

PRETRIAL NEWSLETTER

The Wisconsin Pretrial Program Manager's Quarterly Newsletter



Wisconsin Evidence-Based Decision Making (EBDM) Pretrial Pilot

Rhonda Frank-Loron is the Pretrial Program Manager for the Wisconsin Evidence-Based Decision Making (EBDM) Pretrial Pilot Program. The EBDM Pretrial Pilot Program is comprised of the following counties:

- Chippewa County
- La Crosse County
- Outagamie County
- Waukesha County
- Eau Claire County
- Marathon County
- Rock County

The focus of this pilot is to explore moving from a charge- and money-based system of release and detention **to a risk-informed system** that promotes public safety with less reliance on cash bond and pretrial detention.

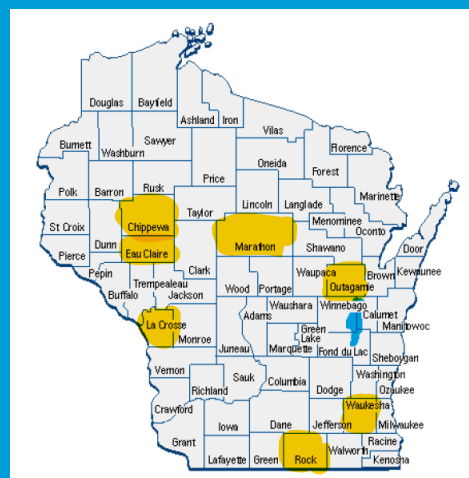
Pretrial Pilot Program Mission

Develop and implement policies and operational procedures that follow legal and evidence-based practices in pretrial release and detention, to support the goals of maximizing public safety, maximizing court appearance, and maximizing release.

The Pretrial Pilot Sites implemented the Public Safety Assessment (PSA) as part of the Wisconsin EBDM initiative.

PSA Development and History

The Public Safety Assessment (PSA) is an actuarial pretrial risk assessment tool developed in 2013 by Arnold Ventures, formerly known as the Laura and John Arnold Foundation. The PSA uses statistically derived factors to predict pretrial success or failure.



Resources:

For more information on the **Public Safety Assessment (PSA)**, go to: <https://advancingpretrial.org/>

National Association of Pretrial Services Agencies (NAPSA) (<https://napsa.org/eweb/startpage.a.spx>) for guidance on pretrial best practices.

National Institute of Corrections (NIC) Pretrial (<https://nicic.gov/pretrial>)



Researchers designed the PSA using pretrial records from over 750,000 cases in which people were released following charges and for whom complete data were available. Case records came from seven states and the District of Columbia, as well as from the federal pretrial system.

Preliminary research indicated that criminal history factors were the strongest predictors of pretrial success or failure: factors such as prior convictions, prior failures to appear, and current and pending charges. Also, based on a study in which the researchers compared the results of two risk assessment tools, they concluded that including interview-dependent factors related to a person's community ties or stability did not improve the tool's predictive power. Although still relevant, interview-dependent information was not shown to statistically improve the predictive nature of the assessment tool.

Use of Risk Assessment Tools and Bias

There is still ongoing debate among criminal justice professionals about whether risk assessment tools alleviate or exacerbate concerns related to bias. Some worry that risk assessment tools can add to issues of disparity. However, the alternative of not using an evidence-based tool has not alleviated the issues of disparity.

The goal is to utilize risk assessment tools that have demonstrated fewer differences (are more neutral) in terms of race/ethnicity, gender, and socioeconomic

status. The use of static factors (such as age, current offense, pending charge, prior failure to appear, prior conviction, prior violent conviction, and prior incarceration) can be an improvement. The risk assessment tool removes factors such as where someone lives, but clearly defendants may still be impacted by systemic factors (such as income, level of education, employment status, and neighborhood).

This ongoing discussion of the use of risk assessment tools highlights the continued need for:

- Judicial discretion in the decision-making process.
- On-going research and evaluation in this area.
- Critical look at the impact of these tools going forward.

Local Validation

Rather than relying solely upon national data used to develop and validate PSA, the EBDM Pretrial Pilot Sites will provide data to enable local, Wisconsin-specific validation of the PSA. Local validation will enable determination of appearance rates and arrest-free success rates for those processed through Wisconsin's criminal justice system. Success rates may change over time as policy changes are implemented in response to further analysis. Wisconsin will re-validate the PSA on an ongoing basis to ensure that it remains current. It is important to understand how well the PSA predicts pretrial success/failure in our counties.

Free Online Implicit Bias Training



The Criminal Justice Services in Mecklenburg County, North Carolina designed a new online training program to help justice professionals understand implicit bias and the ways those biases can potentially impact their work with the community.

The online training, "[Addressing and Acknowledging Unconscious Bias: Creating a Better Tomorrow](#)," was created in partnership with Criminal Justice Services, the County Manager's Office and the Criminal Justice Advisory Group (CJAG), with funding from and in collaboration with the John D. and Catherine T. MacArthur Foundation.

This training takes roughly 90-minutes to complete and is divided into three self-paced, interactive modules. **Module 1** defines implicit bias, the role of schemas and heuristics in structuring our thought processes, and the impact of bias on criminal justice institutions. **Module 2** discusses the influence of implicit biases on existing disparities in the criminal justice system, and ways in which we may begin to understand and address bias. **Module 3** focuses on strategies to reduce implicit biases, with examples of de-biasing techniques that can be applied to your everyday work as a criminal justice professional.

Wisconsin Counties Association (WCA) Pretrial Webinar

In October 2020, Eau Claire County Criminal Justice Director Tiana Glenna and Wisconsin Pretrial Program Manager Rhonda Frank-Loron presented, "[Implementing Pretrial Justice in Wisconsin](#)" for the Wisconsin Counties Association annual conference.

Dane County Joins Initiative to Continue Pretrial Research

Dane County Criminal Justice Council (CJC) is expanding its research effort around the pretrial phase of criminal justice. This effort builds on current research initiatives that focus on the pretrial stage of the criminal justice system. Dane County recently joined a national collaborative to analyze current county pretrial services, and then examine recommendations for strategic improvements.

The collaborative includes eight jurisdictions across the country that have teamed up with the Center for Criminal Justice Research and Justice System Partners, part of MDRC, a nonprofit based in New York and California. The collaborative is supported by Arnold Ventures, a Houston-based philanthropy focused on work in four key areas: criminal justice, education, health, and public finance.

"Understanding what works, how much is just enough--versus too much--is key to effective reforms. Dane County CJC continues to push improvement forward with local leaders and community and national experts," said County Board Chair and Criminal Justice Council Chair Analiese Eicher.

Jurisdictions across the United States are taking steps to reduce the number of people who are detained in jail unnecessarily while awaiting trial. Jurisdictions often use pretrial supervision to reduce the number of days spent in jail awaiting trial. Dane County has expanded its Pretrial Services Department, and has committed to conducting research around its efficacy and best practices.

"We are excited about our partnership with Dane County on the Pretrial Justice Collaborative," said Chloe Anderson, the study's manager. "By providing insight into the performance of the County's pretrial release conditions and supervision interventions, the study will place Dane County at the forefront in contributing knowledge to inform ongoing pretrial reform efforts—both at home and in jurisdictions across the country."

This research has the potential to inform a reduction in racial disparities, increase fairness, and reduce the role of the criminal justice system in perpetuating inequities. Due to the multi-agency data sharing initiative that the CJC has developed, accurate data will be the center of the research. MDRC will study the data, interview stakeholders, and develop recommendations to improve the pretrial phase of criminal justice in Dane County.

"We are excited to work to fully understand the impact of the pretrial reforms in Dane County," said Clerk of Circuit Court Carlo Esqueda. "Just as in medicine, it is key to provide the appropriate "dosage" of any treatment--this partnership will help illuminate that formula."

This work is expected to take approximately a year to analyze and a report with any findings and recommendations will follow. For more information please contact: Colleen Clark-Bernhardt, Criminal Justice Council Coordinator at Clark.colleen@countyofdane.com.



National Center for State Courts (NCSC) – Brief Tutorial on Ability to Pay Hearings

Watch the [Center for Judicial Ethics CourtClass tutorial on the law and practice of conducting ability to pay hearings](#) in connection with court-ordered financial obligations, including cash bail. The 35-minute online presentation covers the essential constitutional, ethical, and practical aspects of such hearings. This is a very timely, pragmatic, and useful tool in these challenging times. The tutorial provides tips to help address this issue during the pandemic, a time when marginalized and minority communities are having an especially difficult time making ends meet.

What's Happening in Our Neighboring States?

[Illinois House Bill 163 \(Pretrial Fairness Act\)](#)

The Illinois House of Representatives, one chamber of the Illinois General Assembly, passed House Bill 3653, originally introduced as H.B. 163, the Pretrial Fairness Act, on January 13, 2021. The bill includes several significant criminal justice reform measures. One of the most impactful aspects of the proposal is a provision that eliminates cash bail. The bill continues to allow judges to detain a person, but limits detention to specific felony offenses, such as domestic battery,

murder, or gun crimes. H.B. 3653 ensures faster release as people with less serious charges will be released on their own recognizance as quickly as possible. The bill allows for the use of risk assessment tools, but does not designate which tool courts are to use. The bill requires courts to provide common sense pretrial services. Courts also will be required to send reminder calls and text messages, and to provide transportation for low-income parties. Government transparency and accountability will be increased through monthly reports. People accused of violating their conditions of pretrial release will be served a notice to appear 48 hours prior to a warrant being issued.

The bill is awaiting the governor's signature, the robust new pretrial decision-making process will take effect on January 1, 2023. Other provisions of the bill, including the electronic monitoring changes, sentencing changes, changes to law enforcement's ability to arrest and release for low-level misdemeanors, and working groups on data and pretrial practices, will go into effect on January 1, 2022. Advancing Pretrial Policy & Research (APPR) shared the following link summarizing [the bill's key provisions](#).

[Washtenaw County, Michigan Prosecuting Attorney Memo on Ending Cash Bail](#)

Washtenaw County, Michigan Office of the Prosecuting Attorney released Policy Directive 2021-02: Policy eliminating the use of cash bail and setting standards for pretrial detention.

Do you have pretrial news or updates for your county, our state, or our neighboring states?



Please share updates with Rhonda Frank-Loron, Wisconsin Pretrial Program Manager, via email at Rhonda.Frank-Loron@wicourts.gov. Thanks for reading my first newsletter!