



Waukesha County
Criminal Justice Collaborating Council
Evidence-Based Decision Making Pretrial Workgroup
Wednesday, February 10, 2016

Team Members Present:

Judge Jennifer Dorow (Co-Chair) Laura Lau Sam Benedict
Sara Carpenter (Co-Chair) Craig Kuhary

Team Members Absent:

Sue Opper

Also Present:

Windy Jicha JoAnn Eiring Abbey Nickolie
Rebecca Luczaj

Review & Revise Pretrial Opportunities for Change

The workgroup discussed the pretrial status decision point #8: *Increase percentage of arrestees being screened (currently only about 33% of those booked in the jail are screened)*, and concluded the following data and/or answers were needed before decisions could be made:

- What percentage of all defendants are screened?
- What percentage of those arrested are screened (including those booked & released)?
- Which defendants (such as those in-custody) are screened?
- Develop a list of defendant types that are not screened. (Probation, parole, ATC and DTC sanctions, warrants, noncompliant, orders to produce, refusals, language barriers, those that arrive to jail outside of screening hours, etc.)
- What percentage of eligible defendants from the jail have screening reports?
- What percentage of defendants that the commissioners set bail for have screening reports?
- What percentage of defendants charged with a crime have pretrial reports that are used in bail determination?
- Is the pretrial screening tool effective since the county does not do universal screening?
- How do court commissioners use screening reports to set bail?
- Do court commissioners understand the reports and scoring system?
- Do court commissioners find screening reports helpful?
- Do court commissioners base their bail decisions solely on the results of the screening tool, or not at all?
- Are the reports reflective of risk?
- What other data is used to determine risk?
- Are the conditions of bond linked to the risk score?
- How often are screening reports used by the criminal defense?
- Are private attorneys educated on how to use the tool and its validity and usefulness?
- Does the DAs office use the reports effectively?
- How often is cash bail refunded?
- Why is cash bail refunded?
- Are people who have had their cash bail refunded screened?
- Is the county using the screening tool for the purpose it was intended?
- What are pretrial screening tool best practices?
- Why is there distrust in the reports?

- Why aren't report recommendations followed?
- How do we meet the needs of the IDIP when funding is reduced \$158K?
- How do we get everyone's "buy-in" to use this screening tool?

Carpenter explained how the pretrial screening tool was developed with the help of researcher Marie Van Nostrom, the research behind the tool, and how the tool was not designed for OWI offenders.

In response to Dorow's questions, Lau indicated that the screening tool scoring system is not helpful to court commissioners because it does not seem to reflect risk as related to case allegations. Lau said commissioners should have flexibility and the ability to rely on other factors when making decisions. Lau said she does not take low screening scores at face value, but felt that the reports are better than having nothing.

The group discussed the notion that the system struggles with empirical data and considered data collection options such as informal surveys, calendar notes, gathering data, etc. Benedict said he did a 30-day case sampling last fall of all lock-ups, noting various data like recorded scores, outcomes, and days in jail, etc. and found very few cases had no report. Benedict offered to convert his findings into a report and share it with the group.

Dorow suggested conducting a simple 30-day study to collect the following data on less risky, non-violent cases such as OARs:

- Total number of cases
- Total number of defendants
- How often is the tool used?
- What bail decisions are based on the tool?
- How many people released on bonds commit new crimes while out on bond?

Dorow said she is hopeful the upcoming NIC pretrial training in March will provide answers and recommendations to help the group make informed decisions.

Revisit Pilot Proposal for Intoxicated Driver Intervention Program (IDIP)

Carpenter said in light of upcoming funding cuts for IDIP, WCS would like to implement a pilot for a pretrial intoxicated driver risk tool and supervision matrix along with hiring an independent researcher at WCS' expense to produce outcomes reports. WCS would be able to run the pilot with one month's notice.

Dorow wondered that if the criminal justice system is not honoring the current tools, why would they honor a new tool? The tool would have to be explained and justified to the system and she does not know if there will be buy-in. Dorow said the system needs a method to determine risk or else commit to providing reduced services. WCS could implement the tool without the CJCC's blessing but she would like the workgroup to recommend tool implementation with WCS discretion pending the outcomes of the March NIC training. Dorow asked Carpenter to prepare a document similar to a response to a request for proposal documenting details about the plan, data, pilot evaluation, etc.

Kuhary said the people best suited to gauge risk should also determine supervision dosage without court commissioner involvement. The group questioned how the pilot would affect bond determinations.

Discuss Plan for Reviewing NIC's CJCC Pretrial Programs Evaluation Report

This item was not discussed.

Discuss Next Steps & Set Date for Next Meeting

Luczaj will send out an Outlook notice for the next meeting.

The meeting adjourned at 1:50 p.m.