



**Waukesha County Criminal Justice Collaborating Council  
Evidence-Based Decision Making Pretrial Workgroup Minutes  
Wednesday, February 7, 2018**

**Team Members Present:**

Judge Jennifer Dorow (Chair)	Daniela Imig	Frank McElderry
JoAnn Eiring	Sam Benedict	Sue Opper

**Team Members Not Present:**

Laura Lau	Abbey Nickolie	Craig Kuhary
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**Also Present:**

Mary Wittwer	Janelle McClain	Rebecca Luczaj
Karla Gabor	Monica Paz	Anna Kees

Dorow called the meeting to order at 12:03 p.m.

**Approve Minutes from November 29, 2017 Meeting**

Motion: Imig moved, second by Opper, to approve the minutes from November 29, 2017. Motion passed unanimously.

**Update on DOJ Pretrial Pilot Project**

Luczaj stated that there was a mini-training on Friday for the commissioners and two judges on pretrial essentials in preparation for implementation of the new PSA tool.

The Pretrial Essentials Elements training, put on by NIC and attended by teams from all of the Wisconsin EBDM counties, will be on February 20-21 in Madison. Ten people will be coming from Waukesha County: Luczaj, Judge Bugenhagen, a commissioner, two attorneys from the State Public Defender's Office, two attorneys from the District Attorney's Office, Imig, Wittwer, and Gabor.

The PSA Assessors training for all EBDM county assessors will be occurring on February 26 in Madison.

The PSA Stakeholders training will be occurring in the Waukesha County Boardroom on February 27 from 1-4 p.m. Mimi Carter requested as many of the Pretrial Workgroup members in attendance as possible. Chief Ruzinski distributed the information to the police chiefs. Two commissioners will be attending the same training in Rock County on the morning of February 27 so they will be available for Waukesha County hearings in the afternoon. Opper and Benedict will give the opening overview of EBDM before Mimi Carter reviews pretrial best practices and an overview of the PSA tool.

Benedict arrived at 12:09 p.m.

The WI DOJ is assembling a PSA implementation plan; however, there are two holdups. The first holdup is procuring software for scoring the assessments and maintaining the data. The second holdup is obtaining access to NCIC for assessors to be able to complete a comprehensive, nationwide criminal history check, as CCAP only details criminal histories in Wisconsin. The DOJ is working to eliminate both of these barriers to implementation.

The DOJ is talking about a pilot period before we go live with the PSA, running the current risk tool at the same time as the new PSA, and comparing results. Dorow and Imig agreed that running both would increase

expenses. The start date for the PSA implementation has not been decided yet. Dorow commented that we also need to consider policy changes and the time involved in updating the policies.

Luczaj discussed with Mimi Carter the Decision Matrix changes that the workgroup had previously made. Carter did not see an issue with any of the changes that were made. Luczaj asked about the difference between ROR (Release on your Own Recognizance) and signature bonds. Dorow and Opper said that ROR has historically not been used in Waukesha County; we use signature bonds, and this is a local practice.

Luczaj summarized the DOJ's Office of Open Government opinion on the Critical Incident Review process, reiterating that they must be open meetings. The workgroup expressed concerns about this, as did the other EBDM counties.

### **Discuss Need for Uniformity in Pretrial Non-Compliance Reports**

Benedict commented that uniformity with pretrial non-compliance reports is an ongoing issue because the judicial responses have had wide variation. Eiring agreed that this is an issue. Imig commented that the PSA includes a behavior response matrix that should provide guidance for more consistent judicial responses to non-compliance.

Dorow stated that she cannot mandate particular responses from judges, as they are all elected officials. She can make recommendations, but judges are not required to follow them. Dorow would like to know if the upcoming trainings will address this topic at all.

Benedict and Kees can put together data and examples so the workgroup can determine to what extent this is an issue. This will be reviewed at a future workgroup meeting.

### **Update on Changes to Pretrial Program Fees in 2018**

Luczaj had previously sent an e-mail to workgroup members in January regarding the revised pretrial program fees that went into effect on January 9.

In response to a concern that participants were going to be kicked out of the program if they are unable to pay, Imig commented that some of the participants have been placed on payment plans, and as long as a payment is being made, even just \$1, the participant is allowed to stay in the program. Imig also stated that WCS is not in favor of charging participants fees, but are having to implement them in order to sustain the program at current staffing levels.

Luczaj participated in a conference call this morning with the other EBDM counties and the takeaway was that charging fees for pretrial services is not a best practice. Luczaj is concerned that, due to NAPSA's position against charging fees, this could be an issue in the near future with new state guidelines being released indicating that fees should not be charged for pretrial supervision. When Milwaukee County lost funding from the state for their pretrial Intoxicated Driver Intervention program, they approached their county board to fund all of their pretrial services, including SCRAM and GPS, and the county board approved the funding.

McElderry left at 12:54 p.m.

Luczaj will begin the process of compiling data and information to present on the total cost of our pretrial services, to include SCRAM, GPS, and the revenue currently received from program fees which offsets the budget. Dorow suggests also having someone from the state put together a memo describing potential liability

to counties who are not following best practices by charging program fees to defendants who have not been found guilty of a crime, and who are being ordered to pretrial supervision by the courts.

Imig commented that the Day Report Center (DRC) is the only post-conviction program available, and as such, it should not be considered for elimination in order to shift resources to pretrial services.

### **Preparation for Pretrial Essentials Training**

Luczaj distributed and reviewed a document titled “Essential Elements of a Pretrial System and Agency: Team Pre-Work.”

Luczaj and Imig will meet to complete the form and will email it to the workgroup for feedback prior to the Pretrial Essentials Training.

### **Discuss Agenda Items for Next Meeting**

- Review Release of Information
- Review PSA’s MOU
- Review Pretrial Non-Compliance Reports Data/Examples

The February 21 meeting has been cancelled due to the conflict with the Essential Elements training.

### **Adjourn**

The meeting adjourned at 1:18 p.m.