



WINNEBAGO COUNTY

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CRIMINAL JUSTICE COORDINATING COUNCIL (CJCC)

Meeting Minutes

County Administration Building
404 Elm Street, Room 303
Rockford, IL 61101

Wednesday, September 13, 2023
3:00 – 5:00 pm

- I. Members Present:** Joe Chiarelli, Winnebago County; Nick Zimmerman, Winnebago County Public Defenders Officer; J. Hanley, Winnebago County State's Attorney's Office; Tom Jakeway, 17th Circuit Court; Debbie Jarvis, Winnebago County, Court Services; John Lowry, 17th Circuit Court; Ron DeWald, U.S. Attorney's Office; Carla Redd, Rockford Police Department.

Others Present: Rick Ciganek, Winnebago County, Sheriff's Dept; Lorraine Dixon, Winnebago County, RIC; Jodi GeRue, Winnebago County, Dept. of Probation; Pat Thompson, Winnebago County; Marlana Dokken, Winnebago County; Dave Olson, Loyola University; Patrick Griffen, Loyola University; Rob Lukowski, Jail; Anna, Loyola University; Elena, Loyola University, Ali Friend, SAO; Taryn Marko, Juvenile Probation; Tom Lawson, 17th Circuit Court;

The meeting was called to order by Chairman Chief Judge John Lowry with a quorum present.

II. Approval of Minutes

Chairman Chief Judge Lowry called for a motion to accept the June 7, 2023 minutes as presented. Motion made by Mayor McNamara and Chairman Chiarelli seconded the motion. The motion was unanimously approved by a voice vote.

III. Introductions

Chief Judge Lowry made introductions. Brian Townsend, Illinois Department of Corrections was welcomed and expressed appreciation working with Winnebago County and Lt. Fernandez. Judge Lowry reported inviting Judge Maher who presides over the courtroom of the Criminal Justice Center to attend today's meeting.



WINNEBAGO COUNTY

— ILLINOIS —

IV. Program

a. PFA Judicial Work Group Team Introduction / PFA Implementation Overview

Judges Schafer, Gibbons, and Clifford each gave an overview of the PFA implementation. Judge Schafer addressed the Council in 2022 on the PFA before the Trailer bill passed on detainable offenses. After the Trailer bill passed, there were significantly more offenses in the detainable offenses category under the dangerousness standard addressing concerns in the original list. An updated list was created and shared with the judges and others. Many forms had references to bail, requiring updates. There are new procedures with the PFA, including detention hearings and petitions to revoke pretrial release using terms that haven't been used before. With petition to revoke pretrial release we are thinking about motions to increase bond. It has the same factors to consider but with different burdens of proof and different language used. Always starting with presumption, the legislature wants people to be released on pretrial release pending trial, with the presumption for release. Judge Schafer has been working on preparations for detention hearings requiring staffing challenges but believes it is managed at this time. A lot of training has been held for attorneys and others to what the PFA is and believes we will be ready.

Judge Lowry introduced Judge Clifford, Chair of the Illinois Supreme Court Committee on Human Trafficking and Domestic Violence who will give an overview on Orders of Protection of the PFA and discuss what happens to those in custody for non-detainable offenses.

Judge Clifford discussed the end of cash bail effective, September 18, 2023 and the Trailer bill clarifying the effect on the court system and if it is being interpreted correctly and noted the Appellate Court will advise if it is interpreted incorrectly. People currently out of custody on bond will remain out of custody on bond. The state has the ability to file a petition to detain these people but their money will continue to be held and this is outlined in the statute. The state might file if someone violates their bond, a motion for sanctions or a motion to revoke their pretrial release if they are not following the conditions of what we used to call bail. Persons still held in custody with a bond can continue to be held with a bond. They have an option to file a motion to reconsider conditions of pretrial release. A person currently in custody can file the motion through their attorney that would come before the judge. This is different from the detention hearing but judges are interpreting it at this point that people should no longer be held if money is an issue. Much like not holding a person under the PFA because they needed a SCRAM device and couldn't afford one, the court would have to reconsider that. We are reconsidering that and looking at whether there are any conditions of pretrial release to make sure the person will return to court and the person and community is safe. A motion can be filed and there is a hearing depending on the charge. If charged with a detainable offense, the court has 90 days to hold the hearing, if charged with an offense, detained due to what is called willful flight, the court has 60 days to hold the hearing, if held for a non-detainable offense it is 7 days to hold the hearing. It is important to have this in the statute as this courtroom in particular, has a very high volume of domestic violence of in



WINNEBAGO COUNTY

ILLINOIS

custody defendants so the court needs the ability to schedule and hold the hearings and allow the state to answer those. At the hearing, it's not really defined under the law, it would be like a conditions of release hearing to look to the state to show by clear and convincing evidence what pretrial release conditions are necessary to assure the appearance of the defendant in court, assure the safety of a person or community and likelihood of the defendant to comply with pretrial release. There is no monetary amount that is being considered. If they opt in to the PFA, they are either detained or not detained. Judge Clifford is working with the committee on Criminal Orders of Protection, the statute allows for a victim to come to court and get an Order of Protection, including Saturdays. With tremendous help from the State's Attorney's office, a victim services person was hired who contacts victims every morning to let them know what is going on with their case and advise them where to go to obtain an Order of Protection. The Clerk's office, Ali Friend in the State's Attorney office and Robin Bach, Circuit Clerk's office have been tremendous partners who have the most can do attitude as well as Nicole Ticknor, Child Court Administration. Between them they came up with a proposal for Monday through Friday to remain much like it is although there is concern for the judge in the initial appearance court having too much to do. Judge Gibbons will be in Courtroom A, Judge Paccagnini is in B and Judge Clifford in C and will take the Criminal Orders of Protection if victims are showing up. If there is the need for a Criminal Order of Protection on a Saturday, the plan is for the victim to come in at 1 pm and the judge will handle the Order of Protection before we start the call to help the Clerk's office not needing an Orders of Protection clerk the full day. After that time period, the court is working with Remedies for all hours of the day to obtain Orders of Protection. To the victim to obtain an order of protection on a Saturday is of huge importance. Judge Clifford thanked Judge Lowry's leadership and everyone who helped make this possible.

Judge Lowry introduced Judge Gibbons and stated he will discuss preparations and the new courtroom. Judge Lowry advised Judge Gibbons took it upon himself a year and a half ago, for the PFA process, to start making action item lists, digging deep on issues, creating work sheets and other things leading to the creation of the Benchbook, that includes all the pertinent statutes, bench cards, indexes, tabs and all other materials.

Judge Gibbons thanked the Council and echoed what others have said about the process and the challenges. A year ago, there were significant challenges, new responsibilities and rules. He advised expecting to learn new things moving forward and expects changes after this starts. There will be Appellate decisions that will give further guidance because there are a lot of ambiguities with the law that were not rectified by the amendments. As heard in other meetings, there are staffing issues because most of this was an unfunded mandate putting a lot of responsibilities on our justice partners. The Benchbook was compiled by Judge Gibbons but everyone in the work group contributed and reviewed the book with the Council. Over the last two years, a game plan was put in place, with walk throughs, dry runs, and modifications to almost every single tab in the book multiple times. Judge Schafer created forms to use and orders with some that have been already incorporated state wide and most should be incorporated statewide as a template. A new Notice to Appear Call was created because of the challenges imposed.



WINNEBAGO COUNTY

ILLINOIS

The Act itself will create more Notices to Appear with less people lodged in jail, more people will be issued Notices to Appear for charges, consequently creating the need for a dedicated call for the Notices to Appear. Currently these cases are set in Courtroom B during Bond court once a week, the Bond court call will change the initial appearance call and be much heavier especially with the addition of detention hearings which could go past 5 pm and weekends. There was a need to get the call to a dedicated place, a more user and public friendly place to hold that call. When someone is currently lodged in jail, they are processed, identified, live scanned and finger printed in the jail. Now with Notices to Appear less people will go through this process, so when they return, they will come back for the initial Notice to Appear in court and need to be live scanned. The numbers will go way up so to accommodate the increase, it was determined the best facility to utilize was Courtroom 125, a much larger courtroom. This courtroom is used for traffic calls and eviction calls, the heaviest calls in the 17th Circuit, and thought it appropriate because it is anticipated to have very high Notice to Appear calls. Live scanning requires having the machine in the room or a dedicated area for corrections to live scan individuals as they come through. An immense number of requests were directed toward the Sheriff's Dept., Public Defender, the State and the Clerk's office about the increased need for staffing. The Public Defender staffed that call, whereas there usually wasn't someone in courtroom 125, but more staffing is required based on the statute that allows someone to have a Public Defender at their initial court appearance even when out of custody on a non-retainable offense. The new call we are creating will require the State's Attorney to have a prosecutor, additional clerks, additional bailiffs, and other persons to be present for the call. Most significant is the Sheriff's Dept., Captain Lukowski and his department was recognized for going above and beyond for giving suggestions and advice to make everything as user friendly as possible for the public to ensure people are identified who are issued a Notice to Appear. Captain Lukowski changed the live scanning operations based on their needs and created a room in courtroom 125 for people to go through in expeditious fashion to have live scanning done and get them out the door as quickly as possible. The courtroom that has been developed has been a study in efficiencies and is now at the streamlined stage for people to go through their initial appearance in short order. The PFA has put a bigger focus on conditions of pretrial release and when all individuals are in one central place in a short return time, we are able to consider what are appropriate conditions of release for these individuals so they don't have to wait 28 days, now those returns will be between 7-21 days. This will be helpful for ensuring the conditions of release are appropriately given to individuals, just one example of the collaborative effort between all the stakeholders to address a need we didn't have to deal with before. Judge Gibbons thanked everyone for their help in collaborating with the Courts and advised if there are questions to the PFA and the Court's response, the department can be contacted anytime to discuss.

b. **Captain Rob Lukowski, WCSP Department of Corrections: PFA Readiness**

Captain Lukowski, reported the challenges of each department became the challenges of all the departments with everyone working together for answers. Captain Lukowski spoke on how the PFA will affect Corrections and what has been accomplished.



WINNEBAGO COUNTY

ILLINOIS

Effective with the PFA, anyone incarcerated needs to file a motion to be released. Officers are not to give legal advice to those in jail. Those currently in jail can contact counsel to file the motion and have the right to post bond so will continue to take bonds in the interim. Category B charges (lower-level misdemeanor receive credit of \$30 per day that will continue to accrue until September 18) as of September 18 will be null and void. After meeting with judges, the bond form will be modified.

Everyone is eligible for pretrial release and estimate 30 detainees being held on non-detainable charges with the other 140 favorable for possible pretrial release. Effective September 13, any original warrants are returnable to courtroom 125. The PFA requires an individual cannot be detained for a period longer than 5 days after arrest and entitled to a hearing on whether conditions of release exist and reasonably assure their appearance in court and public safety. As mentioned by Judge Gibbons, the intake process was moved to Courtroom 125 with the live scan machine.

Lt. Lukowski reviewed the conditions for release and what is included in the Notice to Appear. There is documentation upon arrival of a detainee for all aspects of the process. They receive the right to three phone calls, tracked through the GTL system, if they refuse the opportunity the refusals are documented. For the first six months, the Illinois Supreme Court issued an order allowing video to be used in place of in person that will help in some of the cases. Saturday court provides six to seven months already in person and continues to do so. Pretrial services turned the classification unit into an internet café to allow up to eight on a Zoom call at one time which has helped pretrial services and the public defender utilized as well. They have to meet with clients prior to being arraigned. Charging documents are needed in real time, prior to this the necessary agencies were receiving them at 5 am. Early on for all depts, documents were scanned right away in a folder once booking was complete. One of the best things for the County was that the PFA has improved working conditions overall, improved efficiency, exposed issues in other departments to change processes to better serve the entire county.

c. **Dave Olson, PhD, Loyola University Chicago Criminal Justice and Criminology and Center for Criminal Justice Research: Winnebago County IDOC Sentence Update**

Dave Olson discussed felony case filings in Winnebago County. Felony offenses have been falling consistently the last 10 years. Last year approximately 3,000 were filed and showed comparisons with the rest of the state. When considering all criminal cases filed in the County, he noted how many are felony offenses, misdemeanors, domestic violence charges and how many are DUI's. Dave Olson reviewed the distribution and numbers in 2022 outside of Winnebago and Cook Counties. This is the first year AIOC collected data specifically on domestic violence cases filed, previously included in misdemeanors and felonies. The percentage of criminal cases is lower than the statewide average. Over the last decade the percentage convicted of felony going to prison has dropped, 40 percent in 2013 and 30 percent in 2022. Fewer felony cases were filed and of those resulting in conviction a smaller share went to the Department of Corrections. In comparison,



WINNEBAGO COUNTY

— ILLINOIS —

Winnebago County is almost identical to the rest of the state. 2008 saw over 900 people a year being sentenced to the Department of Corrections, the last few years it has been 400-500, almost half. When looking at what percentage of those people going to prison were convicted of a violent offense, the number in 2004 was about 1 in 4 in Winnebago County, last year it was closer to 16 percent. The nature of the charges for which people are going to prison has changed dramatically the last 10-15 years. Again, thinking about a smaller percentage of people convicted of felony going to prison, it reflects people charged with nonviolent crimes. For violent offenses, how the IL Department of Corrections categorizes and considers violent offenses are the normal offenses, but also includes illegal possession of a firearm. If illegal possession of a firearm offense is removed from violent offenses we get assault, battery, rape, etc. In 2004 only 20 percent going to prison were convicted of a violent crime, in 2023 it was around 40 percent.

Overall, violent crime has seen a period of decrease in Winnebago County. Despite the fact of a smaller share of convicted felons, the violent crime rate has continued to go down the last two years is an anomaly with spikes in homicides, shootings, etc. This is illustrated in the incarceration rate not corresponding to the rate of violence. In 2020-2021 there was a drop in admissions, drop in arrests and cases going thru the courts and a period of time when you could not be admitted to the Illinois Department of Corrections due to Covid. Since 2021, more people sent to prison indicates less of these people are committing violent crimes because of the downward trend. There was a big drop in 2021, but a larger percent sentenced on violent charges may be due to Covid. It was noted that less crimes are considered crimes of violence. A review of Class felonies followed with details on length of sentences, average time spent in custody and credit for good behavior and other ways to reduce sentences. Under the PFA a lot of people in the categories will no longer be eligible for detention or pretrial detention credit.

The Safety Act changed the length of time people released from prison are supervised in the community, how long they are supervised is set by state statute by the Illinois General assembly dictated by the felony class. The Safety Act reduced the amount of time to be supervised, but not for murder. Dave Olson reviewed the statistics for those released in the last several years and conditions of release. The implications are a shorter length of time to supervise motivate and provide treatment and services. Dave reviewed details and shared statistics of those on supervision violating conditions of release, ordered to return to prison and other factors for violation of release.

Judge Lowry introduced Judge Maher, presiding Judge of the Criminal Division. Judge Maher gave a brief background of his work history.

V. Reports



WINNEBAGO COUNTY

— ILLINOIS —

a. Legislative Updates

- Senate Bill 1463 passed eliminating nearly all court fines and fees for juveniles except for restitution.
- A new law, Public Act 103-0178 effective January 2024, ends solitary confinement for juveniles for any purpose other than preventing immediate physical harm. Juveniles can be confined for brief intervals for up to 15 mins without special circumstances.
- In January 2024, a new law creates new factors for the courts to consider on whether to transfer minors from Juvenile to Adult court
- New sentencing factors to consider when sentencing a minor in Juvenile court. That includes involvement from the child welfare system, whether they have had a history of domestic or sexual violence or exploitation, and any comprehensive mental health evaluation conducted by mental health professional and the judge must specify the record in consideration of those factors when sentencing minors involved in court.

b. Department Updates / Reports

Judge Lowry thanked committee members for their reports and asked for any committee member oral report or an update.

- Point System - There are no updates on the statewide point system at this time. Winnebago County offered to be a pilot site but was not accepted. There are no new developments. Discussion followed.

VI. Other Matters – The next CJCC meeting will be Wednesday, December 13, 2023.

VII. Adjournment