



**Waukesha County Criminal Justice Collaborating Council  
Pretrial Committee Minutes  
Wednesday, February 6, 2019**

**Team Members Present:**

Judge Jennifer Dorow	Sam Benedict	Michelle Larsuel
Sara Scullen	Sue Opper	Monica Paz
JoAnn Eiring		

**Team Members Absent:**

Craig Kuhary

**Also Present:**

Anna Kees	Janelle McClain	Rebecca Luczaj
Mary Wittwer	Kevin Costello	

Dorow called the meeting to order at 12:10 p.m.

**Approve Minutes from January 4, 2019 Meeting**

Motion: Scullen moved, second by Paz, to approve the minutes from January 4, 2019. Motion passed unanimously.

**Update on DOJ Pretrial Pilot Project Implementation**

Dorow commented that the Legislative Study Committee on Bail and Conditions of Pretrial Release has not voted on anything, so she is unsure what the recommendations will be; however, most everyone had agreed that the constitution needs to be changed.

Luczaj reported that there was a meeting last Friday with all EBDM Coordinators regarding the Pretrial Pilot implementation. The Arnold Foundation has released an announcement for a PSA "Train the Trainer" event on April 29 and 30 on the west coast. As of now, the EBDM Coordinators are planning to attend, and are hoping to bring at least one additional person from each county. Funding for the training will be covered by the WI DOJ through a soon-to-be-released noncompetitive grant solicitation.

The WI DOJ has received notice from The Arnold Foundation that the state was selected to move on to the next phase of technical assistance for PSA implementation; however, the state is under the impression that the assistance may not be as beneficial to the counties as originally thought. If The Arnold Foundation will not be validating the PSA for each individual county, there is no guarantee that the technical assistance would be mutually beneficial. The DOJ is waiting on future guidance regarding this. The EBDM Coordinators have talked to DOJ regarding the importance of validation, and the DOJ indicated that they will fund PSA validation regardless of the answer from The Arnold Foundation.

A noncompetitive grant solicitation for EBDM Pretrial Pilot counties will be released by the WI DOJ within about 2 weeks. Applicants will have 3-4 weeks to complete the application to receive up to \$100,000/year/county for 2 years. Luczaj is awaiting more guidance to be released with the solicitation.

The WI DOJ hopes to have a sole-source contract in place by the end of March for the Automon software EBDM Pretrial Pilot counties will be required to use, which will auto-score the PSA. There will be another PSA assessor training in May. The new target date for PSA implementation is June 2019.

### **Continue Discussion on Pretrial Screening Report Revisions**

Eiring indicated that the pretrial screeners are no longer including comments on the screening report about what the defendant may say regarding their substance use issues.

Scullen and Costello agreed that the changes have not affected their ability to determine bail. Scullen has found the comments on medical diagnoses to be helpful. The diagnosis information can be redacted so that the public is unable to view it, but the judiciary can.

Eiring reported that the Pretrial Supervision caseload is currently down, so the program is taking referrals.

### **Review and Discuss State Public Defender (SPD) Eligibility Screening Data for Lock-Ups**

Benedict distributed and reviewed a document titled "State Public Defender Lock Up Evaluation Data." Based upon the data collected, there does not appear to be an issue with defendants being unrepresented at their initial appearance; therefore, Benedict does not plan to continue to collect this data moving forward. Scullen commented that since November, she has not seen many defendants appear without an attorney.

Costello commended the SPD staff for representing defendants without an attorney as a "friend of the court" at the initial appearance.

### **Discuss Future Time of Pretrial Committee Meetings**

The committee members agreed that the current meeting schedule continues to work for them.

Larsuel left at 12:35 p.m.

### **Discuss and Compare the Ontario Domestic Assault Risk Assessment (ODARA) and Lethality Domestic Violence (DV) Assessment Tools and Consider Implementation of the ODARA**

Luczaj distributed and reviewed documents titled "Domestic Violence Lethality Screen for First Responders," "ODARA Scoring Form," and "The Ontario Domestic Assault Risk Assessment (ODARA)."

The Sheriff's Department and Delafield Police Department have been piloting the Lethality Assessment since approximately April 2018. Is it used to determine the victim's likelihood of being further victimized by their intimate partner, resulting in serious injury or death. Referrals for services are then made based upon the dangerousness of the situation.

The ODARA is a free tool consisting of 13 questions, and can be scored in less than 10 minutes with up to 5 unknown answers. The tool is administered to perpetrators of domestic violence and assesses risk of future intimate partner violence, as well as the frequency and severity of these assaults.

Eiring, while supportive of using a DV screening tool, expressed concern that on high-volume days, there would be difficulty for the pretrial screeners to spend additional time administering the tool. If the VPRAI/PSA were administered, bail determined, and then the ODARA was conducted to determine the level and type of pretrial supervision recommended, staffing would not be as big of an issue.

Opper noted that the ODARA includes information needed from/about the victim. Some of the information needed would not be found in the criminal complaint; therefore, the screeners may have difficulty obtaining the information needed to complete the tool.

Benedict stated the following observations about the ODARA:

1. Most of the factors the tool is examining surface at the bail hearing.
2. It seems to be inappropriate to use at the pretrial decision-making stage.
3. It seems to only apply to those who have been convicted.
4. The research sample size seems questionable with less than 600 cases analyzed in Canada, and the tool was developed in the early 2000s.
5. The tool does not appear to be predictive.

Scullen stated that it is important to look at using a DV screening tool, but it doesn't necessarily need to be the ODARA.

Rather than administer the ODARA, Dorow would prefer to utilize our resources to screen more defendants with the PSA (i.e. screen those who are summonsed-in, who we currently are not screening).

Luczaj will try to gather more information from jurisdictions who use the ODARA and report any findings at the next meeting.

#### **Other Items for Discussion**

There were no other items for discussion.

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

- Frequency and type of electronic monitoring being ordered
- Kees will be Benedict's proxy at the March meeting

#### **Adjourn**

The meeting adjourned at 1:16 p.m.