



Waukesha County Criminal Justice Collaborating Council
Evidence-Based Decision Making Pretrial Workgroup Minutes
Monday, September 19, 2016

Team Members Present:

Judge Jennifer Dorow (Co-Chair)	Laura Lau	Craig Kuhary
Sara Carpenter (Co-Chair)	Sue Opper	

Team Members Absent:

Sam Benedict

Also Present:

Rebecca Luczaj	Abbey Nickolie	Julie Bartelt
Amy Rendall	JoAnn Eiring	Kelsey Morin

Dorow called the meeting to order at 12:07 p.m.

Approve Minutes from August 3, 2016 Meeting

Motion: Kuhary moved, seconded by Opper to approve the minutes from the August 3, 2016 meeting.
Motion passed unanimously.

Update/Discussion on Progress of Changes to Supervision Protocol in the Intoxicated Driver Intervention Program

Carpenter gave an update on the implemented changes to the IDIP supervision model, which involves use of the risk assessment instrument and corresponding level of supervision based on low, moderate, and high-risk defendants. A few clients are refusing to pay or have an inability to pay for program and monitoring fees. Carpenter shared a couple examples, previously emailed. The court orders defendants to WCS and WCS is authorized to provide supervision, which may involve the use of technology, according to the defendant's level of risk. These defendants have the option to say they will not or cannot afford to do this, and then will go back in front of the court. It is not a mandated program. WCS imposes fees as a non-profit organization, contracting with the County to provide pretrial services. Carpenter explained in one of the examples where the client stopped paying WCS, that the judge took them off SCRAM and ordered daily PBT's at the Menomonee Falls Police Station, as well as continued weekly reporting to WCS. WCS is concerned about their ability to monitor that the client shows up at the police station daily and then report the results of the PBT's to the court. WCS simply does not have the resources to do this type of intensive monitoring, because of the loss of state funding and subsequent staff. WCS does help indigent clients by setting up payment plans. It should be known that when reporting to a police station daily, it requires monitoring, reporting, payment to the police station for the PBT, transportation, etc.

Morin stated the issue is with how the commissioners are ordering WCS and SCRAM. If the order is a condition of bail that they must be on SCRAM and they cannot pay, technically they are in violation of their bail.

There was a suggestion and discussion around drafting a memo from the workgroup, to educate the judges and commissioners, so that the courts have the information to make a better-informed decision. The judges need information regarding what WCS can do in regard to monitoring, and what alternative options exist to consider when a defendant is removed from supervision. If the judge imposes an alternative, it should be known that WCS cannot monitor that and that there are costs involved that the defendants will incur.

For informational purposes, WCS sends letters to the court indicating when a defendant is not paying, and specifying whether there is an inability to pay or refusal to pay (there is a difference). If the defendant does not pay by a specified date, all parties are advised WCS will be removing the client from SCRAM by a specified date. The program has a small budget from the county to cover indigent fees.

Discussion ensued regarding the fees assessed to defendants by WCS; the \$250 program fee along with electronic monitoring fees. How much supervision can be covered with current WCS staff utilizing the program fees? Carpenter answered weekly.

Dorow suggested using Day Report Center (DRC) staff to assist with monitoring pretrial OWI defendants, just through the end of 2016 to give the workgroup time for more planning. Carpenter answered that DRC staff can only manage the DRC caseload. Dorow asked could they monitor remotely from their location at Huber. The person reporting to WCS weekly could bring their PBT slips in, WCS staff would scan them to DRC staff who can call the police station to verify and log them. Alternatively, send the pretrial OWI clients to DRC staff directly. Carpenter stated the program budgets are separate. If we have DRC staff supervising pretrial OWI clients, then we are allowing and setting a precedent for alternatives that are not adhering to the plan that the workgroup established and agreed to.

The group decided to prepare written information to educate the judicial officers regarding what WCS can do, monitoring, alternatives, and costs. This information sheet should also be attached to the response letter that WCS sends to judges advising the technology will be removed by a specific date for failure to pay. The technology should not be removed until there is a hearing, and no warrant should be issued based on inability to pay or refusal. There was discussion on how to schedule the hearing. If the defendant is refusing to pay, they can go back on the calendar for review the following week. The Clerk's office will distribute the court notice; Amy Rendall will be the contact person. Tuesday's fast track calendar would allow for this. This information and protocol will be added to the agenda at the next CT judges' meeting, October 11. The number of these cases will be few. Luczaj and Carpenter will work on a draft and send it to Dorow. Luczaj and Carpenter will also talk about the logistics of having a DRC staff person cover any of the enhanced supervision cases through the end of the year.

Discuss Data Collection Project

The data collection project relates to the use of the jail pretrial screening tool. It is a retroactive look at data on the use of our tool and bail, and whether low risk individuals are being detained who could be out on bond, and whether high-risk individuals are being released with no supervision. The Clerk's office archives the lockup lists and data will be collected from the first week of every month for a twelve-month period. The information to be collected from the criminal complaints, jail screening report, and CCAP would be last name, first name, case number, lead (most significant) charge (felony or misdemeanor), date

of lock-up (initial appearance), cash bail amount set, was there a hold, who was the presiding commissioner, risk score, and what was the supervision ordered. Follow-up would be needed – if cash bail were ordered, how long it took the person to pay, if there was a hold, was it released, were they revoked, etc. Department of Corrections and the jail will have to be involved. A workgroup in Indiana collected similar data (per Mimi) and we will compare the spreadsheet they created with ours. Dorow will keep hard copies of all of this. Amy Rendall agreed to be the point person from the Clerk's Office to help pull this information. Most of the information can be obtained from CCAP. Opper asked if this is only in-custody people. Dorow answered only in-custody defendants would have the jail screening tool administered. It is about what is our concurrence rate with our risk assessment tool. Opper asked, which concurrence is being measured – the detention or the supervision? Dorow explained we are starting with the in-custody defendants; this tool is not administered on out of custody people. The goal is to see if the tool we have is being utilized and followed. There is not 24/7 jail screening, but this is a start. Discussion ensued on different types of holds and how to determine what they are. The question is, are they releasable on this case? There was discussion on whether to list all charges, if more than one.

The purpose of the project is to determine if the risk assessment tool is working. Dorow explained risk assessment tools, if properly used, are to assist the courts in determining bail in the sense of release or no release. In Wisconsin, it is a little different because we do not utilize preventative detention. A lot of money goes into the pretrial jail screening program, and it is important to make sure the tool is being followed. Have we gotten away from the purpose of the tool and how to use it? Judicial officers may not be setting bail pursuant to the risk assessment tool. The movement is toward a system where there is no cash bail in the state. Dorow is being proactive. This will help us look at what we are doing, what are the barriers, are there any perceived inaccuracies? At the start, only those screened will be included. Another potential category Lau suggested would be whether the defendant is represented. Dorow suggested tracking the population that speaks only Spanish.

Opper expressed that it could be misleading to list only the lead charge if there are several. Kuhary said several charges would be reflected in the risk assessment. Opper has made objections to this many times; until the state changes it, she doesn't see moving to this system any time soon. She has heard the data about the harm it does to the defendant; however, she has never seen or heard any data about the community's perception or the impact on victims. She is not convinced about this project, listing on paper six or seven categories, showing the person scored low risk, when you do not know anything about the person, their background, charges, timing of events, AODA issues, etc. Dorow understands there are variables, but there is also a lot of research on risk assessment tools. The Pretrial Workgroup has spent time and decided that it was better to have a risk assessment tool in making this determination than none at all. Opper said she wants to be clear that the workgroup can look at it, but she is not sure of the value. Dorow suggested looking at it and see what we get that will be helpful, understanding there are variables. There is a large amount of money in the budget for this program. Dorow stated she wants to make sure we are utilizing our resources wisely. Opper said she understands the use and need for the tool - it is the bigger picture, the cash bail issue and high-risk offenders. That is why she is reluctant to put all our weight in this tool. There is so much more to it. Dorow stated there are things to be learned from this. Lau stated we learned that this tool is not great for OWI offenders.

Discuss Next Steps and Set Date for Next Meeting

Luczaj will send a Doodle poll with some dates.

Adjourn

The meeting adjourned at 1:29 p.m.