

**State CJCC EBDM Subcommittee: Meeting Minutes**  
**Thursday, January 26, 2023, 9:00 a.m. - 11:00 a.m.**  
**Virtual Meeting**

**Chair:** Kelli Thompson, State Public Defender

**Co-Chair:** Tiana Glenna, CJCC Coordinator, Eau Claire County

<b>Members Present:</b>	
Kelli Thompson, State Public Defender	Tiana Glenna, CJCC Coordinator, Eau Claire County
Holly Audley, Division of Care and Treatment Services Assistant Administrator, DHS	Lance Wiersma, Administrator, Division of Community Corrections, DOC
Adam Plotkin, SPD Legislative Liaison	Megan Jones, Director of Research and Policy, DOC
Sadique Isahaku, Dean of School of Liberal Arts and Sciences, Milwaukee Technical College	Jane Klekamp, Associate County Administrator, La Crosse County
Judge Elliott Levine, La Crosse County	Nick Sayner, Executive Director, JusticePoint
Greg Peterson, Grand Chute Police Chief	Holly Szablewski, District 1 Court Administrator, Milwaukee County

<b>Members Absent:</b>	
Judge Carl Ashley, Milwaukee County	Sarah Diedrick-Kasdorf, Deputy Director of Government Affairs, WI Counties Association
Diane Fremgen, Supreme Court Clerk	Kit Kerschensteiner, Disability Rights WI
Senator Janis Ringhand, D-Evansville	Judge Kelly McKnight, Ashland County
Patti Jo Severson, Mental Health Advocate	Lisa Roys, Public Affairs Director, State Bar of Wisconsin
Silvia Jackson, Reentry Director, DOC	

<b>Additional Present:</b>	
Lara Kenny, Bureau Director, Justice Programs, DOJ	Heather Kierzek, Statewide Problem-Solving Court Coordinator, Office of Court Operations
Steve Wagner, Administrative Manager, DOJ	Ashley Billig, Supervisor Research Analyst, Bureau Justice Information and Analysis, DOJ
Phil Zell, Program Manager, DOJ	Brad Kelly, Program Manager, DOJ
Beth Robinson, Outagamie County	Ryan Anderson, Criminal Justice Supervisor, DOJ
Caitlin Snyder, Program Manager, DOJ	Christine Schultz, Research Analyst, DOJ
Marsha Schiszik, DOJ	Melissa Roberts, DOC
Sabrina Gentile, DOJ	Kerrie Fanning, Research Analyst, DOJ
Rebecca Luczaj, Waukesha County	

The meeting was called to order at 9:01 a.m. by Chair, Kelli Thompson.

Approval of 6/23/2022 and 9/22/2022 minutes. Motion to approve by Holly Szablewski, seconded by Greg Peterson. Minutes approved.

### Introduce New DOJ Staff

Kelli introduced Ryan Anderson to the committee as the new DOJ Criminal Justice Supervisor. Ryan introduced himself to the committee and discussed his background and prior positions.

### Bail Reform Work Group Update

Adam Plotkin updated the committee on the bail reform initiative. In the last legislative session, a Constitutional Amendment was passed on the first consideration that would change the way cash bail is set for individuals charged with a violent crime. In order for the Constitutional Amendment to take effect, it has to pass two successive legislatures with the exact same wording and then go to a statewide ballot. January was the second consideration. The intention was to move forward with it and had a joint committee meeting. The Assembly and Senate have both approved it. The public hearing was robust in terms of people speaking.

Worked on putting together a Wisconsin-specific updated white paper and a one-page set of recommendations for evidenced-based model bail policy that focuses on risk-based cashless detention, but not eliminating cash. Committee members considered this information but did not change their position. The Assembly and Senate passed it on a bipartisan vote. It is done and will be on a statewide ballot in April of 2023. If it is approved by the voters, it could take effect in May of 2023. It was split into two separate ballot questions. The first question is to allow judges to consider serious harm when determining bail. The second question would say for violent offenders, judges can consider public safety when setting cash bail.

Neither the terms "*Serious Harm*" nor "*Violent Crime*" is defined in the constitutional language. They both say, "*as defined by the legislature*". The authors of the Constitutional Amendment both said they are in the process of drafting legislation that would provide those definitions. The definitions would be available after the legislature approved it but before the voters would approve it. Elections matter. Go to the poll in April.

Nick Sayner addressed the group and said he expects a significant push from outside of the state to see this pass. The American Bail Coalition has put out a Road Map for Pretrial Justice in 2023. The model policies that they are pushing at the national level are; legislation to restrict eligibility out of personal recognizance, a public safety report requirement that would require judges and all systems to report on pretrial outcomes, public safety data collection and accountability, legislation to regulate bail disruptors and bail funds which would include any organization that opposes the use of secure bonds, and finally a Public Safety and Judicial Accountability Act which is focused on capturing data and providing information to the public.

Judge Levine addressed the group and said this may not have too much of an effect on current practices and it does not change the arguments by DAs. The real question is if judges were hesitant to grant a signature bond, they can fall back and say this is about their return to court. He does not think this will have a major impact on counties that are aggressively dealing with pretrial except Waukesha and Milwaukee because politics tend to play out more there. This is infuriating from a practical perspective because it creates bad policy. This is a policy based on a political motive and is a waste of time. This is contradictory to what we are trying to accomplish in the state.

Lara Kenny asked if we should bring documents that were created to the full CJCC meeting in March. Adam suggested not to bring them to the meeting because it is a done deal. We could include it as materials that this group has looked at. There was not a lot of buy-in on the draft documents. Other groups that are part of the CJCC do not necessarily align with them.

Judge Levine said we have to work on the EBDM pretrial process at the county level and expand that because this constitutional amendment does not change it at all. It means that the considerations are there, but we should re-double our efforts on trying to get pretrial at the county level because that is where real policy is made, at the county level, not the state level. The day-to-day decision-making about whether someone is in or out of jail is done by judges every day. How judges make that decision depends on the structure they have in each county. It does not depend upon the legislature. It is up to the counties to do the right thing and save money and do the right process. Milwaukee and Waukesha already do the right process. We need to change strategically how we reemphasize the development of EBDM at the county level. There are other issues too that he will bring up later.

### Pretrial Sites Update

Rebecca Luczaj updated the committee on the Waukesha County pretrial pilot program and a summary of 2022 outcomes. Waukesha uses the grant funding for a number of items including funding a full-time pretrial screener to increase the number of defendants who are administered the PSA at booking; offsetting costs of electronic monitoring for indigent pretrial defendants; NCIC user fees (pretrial screeners run Portal 100 checks); Automon Ames pretrial software; and for the NAPSA Conference attendance costs.

2022 Outcomes: 2,815 PSAs were administered, and the cost for 7,679 electronic monitoring days for indigent pretrial defendants was offset. DOJ funds were exhausted in August for this and after August, they used tax levy to continue to be able to offer this. 330 defendants were referred for pretrial supervision. When combined with those individuals carried over from 2021, a total of 643 defendants were supervised including in the general pretrial supervision program and the intoxicated driver intervention program.

Challenges included not having enough capacity in the pretrial supervision program to handle the number of defendants scoring at level 2 or higher on the PSA. That has been a struggle. A pretrial supervision case manager was added with ARPA funding which allowed them to supervise an additional 60 defendants, but they still cannot handle the volume of everyone who scored a level 2 or higher was referred for supervision.

Since the pandemic, they have seen an increase in arrests and referrals from the DA's office. Many of these have been more serious cases. This included more felonies, OWIs, and domestic violence-related offenses. Because of this, there has been an increase in risk level of individuals. There were also challenges with the implementation of pretrial software. They contracted with Automon in 2021 and recently went live, however, they have had several issues with software imitations and a lack of technical assistance.

Another big challenge was after the Waukesha parade tragedy when they lost a lot of their pretrial reform momentum. It was difficult because progress had been made after participating in EBDM, then the parade incident happened. A lot of emotions were running high in Waukesha. Presenters were set to present on bail training before the tragedy occurred, however, after speaking with Judge Dorrow they decided to cancel the training. The pretrial committee of their CJCC continues to meet on a regular basis. She is happy to report that Commissioner Herring did apply to attend NIC's Executive Pretrial training in April. Hopefully, the Commissioner will be selected for the training to be able to bring back perspective and share with their other court commissioners.

Judge Levine asked if jail holds have been going up or down since 2022. Rebecca said they are busting at the seams and overcapacity. They attempted to shut down the Huber facility but did not have the capacity to bring individuals back to the main jail. They have a workgroup starting next week to talk about their Huber transition. The County Executive added funding into the budget for this year to close the Huber facility by the end of 2023. The workgroup will develop recommendations for a smooth transition. One recommendation will be increased utilization of electronic monitoring and also their Day Report center program. They need to have recommendations by the end of May for the County Executive. The capacity issue at the jail is a major issue. They are at almost 100% capacity.

Beth Robinson updated the committee on the Outagamie County pretrial pilot program. Outagamie county utilized grant funding in order to add 4-5 additional hours per week for their Risk Needs assessor; to attend the NAPSA conference; for drug and alcohol testing for individuals ordered to have testing as part of their bond conditions; for Crime Information Bureau access; and for the Automon case management system. They are waiting to be transferred into the newer platform of the Ames system. This has been a slower transition than expected.

They also used funds for hybrid case manager work doing virtual supervision using cell phones to keep in touch with clients. Also, for supplies and bus passes for clients to get to appointments, court, treatment, or employment. Basic needs include weather-appropriate clothing, hygiene items, and incentives to reward and incentivize compliance for reporting to supervision going to court, and following through with treatment (\$5 gift cards). Assistance for GPS or SCRAM costs. Drug sweat patch testing costs. New for 2023, funds set aside for Racial Equity Project with a contract with the Center for Effective Public Policy. This organization will provide guidance, help, and support to address the issues of the population in jails. Had their first meeting with them and the subcommittee last week.

Each site reports data slightly differently. 809 PSAs completed in the second half of the year. About 1,600 total for the year. 278 people were required to participate in pretrial supervision in the year's second half. However, there is a portion of that population that had cash or other conditions that kept them in custody (warrant, probation hold, or revocation). In the second half of the year, 89 individuals started supervision and 83 were discharged from supervision. Currently, they have 123 individuals that are being supervised actively. Based on Automon dashboard data, for 2022 there was a 91% check-in rate (individuals who appear or report for supervision). Of the individuals on pretrial supervision, there was a 90% appearance rate. 80.6% safety rate (no new offense). 65.5% success rate. Success is defined as individuals who did not fail to appear in court and who did not have a new crime.

Technical violations and unsuccessful discharge are not included in the case management system. There was an increase in pretrial supervision referrals in the past few because the primary court commissioner has been on medical leave and a different court official has been filling in.

Judge Levine asked if there has been an increase in the jail population. Beth said the numbers have gone back up to pre-COVID numbers.

### EBDM Subcommittee 2023 Goals

Lara Kenny updated the committee. Last year we set 2022 goals. Kelly has been reporting quarterly to the CJCC on what our activities are related to those efforts. Now it is time to talk about if there are goals we want to continue from last year, or if there are new goals that we want for 2023. The Data Sharing subcommittee has a goal to provide support to other subcommittees. In the last year, we have been getting some really good cross-work between subcommittees. This is something that can be considered in this year's discussion.

Kelli Thompson asked what our 2022 goals were. Lara added four goals to the chat:

1. Increase pre-trial outreach to counties.
2. Bail-reform within for the next session.
3. Opioid settlement funds-look at best practices and model policies to recommend to DHS.
4. Add a prosecutor to the subcommittee.

Tiana Glenna said consistency in data gathering and reports could be a goal for 2023. Also, expanding EBDM pretrial to other counties.

Judge Levine said the Supreme Court has been focusing on mental health and competency. A group went to Miami and saw the Miami model and were planning for a summit. The project at the county level lends itself to the EBDM process.

This includes mapping and determining populations. It makes sense for it to be part of this process. He asked if Ryan could help put together a way to reinvigorate the sites that already are doing the mental health projects and pretrial programs and put it back in this framework. EBDM created a structure that was a way to systematically determine what to do with a population. One of the goals for 2023 should be not only to expand but to reinvigorate the counties that are already doing these programs (pretrial and mental health programs).

Nick Sayner said COVID has thrown the committee work into a loop, but we need to get back to the fact that the EBDM initiative is a philosophy on how to approach difficult topics. The results are what the county or state as a whole needs. One issue is there has been a lot of turnover in counties. Several years ago, we talked about getting the EBDM message out to counties not involved and utilizing partner counties. We need to get back to the roots of EBDM and talk about the basics. We should get back to system mapping, identifying important problems, taking a look at the research, and then implementing programs, initiatives, or solutions that attack those issues, and then measuring the results.

Kelli Thompson said a goal for 2023 could be to have a one-day summit or conference.

Nick Sayner said he has been asked to do system mapping for two northern counties. Agreed that a goal could be to get together for an in-person meeting.

Jane Klekamp agreed that having an in-person conference would be a good goal for 2023.

Judge Levine said this is a good idea and we could identify other counties that are not part of the core pretrial group as an opportunity to make expansions.

Nick Sayner said there are many other counties that would be interested.

Kelli Thompson said this should be one of our goals for 2023.

Jane Klekamp said we could have a class on system mapping that Nick Sayner could teach.

Nick Sayner said he is willing to do this system mapping training.

Kelli Thompson said if anyone has other ideas for goals for 2023, please send them to Lara or Ryan. Also, mental health summit is scheduled for April.

Beth Robinson said we could do “Train the Trainer” for system mapping so that other individuals could provide training on system mapping.

Tianna Glenna agreed that this is a good idea to help other counties implement a pretrial program.

Nick Sayner updated the group that NIC is shorthanded and does not have the capacity to provide training.

Kerrie Fanning said she is working on getting data from pretrial sites to look at some of the outcomes and the validity of using the PSA in pretrial. She offered to help with outreach to the counties regarding pretrial data.

**Public Comment**

No public comment.

**Adjourn**

Motion to adjourn was made by Jane Klekamp and seconded by Judge Levine at 10:11 am. Motion was approved.

Chair Thompson adjourned the meeting at 10:11 a.m.