



Waukesha County Criminal Justice Collaborating Council
Evidence-Based Decision Making Pretrial Workgroup Minutes
Wednesday, July 19, 2017

Team Members Present:

Judge Jennifer Dorow (Chair)
Mary Wittwer
Craig Kuhary

Sam Benedict
JoAnn Eiring
Frank McElderry

Laura Lau
Sue Opper

Also Present:

Rebecca Luczaj

Janelle McClain

Daniela Imig

Dorow called the meeting to order at 12:08 p.m.

Approve Minutes from June 6, 2017 Meeting

Motion: Eiring moved, second by Opper, to approve the minutes from June 6, 2017. Motion passed unanimously.

Discuss Operational Issues Related to Pretrial Screening Program

Discuss Switching to Updated Version of Virginia Pretrial Risk Assessment Instrument (VPRAI)

Luczaj reported that the current pretrial screening tool is quite outdated. There is a more current version, so the workgroup needs to determine if we want to switch to it.

Imig distributed and reviewed a document titled “Virginia Pretrial Risk Assessment Instrument – Revised Tool & PRAXIS.” The UNCOPE would be used to determine if there are additional substance use considerations.

The workgroup discussed concerns with changing the pretrial screening tool, considering that the DOJ has said the PSA tool would be available in the fall; however, a specific date has not yet been identified.

Dorow stated that if we knew the current tool was underreporting risk level, that would be a reason to switch to the newer version, but that may not be the case. Dorow suggests reviewing this topic again in September if the implementation of the PSA is delayed.

Motion: Opper moved, second by Kuhary, to continue using the existing pretrial screening tool and not change to the updated version of the Virginia Pretrial Risk Assessment Instrument. Motion passed unanimously.

Discuss Whether Defendants with Bench Warrants Should be Screened

Eiring stated that they are screening bench warrant cases, but not “branch only” cases. She added that she does not believe this is a large number of cases, but a recent case raised this as a possible issue.

Benedict arrived at 12:22 p.m.

Benedict added some clarification, stating that some branches will issue bench warrants for only that particular branch. When that judge is on vacation or ill, if no bail has been set, the defendant sits in jail until there is an opening on that judge’s calendar, which could be a few weeks. Benedict stated that he does not see a downside to screening these defendants. Kuhary added that if the defendant has picked up new charges, the risk score could change.

Dorow will advise the other judges that there will be screening reports on these cases now. She will also have Judge Ramirez bring it up at the next Criminal/Traffic Judges' meeting. She also suggested having WCS attend the meeting in order to give a refresher on how the screening tool works.

It is at the judge's discretion to set bail. Once the case is in front of the judge, the judge handles bail unless they decide to give the case back to the commissioner. To change this policy, Dorow requested having solid data made available to show it is a significant issue, versus just an anomaly. Should this situation happen again in the future, attorneys should contact the Presiding Judge to remedy it.

Discuss Operational Issues Related to Intoxicated Driver Intervention Program (IDIP)

Discuss Whether OWI, First Offense with Minor Cases Should be Supervised by IDIP

Eiring stated that an OWI 1st with a minor in the vehicle became a crime in 2010. Defendants are now being ordered to WCS, and being placed in the general Pretrial Supervision program where they are receiving a higher level of supervision than need be, based upon risk level. Kuhary stated that we need to be consistent with our supervision of OWI defendants.

Motion: Kuhary moved, second by Opper, that all criminal OWI 1st offenses, under Chapter 346, will be supervised by the IDIP. Motion passed unanimously.

Benedict stated that we are still placing defendants in the general Pretrial Supervision program without knowing their risk level, which continues to be a problem. The workgroup discussed concerns about solely relying on results of the screening tool versus the commissioner being able to use discretion.

Luczaj will work with WCS to gather background information on the "Good Samaritan" case. The group will then conduct a critical incident review of the case at the next meeting.

McElderry and Opper left at 12:57 p.m.

Update on DOJ Pretrial Pilot Project

Luczaj reported that on August 23, there will be a meeting in Madison with all of the EBDM counties Clerks of Court, CJCC Coordinators, CCAP, and DOJ personnel. This resulted from the DOJ requesting that Failure to Appear (FTA) and new criminal arrest rates for 2016 be collected, and they were then made aware that the information cannot be easily obtained from CCAP. The DOJ hopes to collect as much data from CCAP as possible on their own, with the assistance of the state Court's Office, so that the counties are not tasked with doing so. Dorow suggested that Luczaj ask someone at the state level to do a critical incident review of the "Good Samaritan" case.

Begin Thorough Review of DOJ Pretrial Protocol (March 2017 Version) and Feedback on Protocol from District Attorney's (DA's) Office and State Public Defender's (SPD's) Office

This agenda item has been tabled until a future meeting.

Discuss Agenda Items for Next Meeting

McClain will send a Doodle poll to schedule the next meeting during Mimi Carter's visit on August 7 or 8, 2017.

Adjourn

The meeting adjourned at 1:03 p.m.