

DRAFT

Minutes of the Waukesha County Criminal Justice Collaborating Council
Pretrial Subcommittee
Tuesday, April 1, 2008

The meeting was called to order at 11:50 a.m.

Present: Chair JoAnn Eiring, Brad Schimel, Bonnie Morris, Martin Binn, Sam Benedict, Mike Giese, and Diane Kelsner.

Also present: Sara Carpenter, Shelly Cyrulik, Sara Schilling, Lyndsay Johnson, Clara Daniels, and Karen Phillips.

Approve Minutes of March 7, 2007

MOTION: Morris moved, second by Binn, to approve the minutes of March 7, 2007. Motion carried unanimously.

Approve Minutes of March 21, 2007

MOTION: Morris moved, second by Binn, to approve the minutes of March 21, 2007. Motion carried unanimously.

Approve Minutes of August 15, 2007

MOTION: Morris moved, second by Binn, to approve the minutes of August 15, 2007. Motion carried unanimously.

Approve Minutes of September 11, 2007

MOTION: Morris moved, second by Binn, to approve the minutes of September 11, 2007. Motion carried unanimously.

Approve Minutes of November 6, 2007

MOTION: Morris moved, second by Binn, to approve the minutes of November 6, 2007. Motion carried unanimously.

Eiring distributed statistical handouts on the programs agendaed for discussion.

Discussion of Operating After Revocation (OAR) Program

Schilling, the Case Manager for OAR Program, presented an overview of the program and summarized the operational process. She stated initially there are two case workers at intake court, one inside of court and one outside. The participants sign up for the program outside of court. OAR case workers assist the participant in following through the proper steps in getting their driver's license back. This involves contacting the DMV and obtaining information used to provide a screening report to the court. They work with the participant, keep track of the scheduled court appearances, and follow-up after court appearances. She explained that if the participant should miss a court date, a bench warrant letter is sent to let them know they should call circuit court and get a new court

date. Schilling stated the participant is asked to report back to the case worker with any progress in getting their license back or if they have any questions.

Eiring added that this is a voluntary program. She stated the case workers are present at intake court every Tuesday morning, when the initial appearances are scheduled. She stated current caseload is at about 282 open cases. She stated this service is strictly informational, and they do not give out any legal advice, and generally persons who have attorneys are not referred to the program.

Kelsner asked if there would be anything to improve the failure to appear rate (FTA), since generally over 50% fail to appear? She inquired if anyone has gotten a sense of why they do not appear.

Schilling stated many say they did not know it was mandatory to appear. Others do not have transportation and often times they live out of the County. In addition, this segment of the population is often irresponsible. Schimel added that not only do they not take care of their driver's license, they don't take care of many other things in their life. There is a certain amount of FTA's that we cannot fix.

Eiring added that another reason may be that these used to all be municipal cases, where there was not a mandatory appearance. They are given a ticket and do not read the box that says they must appear. She stated the main purpose of this program is to streamline them through the court system and the case worker's reports assist that process.

Kelsner asked how long are people are kept in the active caseload? Schilling stated the average is 248 days in the program. The discussion continued regarding the statistics over the past few years as listed in the handout.

Schilling explained that because WCS does have the authority to access information electronically rather than dealing with the DOT human element, the turnaround time for reports has greatly decreased. Historically, the manual process took much longer.

The judges' concerns were discussed with regard to scheduling cases on the court calendar, expediting the process and putting it in the realm of their control. Binn stated in the past, the philosophy from the judges was to have everything scheduled on the court commissioners calendar unless they were ready for trial. Binn stated there are now a different set of judges in the criminal traffic division and they have a different approach.

Benedict stated that to make an impact on what happens in daily lockup, some other alternative must be found. People have no way to resolve their cases because they cannot plead guilty at the court commissioner level. This process perpetuates a system of cases which we cannot seem to stop. On any given day, probably half of the people that are going through lockups are there because they missed court on an OAR. Benedict stated it is frustrating that most people are in lockup for OAR's and that continues to be a very time consuming component of the cases. Hours are spent interviewing people that are in for OAR's which is not good use of this limited resource. We need to look at ways to

resolve this on the spot. So many people would plead if they could. Benedict continued to explain that he and Schimel have discussed other possible ideas to change this but have not come up with any systematic way to tackle the problem. For example in Jefferson County, unless there are other factors such as OWI, they see a judge, plead a \$100 fine, and cases are closed. Our system seems to magnify the problems without getting them resolved. He said these are the least serious of all cases and we seem to be spending a tremendous time processing them.

Schimel responded that we are not doing them any favors if something is not done to get their licenses back and become law abiding again. He stated most of these people if given the opportunity in front of a judge on the initial appearance, would plead guilty and then go back to the same treadmill.

Schimel stated there used to be a judge available to hear these types of cases but the process just seemed to go away. Binn explained it did not have the support of all the judges because it complicated scheduling the judge's court calendars. One judge had done it but after she could not do it anymore, no one else would step up to continue.

Benedict agreed that we should encourage people to be licensed and try to help them. We still have to consider even with this effort, 50% of people didn't show up and will be back in jail. Most of these people are not highly dangerous and don't have a criminal past. Their problem is often financial or some other barrier.

Schimel stated that he would not object to that if those people could be identified early on. Cyrulik stated if we could come up with a process where we could have the people who are in custody solely for OAR/FTA's identified by screening have their case resolve while they are here so they do not have to return. It would be a very beneficial process to figure out for everyone involved.

Cyrulik stated this issue certainly cannot be resolved today. Schimel stated he would like to see some type of pretrial screening of cases prior to them coming to the DA's office for charges. He expressed his willingness to look into delaying the issuance of charges if there is some way to work it out. He is reluctant to amend from an OAR to something less if the offenders have not reinstated their licenses or gotten an occupational license.

Benedict stated it would be useful to get more direct information on OAR's to defendants from the DA's Office. Kelsner suggested perhaps mailing information with the criminal complaint/summons would help. Schimel was agreeable to that. The pretrial offer form should go out with the complaint but the language could be more defined. Kelsner stated that perhaps we could speak with a judge about reinstating the intake judge concept.

Cyrulik stated it would take the effort of a dedicated group to present this information in a well thought out package with needs and expectations identified along with a plan of action for the judges to consider. Kelsner offered to start coordinating this idea by working on a form and talking with the judges. Benedict and Schimel agreed to participate in a workgroup with Kelsner on this effort.

Update of Pretrial Program for the Intoxicated Driver

Eiring and Carpenter reviewed the statistics for the periods of 2/1/2008 to 2/29/2008 and 3/1/2008 to 3/31/2008. Eiring stated that the EOM supervision total for March is at 421 open files, and the majority of admissions are second offense. Carpenter stated there were 64 new intakes to supervision in March. They have been very busy. Eiring added that June is historically the busiest month, followed closely by the other summer months. She stated they do have another full time worker this year, which helps with the caseload. The trend in the last 6-8 months is very alarming, in that there are many young drunk drivers under 25 years of age, including some under 21. Carpenter stated currently they do not have a risk and needs assessment tool for OWI. They are working with the DOT to implement an assessment tool so that more individualized supervision plans can be developed, but it will not be ready in the near future.

Update on Pretrial Supervision Program

Eiring reviewed the WCS Waukesha Pretrial Status Report, stating the numbers are fluctuating. In February there were 141 open cases and 134 in March. Eiring stated she met with the court commissioners a few weeks ago to discuss what she felt was a large number of inappropriate referrals. Since they are working over capacity, it is important to have referrals which have a true need for their services. Discussion continued regarding how the referrals are made. Schimel stated after reviewing the cases, he felt they were appropriate. He explained that the drug prosecutors are free to set conditions as they deem appropriate.

Future Meeting Date

The next subcommittee meeting was scheduled for June 24, 2008, from 11:30 -1:00.

Karen Phillips, Legislative Associate
County Board Office