, jail, and detention center staff may bring the virus into the facility and are also at risk of acquisition from infected incarcerated individuals. Once infected, staff may also transmit the virus back into the communities and to their families. As jail, prison, and detention center health care staff themselves get sick with COVID-19, workforce shortages will make it even more difficult to adequately address all the healthcare needs in facilities.

Every effort should be made to reduce exposure in jails and other detention facilities, and we appreciate the efforts thus far of administrators toward this goal. To ensure there are no impediments for inmates to come forward when sick, healthcare must be available to inmates without co-pays. But

there should also be efforts to reduce the state prison population as well. Lockdowns and use of solitary confinement should not be used as a public health measure, both because they have limited effectiveness and because they are a severe infringement of the rights of incarcerated people. **It is therefore an urgent priority in this time of national public health emergency to reduce the number of persons in detention as quickly as possible.**

Treatment needs of infected incarcerated individuals also need to be met, including expanded arrangements with local hospitals. It is essential that these facilities, which are public institutions, be transparent about their plans for addressing COVID-19. Such transparency will help public health officials and families of incarcerated people know what facilities are doing, and it also can help jurisdictions across the state share information and best practices. Other counties across the country have shared their action plans with the public and Wisconsin should follow these examples.

We therefore urge you to take the following steps:

1. **Require correctional facility administrators to make their plans for prevention and management of COVID-19 in their institutions publicly available**, as the San Francisco Sheriff's Department has done. Protocols should be in line with national CDC guidance. Frequently updated recommendations and model protocols are available from the National Commission on Correctional Health Care (<https://www.ncchc.org/blog/covid-19-coronavirus-what-you-need-to-know-in-corrections>)
2. **Ensure that intake screening protocols are updated to include COVID-specific questions.**
3. **Ensure the availability of sufficient soap and hand sanitizer** for incarcerated individuals without charge; restrictions on alcohol (in hand sanitizers) should be suspended.
4. Implement precautions to limit transmission within prisons and jails without relying on widespread use of lockdowns and solitary confinement. Additional precautions jointly issued by the Vera Institute of Justice and Community Oriented Correctional Health Services are available at <https://cochs.org/files/covid-19/covid-19-jails-prison-immigration.pdf> 5. **Consider pre-trial detention only in genuine cases of security concerns. Persons held for non-payment of fees and fines, or because of insufficient funds to pay bail, or parole or probation violations, should be prioritized for release.** No one in these categories should be sent to jail.
5. **Expedite consideration of all older incarcerated individuals and those with chronic conditions predisposing to severe COVID-19 disease (heart disease, lung disease, diabetes, immune-compromise) for parole or other form of release from prison**, with alternative forms of supervision and with supports in the community once released. Clemency power and expanded authority in Wisconsin law for administrative parole should be employed.
6. **Invest in increased resources for discharge planning and re-entry transitions** to facilitate prison release of people under these revised policies.
7. **Arrange for COVID-19 testing of incarcerated individuals and correctional facility workers** who become ill.
8. **Seek a Medicaid 1135 waiver** to enable hospitals to provide an appropriate level of care to incarcerated individuals who are sick. See <https://cochs.org/files/medicaid/COVID-19-Justice-Involved-1135-Waiver.pdf>

This pandemic is shining a bright light on the extent of the connection between all members of society: jails, prisons and other detention facilities are not separate, but closely connected with our community. As healthcare and public health experts, we believe these steps are essential to support

the health of incarcerated individuals, who are some of the most vulnerable people in our society; the vital personnel who work in prisons and jail; and all people in the state of Wisconsin. Our compassion for and treatment of these populations impact us all. Thank you very much.

This letter represents the views of the following signatories, and do not necessarily reflect the views of the Medical College of Wisconsin.

Sincerely,

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