

Indiana EBDM Pretrial Work Group January 23, 2017 Meeting Minutes

1. Meeting Participants

In-person participants: Justice David, Judge Surbeck, Judge Freese, Mary Willis, Rep. Torr, Jesse Carlton, Mike Miller, Cindy McCoy, Chris Cunningham, Dave Murtaugh, Larry Landis, Dave Powell, Judge Sturtevant, Christine Kerl, Troy Hatfield, Madonna Wagoner, Jim Luttrell, Dan Miller, Dr. Ray, Mimi Carter, Mary Kay Hudson, Jenny Bauer, and Diane Mains

Teleconference participants: Judge Spitzer, Steve Meyer, Ollie Schierholz, Magistrate Meek, Kim Maus, CJ Miller, Tracy Regnier, Jeff Yoder, Joe Phillips, Amber Finnegan, Fallon Carter, and Judge Lett

2. Overview of Indiana Phase VI and consolidation of the Supreme Court's Pretrial Committee and the EBDM Pretrial Work Group provided by Ms. Hudson. EBDM Phase VI includes 12 months of technical assistance from NIC through the Center for Effective Public Policy led by Mimi Carter. Phase VI will focus on implementing the application change targets at both the state and local levels.
3. The Group reviewed the logic model and work plan that were submitted with the Phase VI application. Several work plan items need to be updated and a section added on the pretrial stakeholder groups. Mr. Landis raised concerns about lack of public defender involvement in the work groups and other planning meetings as only three of the pilot jurisdictions have FT public defender offices. Group will report to the State Team on February 3, 2017 and submit an updated workplan.
4. Discussion Items
 - a. Criminal Rule 26: concern raised that language of Rule applies to all pretrial proceedings not just release decisions; Senator M. Young has a bill (SB 228) that codifies CR 26, members raised concerns that this bill will create conflict between procedural and substantive bail provisions between the judiciary and legislative branches. Members also raised concerns about the January 1, 2018 deadline in the Rule as judges need to account for the fiscal impact of this bill prior to its implementation.
 - b. Dr. Ray and staff have been interviewing stakeholders in each of the pilot jurisdictions gathering information for a process evaluation of pretrial practices around risk assessment. He is targeting the end of February for completion of these interviews. He is currently working with the Odyssey data and is targeting early May to have initial data.

- c. Data on Pilot Sites – members would like to have information on each pilot site to vet before taking to the State Policy Team. It was also suggested that site visits be conducted to observe practices and interview stakeholders in-person. Dr. Ray recommended allowing his staff to conduct the initial interviews and bring information back to this Group. Staff will obtain preliminary information from each of the sites to bring to the next meeting. Group will continue to explore need for site visits.
 - d. Release and Response Matrices – are currently under development and will be completed to report out at the February 10th workshop. The release matrix will use individual risk level and will account for the current offense (holds, DV cases, intoxication, etc.) and may include bond requirements. The response matrix will include individual risk level as well as violation risk level.
 - e. IRAS-PAT – several concerns were raised early in the meeting that the PAT violates defendant’s constitutional rights and purported current practices in some jurisdiction in which the risk assessment interview is being recorded. Should a waiver of rights form be used prior to the administration of the IRAS-PAT? Members’ concerns: (1) do the questions really predict the targeted behavior, (2) administration issues – refresher and remedial trainings are needed; (3) IRAS-PAT is not validated in Indiana; (4) PAT does not address violence; (5) risk assessment is junk science; (6) why IRAS versus other available tools, (7) this is one tool to be used in release decision making; (8) tool does not address harm to self or others; and (9) address the disparate racial impact concern of the first question on the PAT. These concerns will be passed onto Mark Carey who will present on risk assessment at the Feb. 10th workshop.
 - f. BJA Grant application will include Indiana pretrial needs. If anyone has any suggestions or input for the grant application contact Ms. Hudson.
5. The Work Group will meet monthly on the fourth Monday of the month from 9:00 – 11:00 am. The next meeting will be held on Monday, February 27, 2017.
 6. Meeting Adjourned

Indiana EBDM Pretrial Work Group

Meeting Minutes

February 27, 2017

1. Meeting Participants

In-person participants: Justice David, Judge Surbeck, Mary Willis, Dave Murtaugh, Larry Landis, Dave Powell, Christine Kerl, Madonna Wagoner, Dan Miller, Kristin Casper, Steve Dillon, Judge Spitzer, Mike Pate, Tyler Bouma, Mary Kay Hudson, Michelle Goodman, and Diane Mains

Teleconference participants: Steve Meyer, Magistrate Meek, Kim Maus, CJ Miller, Tammy O'Neill, Judge Jent, Troy Hatfield, John Thorstad, Chuck Phillips, Shelby Bear, Chris Cunningham, Jim Luttrell, Linda Brady, Kate Williams, Jesse Carlton, Loren Delph, Susan Bentley, Amber Finnegan, and Kallan Carr

2. NIC Orientation for New Pretrial Executives

- a. Judge Surbeck, Christine Kerl and Jim Luttrell provided an overview of their recent training experience in Colorado. Training presenters were highlighted and key information shared.
- b. Participants suggested that the Indiana Orientation for Pretrial Executives be held in October and August/September if we can secure two training sessions. Each training session is typically limited to 30 trainees. Mary Kay and Diane will discuss the proposed dates, meeting location, and training content with Lori Eville and report back to the Work Group.

3. The February 10, 2017 workshop was hailed as a success. Participants feel that it is important to get everyone together again in the future.

4. Michelle Goodman reported that an IRAS Validation Project meeting with Dr. Ed Latessa will be held on March 2, 2017. A list of discussion topics for this meeting was distributed to the Work Group. Participants requested that race and gender neutrality be discussed at the meeting as well. Everyone is invited to attend, please RSVP to Michelle Goodman. Diane will distribute information on risk assessment as requested by the Work Group following the meeting.

5. The pretrial release matrix was discussed at length and additional work needed prior to distribution. Dan Miller and Larry Landis will work on a list of violent offenses to accompany the release matrix. The Work Group recommended that an instruction sheet accompany the distribution of these documents. Mary Kay and Diane will update the release and violations response matrices consistent with the discussion of the Work Group for further discussion at the next meeting.

6. Mary Kay Hudson provided an update on Senator Young's SB 228 on Bail codifying CR 26. A copy of the latest version of the bill was distributed. The Senate Corrections and Criminal Law passed the bill after amendment on February 16, 2017.
7. Mary Kay Hudson provided an update on Indiana's BJA Justice Reinvestment Initiative grant application. This grant will be for a period of three years. Awards are expected to be made by August. Indiana applied for \$1 million for public defense services as well as funding for EDP in the criminal justice system.
8. The Work Group discussed the need for a rights advisory form to be used prior to the administration of the IRAS-PAT. Participants reviewed the form currently used by Monroe County and Kentucky and liked the Kentucky form with some amendments. Mary Kay and Diane will revise this form for further discussion at the next meeting.
9. Future Meeting Schedule
 - March 27, 2017
 - April 24, 2017
 - May 22, 2017
 - June 19, 2017
 - July 17, 2017
 - August 14, 2017

All meetings will be held from 9:00 am -11:00 am at the Indiana Office of Court Services. Teleconferencing will be an option if available.

10. The meeting was adjourned at 11:15 am.

Indiana EBDM Pretrial Work Group

Meeting Record

March 27, 2017

1. The meeting was called to order by Chair Larry Landis, on behalf of Judge Surbeck, at 9:04 am.

In-person participants: Justice David, Larry Landis, Mary Willis, Judge Diekhoff, Steve Dillon, Troy Hatfield, Jack Kenney, Christine Kerl, Dan Miller, Dave Powell, Becca Streit, Stacy Uliana, Madonna Wagoner, Mary Kay Hudson, Jenny Bauer and Diane Mains

Teleconference participants: Shelby Bear, Linda Brady, Jesse Carlton, Kim Maus, Cindy McCoy, Steve Meyer, CJ Miller, Tracy Regnier, Ollie Schierholz, Judge Spitzer, and Kate Williams

2. NIC Orientation for New Pretrial Executives

Ms. Hudson reported working with Lori Eville at NIC to schedule the dates of the Indiana training. The training will likely be held in August (August 14-17). The training session will be limited to 30 trainees. Once the training dates have been confirmed staff will report back to the Work Group.

3. NIC/NACo Pretrial Roundtable

Ms. Hudson reported that Indiana and Wisconsin representatives will gather in Chicago at NIC's invitation on April 21 for a discussion on state and local pretrial partnerships. Indiana will be sending 10 people to this workshop comprised of representatives from both the State Policy Team and local teams.

4. Pretrial Protocols and Sample Documents

Significant time was spent discussing the revised release matrix (handout). Several changes were recommended. Mr. Miller compiled a list of proposed violent offenses that was distributed. Mr. Landis requested that this list of offenses be limited to offenses resulting in bodily injury or the use of a deadly weapon.

Similarly, the revised violations response matrix and pretrial interview advisement form (handouts) were reviewed and discussed and further changes recommended. Staff will schedule a conference call later this week with a smaller group of individuals to finalize the release matrix, response to violations matrix and the advisement form for review at the next Work Group meeting.

The Group also discussed the Wisconsin Pretrial Protocols document (handout) upon the direction of the State Policy Team. Staff will compile the Indiana information already developed consistent with this document and Kentucky's pretrial guide and make recommendation to the Work Group on the content of Indiana's Pretrial Protocols document at the next meeting base on these documents.

5. Pretrial Pilot Project Research Update

Ms. Hudson reported that she met with Dr. Ray and his team earlier this week. Dr. Ray is working on a policy brief and data analysis for the Work Group. However, Dr. Ray will not be able to complete this project without jail data (book-in date and release date specifically) that has thus far been unavailable. Furthermore, lack of jail data will impact the IRAS revalidation project.

Work Group members discussed the options for accessing pretrial data. It was noted that the Data Work Group and MPH have been working with Appriss (private repository of jail data pursuant to a contract with the Sheriff's Association to provide victim notification services). Options to obtain data from Appriss: (1) contract directly with Appriss for pilot site data by entering a State level contract or have each jurisdiction obtain the data via contract; (2) modify existing Sheriff's Association/Appriss contract to obtain data, or (3) obtain data through MPH/Appriss agreement with an unknown timeframe.

Staff will reach out to the site coordinators to identify each jurisdiction's jail data expert to determine what jail information can be obtained.

6. Other Business

The Work Group discussed the pros and cons of having a state call system and what that would look like. The consensus is that the state can provide negotiating power to broker a reasonable rate, and each local jurisdiction would have the option to contract for services.

7. Future Meeting Schedule

- April 24, 2017
- May 22, 2017
- June 19, 2017
- July 17, 2017
- August 14, 2017

All meetings will be held from 9:00 am -11:00 am at the Indiana Office of Court Services. Teleconferencing will be an option if available.

8. Mr. Landis adjourned the meeting 11:10 am.

Indiana EBDM Pretrial Work Group

Meeting Record

April 24, 2017

1. The meeting was called to order by Judge Surbeck at 9:00 am.

In-person participants: Judge Surbeck, Justice David, Mary Willis, Jerry Torr, Dave Murtaugh, Judge Diekhoff, Troy Hatfield, Christine Kerl, Dan Miller, Dave Powell, Mike Miller, Kristin Casper, Madonna Wagoner, Chris Cunningham, Cindy McCoy, Robert Pate, Mimi Carter, Mary Kay Hudson, and Diane Mains

Teleconference participants: Shelby Bear, Linda Brady, Jesse Carlton, Kim Maus, Steve Meyer, CJ Miller, Tracy Ollie Schierholz, Judge Spitzer, Catherine Haines, Chuck Phillips, Susan Bentley, Judge Jent, Amber Finnegan, Tammy O'Neill, and Jim Luttrull

2. NIC Training Updates

- Ms. Carter reported that the meeting hosted by NIC and NACo was held in Chicago on April 21. Representatives from both WI and IN discussed their EBDM pretrial efforts to educate NACo.
- The Diversion Symposium will be held in Washington DC on May 31-June 1. State team members who will be attending this event are Steve Luce, Dave Murtaugh, Dave Powell and Mary Kay Hudson. Law enforcement and prosecutor representatives from local teams will also be in attendance. Attendees will be asked to review Indiana's diversion statutes prior to the symposium. Dan Miller will provide staff with the diversion statutes for distribution to the attendees.
- The NIC Pretrial Network meeting will be held the afternoon of June 5th at the IOCS office. This is an invitation only meeting. All of the local pretrial site coordinators and/or staff are invited to attend.
- NIC's Pretrial Executives training will be held in Indianapolis on August 14-17. Five-person teams with the various disciplines represented will be given priority registration. Additionally, team members of individuals who have previously attended this training will be given priority registration. State Team members may the course.

3. Pilot Site Visits

Work Group members volunteered to attend the scheduled visits as follows:

- Tipton – May 1 – Cindy McCoy, Chris Cunningham, and Jenny Bauer (since the meeting, the Tipton site visit has changed to May 15)
- Starke – May 24 – Dr. Ray, Dan Miller and Michelle Goodman
- Porter – May 25 – Kristin Casper, Dan Miller and Diane Mains
- Hendricks – June 2 or 30

- Monroe – June 12 – Justice David, Judge Surbeck and Jenny Bauer
- Bartholomew – June 12 – Mary Kay Hudson
- Hamilton – June 15 – Kristin Casper and Mary Kay Hudson
- Jefferson – June 26 – Judge Diekhoff and Diane Mains

Allen and St. Joseph have yet to be scheduled. IOCS staff will provide summary documentation on each site's pretrial practices to the individuals conducting the site visit prior to the visit. Staff will also develop a list of interview questions based on the Pretrial Pilot Expectations document to be used during the visit.

4. Pretrial Legislation

Judge Willis provided a legislative update on SB 228 authored by Senator Young mirrored the language of Criminal Rule 26. This language was amended into HB 1137 with some modification. HB 1137 includes language on the end-date at which a bond is forfeited.

Members discussed the need to provide guidance state-wide on implementation of CR 26 and other pretrial practices. The Supreme Court would like to issue a summary guide on pretrial practices. Ms. Carter suggested that the members look at constructing a guide for new pretrial sites by compiling existing resources and authorities.

5. Pretrial Protocols and Sample Documents

The finalized sample documents (release matrix, list of violent offenses, response matrix and pretrial interview advisement form) were distributed. Members discussed whether this information is to be presented to the pretrial pilot sites as well as other jurisdictions looking for guidance on pretrial reform. Judge Spitzer's suggested advisory language will be added to these documents. An Indiana Pretrial Protocols document is key to providing guidance statewide.

Judge Willis and Judge Spitzer (with others) will be presenting at the Spring Judicial College on CR 26 and pretrial practices.

Members formed a subcommittee to work on Indiana's protocols. Volunteers were Judge David, Christine Kerl, Judge Surbeck, Troy Hatfield, Mary Kay Hudson and Diane Mains. The subcommittee will prepare a mock-up of the Indiana protocols document for review at the May 22nd meeting.

6. Pretrial Pilot Project Research Update

Ms. Hudson reported that Dr. Ray and his team will be issuing a paper on the pretrial project to-date within the next couple of weeks. IOCS is entering its second contract year with IU and Dr. Ray on the pretrial project.

Members were reminded that the Data Work Group has been working with MPH to acquire data from Appriss (private repository of jail data pursuant to a contract with the

Sheriff's Association to provide victim notification services). We are waiting the outcome of these negotiations.

7. Future Meeting Schedule

- May 22, 2017
- June 19, 2017
- July 17, 2017
- August 14, 2017

All meetings will be held from 9:00 am -11:00 am at the Indiana Office of Court Services. Teleconferencing will be an option if available.

8. Judge Surbeck adjourned the meeting 11:00 am.

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Indiana EBDM Pretrial Work Group

Meeting Record

May 22, 2017

1. The meeting was called to order by Judge Surbeck at 9:00 am.

In-person participants: Judge Surbeck, Justice David, Mary Willis, Dave Murtaugh, Troy Hatfield, Dan Miller, Mike Miller, Kristin Casper, Madonna Wagoner, Chris Cunningham, Cindy McCoy, Mimi Carter, Stacy Uliana, Steve Dillon, Mary Kay Hudson, Michelle Goodman, Lisa Thompson and Diane Mains

Teleconference participants: Shelby Bear, Susan Bentley, Kellie Bittorf, Amber Finnegan, Kim Maus, Steve Meyer, CJ Miller, Tammy O'Neill, Chuck Phillips, Judge Spitzer, John Thorstad, Kate Williams and Jeff Yoder

2. NIC Training Updates

- The Diversion (Front-End) Symposium will be held in Washington DC on May 31-June 1. State team members who will be attending this event are Dave Murtaugh, Dave Powell and Mary Kay Hudson. Stacy Uliana will check on status of local PDs attending this meeting.
- The NIC Pretrial Network meeting will be held the afternoon of June 5th at the IOCS office. This is an invitation only meeting. All the local pretrial site coordinators and/or staff are invited to attend. Mary Kay Hudson will check with NIC to determine if State Team representation is needed at this meeting.
- NIC Pretrial Executives training will be held in Indianapolis on August 14-17. The registration link will be sent out today. Five-person teams with the various disciplines represented will be given priority registration. Additionally, team members of individuals who have previously attended this training will be given priority registration. State Team members may the course. If there is enough demand for this training, we will request a second training.

3. Pilot Site Visits

All site visits have been scheduled beginning with Tipton on May 15 and ending with Hendricks on June 30. A handout was distributed listing the attendees at each site visit.

Ms. McCoy and Mr. Cunningham briefed members on their visit to Tipton County.

IOCS staff will provide summary documentation on each site's pretrial practices to the individuals conducting the site visit prior to the visit. Staff will also develop a list of interview questions based on the Pretrial Pilot Expectations document to be used during the visit to ensure that consistent information is gathered from each site.

4. Indiana Pretrial Protocols

Members previously formed a subcommittee to work on Indiana's protocols. Volunteers were Judge David, Christine Kerl, Judge Surbeck, Troy Hatfield, Mary Kay Hudson and Diane Mains. A very rough outline of the document was distributed. Members talked extensively about the document content and the intended audience.

5. Pretrial Pilot Project Research

Ms. Hudson reported that Dr. Ray and his team will provide members with the first pretrial report and policy brief within the next couple of weeks. Ms. Hudson also reported that the IOCS is in the process of executing a second contract with Dr. Ray for the pretrial project evaluation.

6. IRAS-PAT

Members discussed the request from Hendricks County to train jail staff to administer the PAT. Ms. Goodman provided an overview of current IRAS policy which does not authorize jail staff to administer the PAT. NIC's position is that law enforcement should not administer the assessment. Pretrial Justice Institute's position is that if the assessment involves an interview, law enforcement should not administer the tool. Identified concerns include legal, management and philosophical issues. Staff will send an email to each of the pilot sites to determine their position on this issue and preference if adequate resources were available locally.

7. Pretrial Data Elements

Ms. Goodman provided members with a list of data elements compiled by the Data Work Group to identify key pretrial information given the current technologies used by the pilot sites and available to the State.

"Failure to appear" (FTA) occurs when a court issues a warrant following an individual's failure to appear. This definition includes recalled warrants.

"Pretrial violations" are activities that result in a notice of violation filed with the court and thereby require court action (warrant/summons).

"Success rate" is replaced by "completion rate" that is calculated solely based on whether an individual successfully completes pretrial supervision.

8. Other Business

Judge Surbeck referred members to the recent Texas pretrial decision – O'Donnell v. Harrison. The case was distributed via email.

Ms. McCoy requested that monthly pretrial site coordinators meeting be scheduled to allow the exchange of ideas.

Members discussed the need to gather information on pretrial practices in non-pilot counties to head off bad practices, etc.

Confidentiality of pretrial records and AR 9 agenda item held for the next meeting.

9. Future Meeting Schedule

- June 19, 2017
- July 17, 2017
- August 14, 2017

All meetings will be held from 9:00 am -11:00 am at the Indiana Office of Court Services. Teleconferencing will be an option if available.

10. Judge Surbeck adjourned the meeting 11:30 am.

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Indiana EBDM Pretrial Work Group

Meeting Record

June 19, 2017

1. The meeting was called to order by Judge Surbeck at approximately 9:00 am.

In-person participants: Judge Surbeck, Justice David, Mary Willis, Dave Murtaugh, Dan Miller, Representative Torr, Kristin Casper, Madonna Wagoner, Stephanie Ruggles, Cindy McCoy, Mimi Carter, Steve Dillon, Christine Kerl, Larry Landis, Dave Powell, Mary Kay Hudson, Michelle Goodman, Jenny Bauer, Lisa Thompson and Diane Mains

Teleconference participants: Shelby Bear, Susan Bentley, Linda Brady, Jesse Carlton, Judge Diekhoff, Amber Finnegan, Jim Luttrull, Shawn Mattraw, Kim Maus, CJ Miller, Tammy O'Neill, Chuck Phillips, Tracy Regnier, Orval Schierholz, John Thorstad and Kate Williams

2. NIC Training Updates

- The NIC Pretrial Network meeting was held the on June 5th at the IOCS office. All pretrial site coordinators were invited and did attend the meeting. Ms. Carter informed the group that NIC has a pretrial list serve and that Indiana is invited to join.
- NIC Pretrial Executives training will be held in Indianapolis on August 14-17. The registration deadline was June 16, 2017. Sixteen individuals have registered. Ms. Hudson will work with Ms. Eville to review the list of registrants and prioritize invitations. The training will be capped at 30 people with the pilot sites receiving priority consideration.

3. Pilot Site Visits

Report outs on the site visits to Bartholomew, Hamilton, Monroe, Porter and St. Joseph counties were made. Discussion on the site visits included the challenges faced by the pilot sites with bringing defense counsel on-board. Most of the pilot sites do not have a public defender office. Consequently, local jurisdictions contract for these services, and it is difficult to generate interest in representing clients at the initial hearing. Members discussed the positive impact that a meaningful initial hearing can have on the case as well as the need to educate attorneys on the transitory nature of this representation (focus on release and indigency issues) thereby minimizing conflicts.

IOCS staff will provide the Work Group with a summary of each site visit.

The members discussed the possibility of pursuing a state-wide contract for a court notification system to minimize costs to local jurisdictions. This issue is to be referred to the State Policy Team.

4. Indiana Pretrial Protocols

Members reviewed the current draft of the Protocols and identified gaps in content:

- Indiana pretrial research
- Fiscal opportunities
- Sample documents – pretrial report to the court and a critical incident protocol
- Transition language between document topics
- Request feedback in the document – suggestions, questions, concerns, etc.

Members agreed that the pilot sites must approve any language contained in this document referencing their pretrial practices. Additionally, the document, once approved by the Pretrial Work Group, will be forwarded to the State Policy Team for approval.

Justice David and Mr. Powell agreed to work on a critical incident protocol for the document. Member discussion included the need for a state level critical incident protocol as well as local critical incident protocol.

A draft of the protocols will be completed for distribution at the July 17th meeting. Critical discussion on this draft will occur at the August 14th meeting.

5. Pretrial Pilot Project Research

Dr. Ray distributed a draft of a process evaluation of the pretrial pilot sites. He provided an overview of the contents to the members. Members were asked to critically review the process evaluation and provide feedback to Dr. Ray no later than July 7th.

Dr. Ray and Ms. Thompson agreed to work together to develop a guide for Odyssey users on pretrial data.

6. The IRAS-PAT and confidentiality of pretrial records under AR 9 were tabled until the next meeting.

7. Other Business

Mr. Powell discussed a case involving an individual on pretrial release in Hamilton County who was killed during a home invasion in Marion County. Members discussed the lack of systemic communication between counties on cross-county criminal activity. Odyssey improves the cross-county communication but it may not be timely enough.

8. Future Meeting Schedule

- August 14, 2017

- September 11, 2017
- October 16, 2017

All meetings will be held from 9:00 am -11:00 am at the Indiana Office of Court Services.
Teleconferencing will be an option if available.

9. Judge Surbeck adjourned the meeting 11:25 am.

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Indiana EBDM Pretrial Work Group

Meeting Record

July 17, 2017

1. The meeting was called to order by Justice David at approximately 9:10 am.

In-person participants: Judge Surbeck, Justice David, Mary Willis, Dave Murtaugh, Dan Miller, Representative Torr, Judge Diekhoff, Kristin Casper, Madonna Wagoner, Troy Hatfield, Cindy McCoy, Steve Dillon, Christine Kerl, Tyler Bouma, Larry Landis, Mike Pate, Mary Kay Hudson, Michelle Goodman, Jenny Bauer, Lisa Thompson and Diane Mains

Teleconference participants: Shelby Bear, Susan Bentley, Jesse Carlton, Jim Luttrull, Kim Maus, Orval Schierholz, Kate Williams and Jennifer York

Guest: Elizabeth Daulton, Indiana Office of Court Services

2. NIC Training Update

NIC Pretrial Executives training will be held in Indianapolis on August 14-17. A list of the registered attendees was distributed.

3. Pilot Site Visits

Report outs on the site visits to Jefferson, Allen and Hendricks counties were made. Ms. Bauer reported that Jefferson County has a new bond schedule as of April 2017 utilizing only cash deposits (L5 and above – detained for an initial hearing, L6 - \$500 bond, and misdemeanors - \$100 bond). She also reported that the public defenders assigned to the initial hearings have juvenile caseloads and thereby avoid conflicts. It was also noted that parole holds are taking up beds in the jail. Ms. Hudson reported that Charles Miller, Parole Board member, is aware of the jail overcrowding issues around the state, and the Parole Board has been trying to timely address parole holds in these jurisdictions. Judge Surbeck reported that Allen County magistrates conduct the initial hearings ensuring consistency in decision making. Misdemeanors and non-violent felons are released ROR. The Hendricks County site visit was attended by members and staff of the General Assembly as well as Justice David and other Work Group members. Hendricks is in the process of hiring additional pretrial staff and just joined the public defender reimbursement system.

IOCS staff will provide the Work Group with an overview of each pilot site with issues of note reported during the visit.

Justice David would like to summarize the issues that the Work Group needs to provide guidance to the pilot sites on as a result of the visits without hindering creativity and individuality.

4. Indiana Pretrial Protocols

The current draft was distributed for critical review. Members are to be prepared to discuss the draft at the next meeting on August 14th.

Mr. Landis raised constitutional concerns about considering future dangerousness of the accused under the Indiana Constitution. He distributed a draft of research that included the following:

- a. Preventive detention or denial of bail, except for murder, is not permissible under Article 1, Section 17, of the Indiana Constitution.
- b. It is not so clear whether it is constitutionally permissible under Article 1, Section 17, to consider future dangerousness in setting bail.
- c. Several states with a constitutional right to bail similar to Indiana's have held that bail could not be used for the purpose of preventing future defendant misconduct.
- d. Indiana case law provides that the sole purpose of bail is to guarantee the appearance of the accused person at trial.
- e. He could find no Indiana appellate cases reviewing the constitutionality of the 1996 legislation authorizing the consideration of public safety in the setting of bail.

Mr. Landis said he thought the three state judicial branch support agencies should research the issue of whether consideration of future dangerousness when setting bail violates Article 16 or 17 of the Indiana Constitution, and, if so, whether a constitutional amendment was needed and desirable.

A group of staff attorneys from IPAC, IPDC and IOCS will review this issue and report back to the Work Group.

5. Draft JQC Advisory Opinion #2-17 – CJC Rule 2.9

Ms. Elizabeth Daulton presented the proposed Advisory Opinion to the Work Group. The purpose of this Opinion to provide judges with guidance on judicial notice of court records. Under this Opinion, judges are permitted to take judicial notice of court records if done so on the record and the parties are provided an opportunity to respond. The Work Group unanimously voted to adopt this Opinion.

6. Criminal Benchbook Committee – IC 35-33-8-7 and CR 26

Ms. Mains presented the proposal from the Criminal Benchbook Committee to resolve concerns that the statute and CR 26 do not provide clear guidance when a bond is forfeit if the court may still collect court costs. The Work Group decided that no changes were needed to CR 26 on this issue.

7. IRAS-PAT – authorized user policy

Ms. Mains presented the survey results from the pilot sites on the interest in allowing jail staff to administer the IRAS-PAT. Under current IRAS policy jail staff are not authorized to administer the PAT. Survey results indicate that four pilot sites (Grant, Hendricks, Starke and Tipton) are interested in exploring the option of allowing jail staff to administer the PAT. The Work Group discussed the pros and cons of allowing jail staff to administer the PAT. Issues of concern noted were: (1) jail staff are not objective, (2) training and qualifications of jail staff may differ from probation, community corrections or pretrial staff, and (3) risk assessment is a judicial function and authorizing jail staff to administer it raises concerns about separation of powers and supervision of these individuals.

The Work Group authorized a small group of pretrial coordinators led by Ms. McCoy, to review the current IRAS policy to determine if there is flexibility allowing smaller jurisdictions to designate jail staff as pretrial officers for the purposes of administering the PAT. This group will report back to the Work Group at the August 14th meeting.

confidentiality of pretrial records under AR 9 were tabled until the next meeting.

8. Confidentiality of Pretrial Records under AR 9

Ms. Mains presented the proposal to amend AR 9 to exclude pretrial release and supervision records from public access. The Work Group unanimously approved this proposal.

9. Other Business

Mr. Landis expressed concern that the pilot sites are not collecting data to show their practices are having a positive impact on pretrial. He distributed a proposed list of data to be collected by the pretrial sites. Data is currently being collected by the sites to comply with the project evaluation conducted by IUPUI.

Mr. Landis also distributed a checklist for the pilot sites to self-monitor implementation of the elements of a high-functioning pretrial system. IOCS staff are aware of pretrial practices in each of the pilot sites, and this information is routinely distributed to the Work Group.

10. Future Meeting Schedule

- August 14, 2017
- September 11, 2017
- October 16, 2017

All meetings will be held from 9:00 am -11:00 am at the Indiana Office of Court Services. Teleconferencing will be an option if available.

11. Judge Surbeck adjourned the meeting 11:15 am.

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Indiana EBDM Pretrial Work Group

Meeting Record

August 14, 2017

1. The meeting was called to order by Judge Surbeck at approximately 9:05 am.

In-person participants: Judge Surbeck, Kristin Casper, Steve Dillon, Troy Hatfield, Mary Kay Hudson, Christine Kerl, Kim Maus, Cindy McCoy, Dan Miller, Dave Murtaugh, Dave Powell, Judge Willis, Michelle Goodman, Lisa Thompson and Diane Mains

Teleconference participants: Jesse Carlton, Judge Jent, CJ Miller, Tammy O'Neill, Mike Pate, Orval Schierholz, Judge Spitzer, John Thorstad, and Kate Williams

Guest: Mimi Carter, CEPP

2. NIC Training Update

NIC Pretrial Executives training commenced this morning and will be held through Thursday on the 8th Floor. A list of the training attendees was distributed.

3. Pilot Site Visits

Ms. Hudson created and distributed summaries for each of the site visits based on information from the individuals who attended the site visit.

4. Indiana Pretrial Protocols

The current draft document was distributed for critical review. Members were asked to review this document and provide feedback to Diane within 10 days so that a final product may be approved at the September 11th meeting with distribution to the State Policy for consideration at its September 14th meeting.

5. IRAS-PAT – authorized user policy

Ms. McCoy reported that she believes that the current IRAS User Certification Policy is flexible enough to allow jail staff to administer the PAT (memo distributed). Committee decided to establish best practice guidance on this issue: use jail staff when all other options are exhausted, individual must agree to maintain the confidentiality of IRAS information and that verification of self-reported information is critical. Additionally, if best practices are not employed, the considerations that a court must review and address before implementing a policy authorizing jail staff to administer the IRAS-PAT. Ultimately, this is an issue that must go to the Board of Directors of the Judicial Conference because this is a

departure from current practices and has access to information and confidentiality concerns.

6. Other Business

EBDM/Pretrial officers will meet during the September Annual Meeting in Ft. Wayne. Details to be determined.

7. Future Meeting Schedule

- October 16, 2017
- November 6, 2017
- December 11, 2017

All meetings will be held from 9:00 am -11:00 am at the Indiana Office of Court Services. Teleconferencing will be an option if available.

8. Judge Surbeck adjourned the meeting 10:07 am.

Members were encouraged to attend the Pretrial Executives Training on the 8th Floor to hear Tim Schnacke's presentation on the history of bail in the United States as well as attend the rest of the training as available.

DRAFT

Indiana EBDM Pretrial Work Group

Meeting Record

October 16, 2017

1. The meeting was called to order by Judge Surbeck at approximately 9:00 am.

In-person participants: Judge Surbeck, Shelby Bear, Tyler Bouma, Chris Cunningham, Steve Dillon, Amber Finnegan, Troy Hatfield, Mary Kay Hudson, Dan Miller, Dave Murtaugh, Mike Pate, Dave Powell, Stephanie Ruggles, Judge Spitzer, Becca Streit, Judge Willis, Michelle Goodman, Lisa Thompson and Diane Mains

Teleconference participants: Charles Phillips, Orval Schierholz, and Kate Williams

Guest: Mimi Carter, CEPP

2. Indiana Pretrial Practices

The Committee reviewed the document and updates were recommended. Staff will update the document for the next committee meeting. The Committee will conduct an annual review of this document at the conclusion of the Legislative Session to ensure that the content remains current.

3. Other Business

- IU IRAS-PAT Process Evaluation – members were asked to review the Evaluation one final time and provide any feedback directly to Dr. Ray this week.
- A data meeting will be held on November 3 with the pilot sites to go through the pretrial data elements. Training will be provided as 2020 draws closer to assist non-pilot counties with data collection.

4. 2018 Meeting Schedule

The Committee will continue to meet monthly in 2018. Staff will send out the meeting schedule.

Next Meeting: November 6, 2017

All meetings will be held from 9:00 am -11:00 am at the Indiana Office of Court Services. Teleconferencing will be an option if available.

Indiana EBDM Pretrial Work Group

Meeting Record

November 6, 2017

1. The meeting was called to order by Judge Surbeck at 9:04 am.

In-person participants: Judge Surbeck, Shelby Bear, Tyler Bouma, Kristin Casper, Bernice Corley, Chris Cunningham, Troy Hatfield, Mary Kay Hudson, Christine Kerl, Larry Landis, Cindy McCoy, Dan Miller, Dave Murtaugh, Dave Powell, Becca Streit, Judge Willis, Jenny Bauer, Michelle Goodman, Lisa Thompson and Diane Mains

Teleconference participants: Judge Bardach, Steve Dillon, Kim Maus, Tammy O'Neill, Stephanie Ruggles, and Kate Williams

Guest: Mimi Carter, CEPP

2. Indiana Pretrial Practices

Staff walked members through the changes in the document based on discussion at the last Work Group meeting. Additionally, changes were made. Staff will revise the document and circulate it to the Work Group for final approval. IU is ready to begin collecting jail data and will start with Jefferson and Monroe counties.

3. IU Process IRAS-PAT Process Evaluation

Staff reported that IU is expecting to receive the updated report back from the graphic designer in a week or so. Staff were directed to circulate the revised report for final approval (vote) by the members.

4. IRAS-PAT – Authorized User Policy

Members re-opened discussion on allowing jail staff to administer the IRAS-PAT. Members agreed to allow only the pilot sites the option of allowing jail staff to administer the PAT for a trial period. Jail staff authorization to administer the PAT shall be governed by a MOU between the court and sheriff's department, including: designation of staff authorized to administer the PAT; staff training requirements before the PAT may be administered; access to and reporting of data in INcite; and continuous quality improvement. Staff were directed to draft a MOU for review by the Work Group.

5. Judge Surbeck adjourned the meeting at 11:10 am.

Next Meeting – January 8, 2018 (at our new office)

Address: Capital Center - North Tower, 251 N Illinois Street, Indianapolis, IN 46204

All meetings will be held from 9:00 am -11:00 am at the Indiana Office of Court Services.

Teleconferencing will be an option if available.