

MILWAUKEE COUNTY

CHAPTER 51 EMERGENCY DETENTION

Presentation Materials

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Wisconsin State Public Defender**

Chapter 51 Emergency Detentions in Milwaukee County: Condensed

Governed by State Statute Secs. 51.15(1), (2) and (4)(a)&(b)

Basis for Detention (1): A law enforcement officer or person authorized to take a juvenile into custody under chs. 48 or 938 may take an individual into custody if there is cause to believe that the individual is **mentally ill, drug dependent or developmentally disabled AND** evidences any of the following:

1. A substantial probability of physical harm to self as manifested by evidence of recent threats of or attempts at suicide or serious bodily harm.
2. A substantial probability of physical harm to other persons as manifested by evidence of recent homicidal or other violent behavior or by evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them, as evidenced by a recent overt act, attempt or threat to do serious physical harm.
3. A substantial probability of physical impairment or injury to the individual due to impaired judgment, as manifested by evidence of a recent act or omission (to actually commit requires a pattern of acts or omissions). The probability of impairment or injury is not substantial if reasonable provision for the individual protection is available in the community and there is a reasonable probability the individual will avail themselves of these services.
4. Behavior manifested by a recent act or omission (to actually commit requires more than a single act or omission) that, due to mental illness or drug dependency, the individual is unable to satisfy basic needs for nourishment, medical care, shelter or safety without prompt and adequate treatment so that a substantial probability exists that death, serious physical injury, serious physical debilitation, or serious physical disease will imminently ensue. There is no substantial probability of harm under this section if reasonable provision for the individual's treatment and protection is available in the community and there is a reasonable probability the individual will avail themselves of these services.

Facilities for Detention (2) (contains a provision effective 7/1/09): The officer or other authorized person **shall transport** the individual for detention **IF** the county department of community programs in the county in which the individual was taken into custody approves the need for detention, to any of the following facilities (Milwaukee does not follow this "approval to transport" procedure):

1. A hospital approved by the department as a detention facility or under contract with a county department under 51.42 or 51.437, or an approved public treatment facility.
2. A center for the developmentally disabled.
3. A state treatment facility.
4. An approved private treatment facility, if the facility agrees to detain the individual.

Detention Procedure; Milwaukee County (4)(a)&(b): The officer shall sign a statement of emergency detention which shall provide detailed specific information about the recent overt act, attempt, or threat to act or omission on which the belief under sub. 1 is based and the names of the persons observing or reporting the event. The officer shall deliver the statement to the detention facility upon delivery of the individual to it.

Upon delivery the treatment director shall determine within 24 hours whether to detain the individual and shall either release or detain the person for a period not to exceed 72 hours. If the treatment director determines that the individual is not eligible for commitment under the "Basis for Detention" factors cited above, the individual shall be released immediately. If the individual is detained the doctor may supplement the officer's statement and designate if the individual is mentally ill, drug dependent or developmentally disabled and may include other information concerning the director's belief that the individual meets the criteria for commitment. The treatment director shall then promptly file the original statement together with any supplement statement with the probate court and this filing has the same effect as a petition for commitment under s. 51.20.

Differences In Milwaukee County:

1. In all of Wisconsin, except Milwaukee County, a formal chapter 51 court case is started when an officer detains a person. In Milwaukee, a court case is started when a treatment director decides to detain the person the officer brought to the facility.
2. Only in Milwaukee must a doctor make a detention decision within 24 hours.

Public Defender Caseload trends on Chapter 51 Cases in Milwaukee County:

The phrase “Emergency Detention” is often misused or misunderstood in Milwaukee and it needs to be broken down into 3 categories:

1. Number of people actually brought to PCS under law enforcement Emergency Detention.
2. Number of law enforcement detentions actually referred to court by a treatment director.
3. Number of treatment director referrals to court still “detained” at the time of their court hearing.

For example BHD staff has indicated that PSC sees approximately 8000 to 9000 emergency detentions a year. In calendar year 2010 approximately 6700 detentions were filed by PCS with the probate court. Of those the Public Defender actually appointed lawyers on approximately 3960 cases. The following numbers reflect court cases on which lawyers were appointed to represent a chapter 51 client:

1993.....660**	2005.....2221
1994.....1204	2006.....2482
1995.....1581	2007.....2719
1996.....1516	*Indigency requirement eliminated by Legislature 7/1/08.
1997.....1611	Prior to change non-indigent were represented by LAS
1998.....1732	under a contract with the County.
1999.....1639	2008.....3727
2000.....1837	2009.....3806
2001.....1934	2010.....3960
2002.....1875	2011 thru April 14.....1492
2003.....2153	
2004.....2224	

**Between 1993 and 1994 BHD changed how treatment directors made detention decisions causing the doubling of cases filed with the probate court.

The 6700 number does not constitute the entirety of the Probate Court’s Chapter 51 Calendar as every week there are 5 to 10 commitment extension cases and through out the year multiple medication hearings and post-commitment re-detentions.

Why Emergency Detentions Keep Increasing in Milwaukee: The obvious answer to this is that more people are coming to PCS every year, both voluntarily and involuntarily (See attached MCBHD Admissions data 2000-2006, but remember “Patient Visits” do not equal Emergency Detentions). So why are visits and emergency detentions increasing:

1. Are the County’s law enforcement agencies detaining more people, if so, why?
2. Lack of other available and adequate psychiatric crisis inpatient services?
3. Outpatient service cuts affect on services after discharge including medication management.
4. Poor housing options for patients causing general instability / medication compliance issues.
5. Liability concerns.
6. AODA patients receive short-term detox services, but
7. Economy’s impact.

8. Private Hospital issues when a crisis patient comes to their facility.
9. Many “revolving door” patients, especially AODA diagnosed.

Increase in Chapter 51 Court Cases are due to:

1. Overall increase in patients seen in PCS.
2. BHD structural change in making detention decisions.
3. Juvenile cases being handled appropriately.

Why are Emergency Detentions Down in the rest of Wisconsin?:

1. The new provision in sec. 51.15(2).
2. Mobile Crisis Teams
3. Use of Peer Support Specialists
4. Creation of crisis resource / respite centers

Impact of a Proposal to Eliminate Milwaukee’s 24 hour detention rule?:

August 2010 to December 2010 Data (attached):

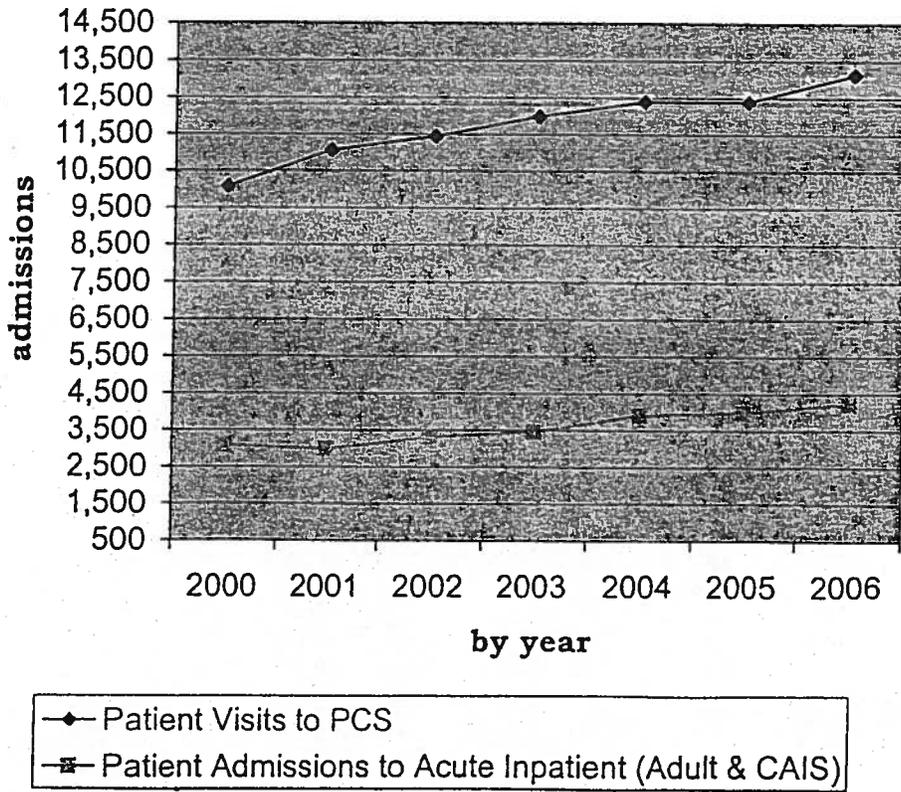
**MCBHD Admissions
2000-2006**

Year	Pateint Visits to PCS	Patient Admissions to Acute Inpatient			% Admitted
		Adults	CAIS	Total	
2000	10,079	2,101	984	3,085	31%
2001	11,059	2,007	973	2,980	27%
2002	11,433	2,134	1,179	3,313	29%
2003	11,984	2,253	1,208	3,461	29%
2004	12,388	2,483	1,422	3,905	32%
2005	12,389	2,520	1,464	3,984	32%
2006	13,124	2,709	1,519	4,228	32%

Increase 3045 pts. 30%

1143 pts.
37% inc.

MCBHD Admissions 2000-2006



Tim Wiedel, Ph.D.
10/18/07

2010 (December – August) COURT CASES PROSECUTED

<u>Month</u>	<u>Probable Cause Found</u>	<u>Approved STIPS</u>	<u>No Witness</u>	<u>Time Violations</u>	<u>Facial Insufficiency</u>	<u>Existing Dispositions</u>	<u>Actual Cases Prosecuted</u>
Dec. 2010	16	111	43	19	25	15	229
Nov. 2010	29	126	21	15	33	17	241
Oct. 2010	21	140	37	24	34	15	271
Sept. 2010	29	134	46	30	39	16	294
August 2010	34	160	31	22	38	18	303
Totals	129	671	178	110	169	81	1,338

2010 (December – August) TOTAL CASES

<u>Month</u>	<u>Positive Disposition</u>	<u>Court Dismissal</u>	<u>Petition Withdrawn</u>	<u>Total Cases</u>
Dec. 2010	127	102	374	603
Nov. 2010	155	86	310	551
Oct. 2010	161	110	299	570
Sept. 2010	163	131	317	611
August 2010	194	143	304	641
Totals	800	572	1,604	2,976

Reasons for Dismissals:

Petition Withdrawn

Discharges, signed Voluntary

No Witness

Police, staff, and family

Positive Dispositions Include:

Accepted Stips and Probable Cause Found

Facial Insufficiency

No dangerousness and baseless allegations, faulty petitions

Time Limit Violations

72-hour violations, detention time discrepancy, and 24-hour violations, and Rights (Affadivit of Service)

Prepared By: BHD Legal Services

COUNTY OF MILWAUKEE
Inter-Office Communication

DATE: April 18, 2011

TO: Supervisor Sanfelippo, Chairman - New Behavioral Health Facility Study Committee

FROM: Geri Lyday, Interim Director, Department of Health and Human Services
Prepared by: Paula Lucey, Administrator, Behavioral Health Division

SUBJECT: From the Interim Director, Department of Health and Human Services, submitting an informational report including details regarding fiscal estimates and square footage for replacing the existing Mental Health Complex in Milwaukee County.

Issue

At the last meeting of the New Behavioral Health Facility Study Committee, the Department of Health and Human Services (DHHS) and the Behavioral Health Division (BHD) presented a report that responded to the question: "If a new mental health facility were to be built, what would be the minimum size needed and what would need to occur to assure continued service to individuals with mental health service needs in Milwaukee County?" The model presented was a preliminary idea and was not intended to be taken as the final recommendation for what a future mental health facility might look like. It was only an initial response to the question raised by the Facility Study Committee.

During the discussion that followed the presentation of the report, the Facility Committee requested additional information regarding the design, square footage and potential costs for the new facility associated with the hypothetical plan presented. This report presents more information on a potential design and fiscal estimates based on the prior BHD report. All of the caveats and considerations mentioned in the report presented to the Committee, including the need for a comprehensive study, still apply to the hypothetical plan, layouts and fiscal estimates.

Discussion

Design and Square Footage

The BHD has been working with Zimmerman Architectural Studios to put together an initial design for a hypothetical new facility. BHD had to make a number of assumptions to move forward on this project. The facility design presented assumes:

- **Location:** Facility built on 10 to 13 acres of County owned land on the County Grounds
- **Facility Size:** approximately 200,000 square feet (based on the number of patient beds and programs included in the hypothetical plan presented by BHD)

- **Included:**
 - 96 long-term and inpatient beds and 24 observation beds
 - Approximately 140,000 square feet patient areas (patient units, support services, day treatment)
 - Approximately 60,000 square feet medical office building (4 story) including 300 offices/cubes, which was based on the percentage decrease in the number of patient beds.¹
 - Patient Care/Hospital layout is a one story complex with 24 beds per patient unit
 - Some expansion/swing space to be used as needed

Attachment A includes preliminary drawings for the proposed facility. As the process moves forward, BHD will continue to refine the design and schematics. Also, all assumptions and size estimates are based on the 120-bed facility proposal. The plan, as mentioned previously, is dependent on increased community capacity and many other factors. A full analysis has not been completed. Therefore, this design is just a rough sketch of what a facility **may** look like based on the hypothetical proposal presented by BHD. Any change in patient unit size, services provided or other major change would significantly alter the design and costs estimated below.

Fiscal Considerations

BHD has also been working with Zimmerman Architectural Studios on fiscal consideration. This process included review of costs for similar facilities in the area, reviewing fiscal estimates obtained during the St. Michael's initiative, working with other County vendors and consulting with area businesses to obtain more detail regarding the potential costs for a new facility model.

As was mentioned in the prior report, the construction cost would range from \$200 to \$242 per square foot for the 200,000 square foot complex. BHD assumed the facility would be built on County owned land therefore no cost is included to purchase land. In addition to the land and construction costs, there would be site preparation costs totaling \$1,393,000 including:

- Parking (450 surface spaces) islands, access roads, curb and gutter, and a majority of the landscaping
- ¼ acre detention pond (storm water management)
- Storm sewer and laterals to pond
- Manholes and catch basin
- Sewer line addition based on the length of run
- Loop water system (two water sources) for hospital code

¹ The square footage for office space could change significantly based on available County space elsewhere that could potentially be used for some BHD offices or administrative programs.

BHD also looked at costs for information technology for the new site. Based on prior St. Michael's estimates and information provided by IMSD, BHD estimates that the IT infrastructure costs would be approximately \$600,000 for 300 units which would include phones, switches, new computers, cable/internet, copiers/printers, and some teleconferencing.

BHD did NOT include patient furniture at this time and will look into this more based on an on-going furniture replacement initiative at BHD. The cost for office and cube furniture is estimated at \$360,000 based on a square foot cost of \$6. Finally, moving costs of \$200,000 are included in the estimate for moving furniture, patient belongings, support equipment and other miscellaneous items.

Below is a summary of the cost estimates for the Facility ONLY (no operating costs are included):

	\$200/sq. ft.	\$242/sq. ft.
Construction Costs for Building	40,000,000	48,400,000
Owners Contingency (10%)	4,000,000	4,840,000
Architectural Engineering Fees (6.5%)	2,600,000	3,146,000
Reimbursable Expenses	210,000	248,000
Site Preparation	1,393,000	1,393,000
Land - County Grounds	0	0
Information Technology	600,000	600,000
Patient Furniture	0	0
Office Furniture	360,000	360,000
Moving Cost	200,000	200,000
Total Cost	\$49,363,000	\$59,187,000

**This estimate is in 2011 dollars and does not include an escalator based on future inflation. When a construction date is determined, new estimates will be obtained based on current pricing. Industry standard is 5% escalator per year.*

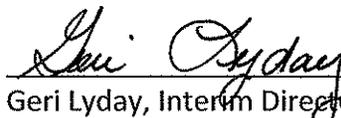
The fiscal estimate included is for the new hypothetical BHD facility only. There will be additional costs related to building up community infrastructure as BHD is potentially downsized. Since in the prior report the workgroup cautioned that any proposed changes to individual parts of the system must be considered in the overall context of all proposed changes in both the public and private sectors, this is an important cost to consider but very difficult to estimate without more detail on the type of community capacity needed and potential private partners.

Conclusion

As was cautioned previously, developing a new mental health service delivery model, which must precede and form the foundation for the physical and fiscal planning that is being requested, should be based on a comprehensive analysis of the mental health needs in the Milwaukee community. This analysis should take into consideration the current requirements on the community-wide system, future trends in clinical populations and treatment interventions, the impact of shifting funding streams, and be based on current research literature searches and best practice models, and thorough fiscal impact analyses. The development and commitment of private provider networks is essential to the success of any reorganization of mental health service delivery for the citizens of Milwaukee County. Developing a new model must be viewed from a systemic perspective and potential changes in any one program should not be viewed in isolation.

BHD has done their best to include the initial ideas and fiscal estimates for a new Behavioral Health Facility based on the information in prior reports. This is not inclusive of the additional community needs or costs and only focuses on the county-owned portion of the infrastructure needs. BHD will continue to refine the designs and fiscal estimates as the County Board moves forward in their process.

This is an informational report. No action is necessary.

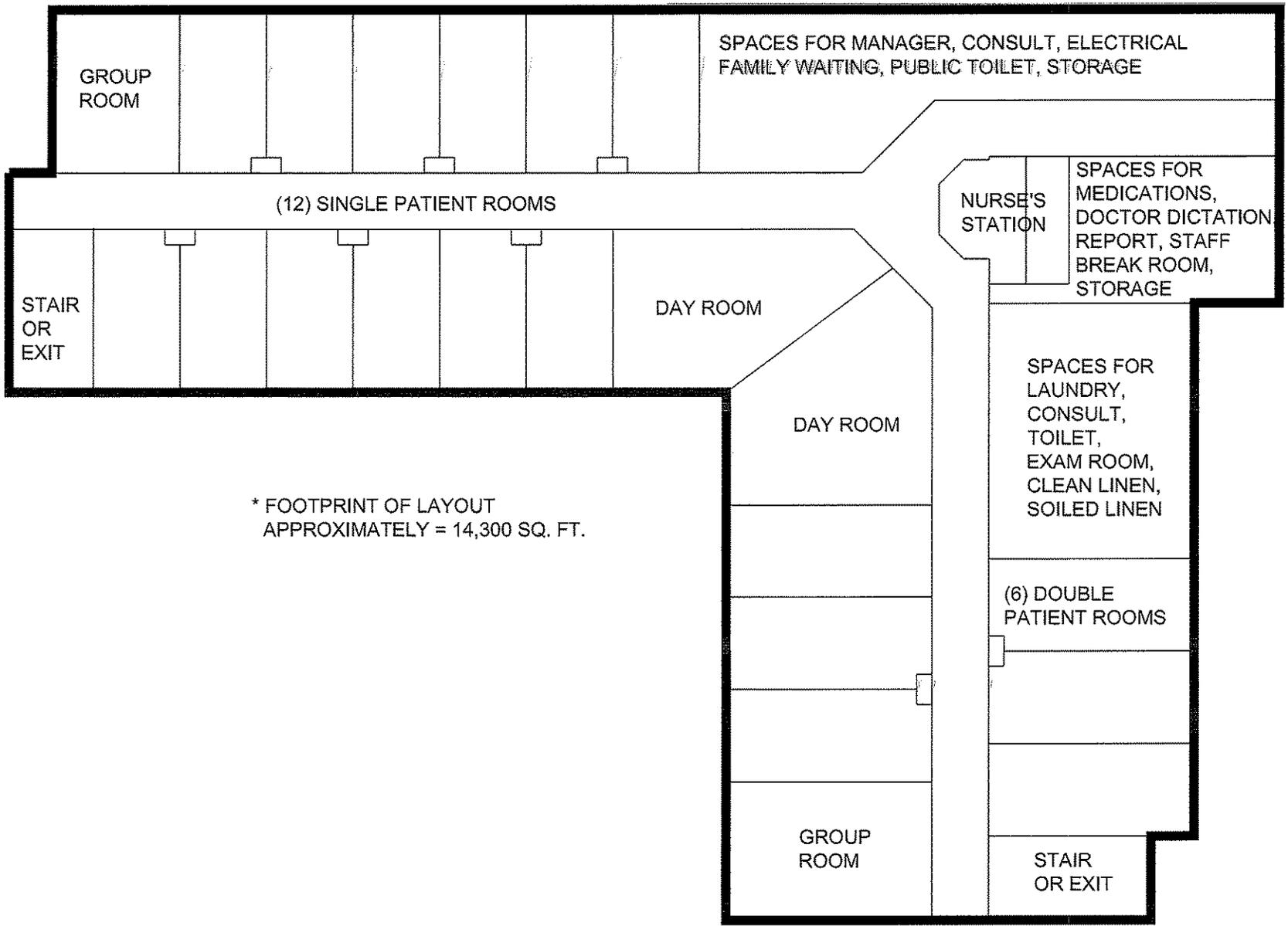


Geri Lyday, Interim Director
Department of Health and Human Services

Attachment

Cc: Marvin Pratt, Interim County Executive
Lee Holloway, Chairman, County Board of Supervisors
Terrence Cooley, Chief of Staff, County Board of Supervisors

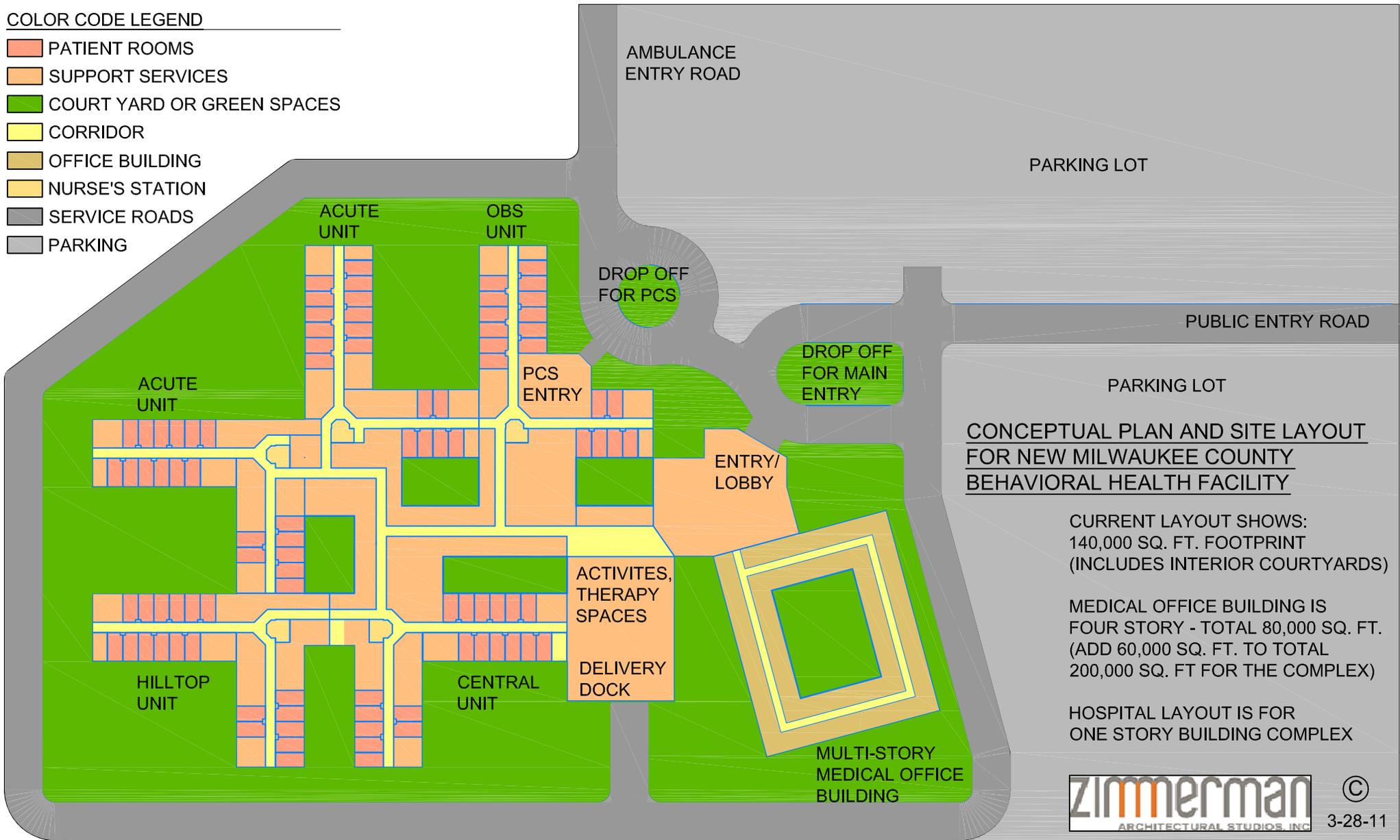
Jennifer Collins, Research Analyst, County Board
Toni Thomas-Bailey, Fiscal and Management Analyst, DAS
Jerome Heer, Director of Audits



CONNECT TO ELEVATORS,
ADDITIONAL STAIR,
ADMINISTRATIVE OFFICES,
ACTIVITY SPACES, LOBBY,
ETC.

COLOR CODE LEGEND

- PATIENT ROOMS
- SUPPORT SERVICES
- COURT YARD OR GREEN SPACES
- CORRIDOR
- OFFICE BUILDING
- NURSE'S STATION
- SERVICE ROADS
- PARKING



**CONCEPTUAL PLAN AND SITE LAYOUT
FOR NEW MILWAUKEE COUNTY
BEHAVIORAL HEALTH FACILITY**

CURRENT LAYOUT SHOWS:
140,000 SQ. FT. FOOTPRINT
(INCLUDES INTERIOR COURTYARDS)

MEDICAL OFFICE BUILDING IS
FOUR STORY - TOTAL 80,000 SQ. FT.
(ADD 60,000 SQ. FT. TO TOTAL
200,000 SQ. FT FOR THE COMPLEX)

HOSPITAL LAYOUT IS FOR
ONE STORY BUILDING COMPLEX



3-28-11