

County-State Collaboration

in Building High-Functioning
Pretrial Systems

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NACo



As counties and states across the nation work to make their pretrial justice systems fairer and more effective, many jurisdictions are realizing that intergovernmental coordination is necessary to have the greatest impact. While county and state justice systems are technically separate in most states, they are in reality intertwined in many ways, and changes implemented at the state level—such as statewide legislation or a constitutional amendment—can greatly affect local justice systems. “Bi-directional” buy-in is necessary for long-term change: States and counties need to work together to develop and implement a plan, policies and programs that create an effective pretrial justice system.

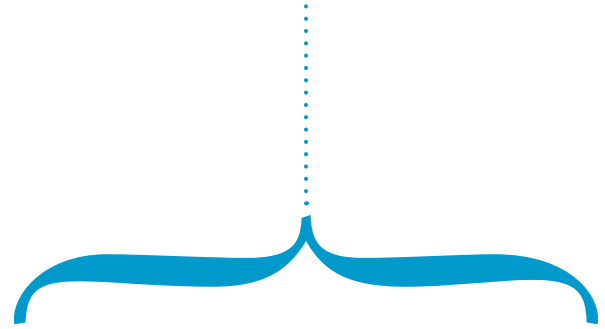
The National Association of Counties (NACo) and the National Institute of Corrections (NIC) convened a meeting in April 2017 of teams from Indiana and Wisconsin, two states participating in NIC’s Evidence-Based Decision Making (EBDM) Initiative. The goal of EBDM is to equip local and state policymakers with information, processes and tools that will result in measurable reductions of pretrial misconduct, post-conviction reoffending and other forms of community harm resulting from crime.¹ The foundation of this Initiative is that local and state policymakers and criminal justice staff work together collaboratively to identify issues and opportunities and to develop solutions that work at both levels of government. This report details core elements that led to success in Indiana and Wisconsin’s EBDM Initiative work and that can be applied by any jurisdiction seeking to enhance pretrial justice in their county and state.

Assess the Landscape at the Local and State Level

CREATE A COMPREHENSIVE TEAM²

Before beginning any steps to plan for and implement pretrial justice improvements, leaders must examine what is currently happening in their pretrial system. It is critically important that an inclusive group of stakeholders who are responsible for pretrial decision making come together to share, discuss and eventually fully understand how pretrial decisions are made at the county and/or state level. Because pretrial decisions are a part of the broader criminal justice system that affects all stakeholders, wide representation in this assessment is key. “When you’re talking about collaboration on a project, pretrial is a point that really screams for attention,” says Nick Sayner, executive director of JusticePoint, Inc., and member of Wisconsin’s State EBDM Policy Team and Milwaukee County’s EBDM Team. “Courts, public defenders, prosecutors, sheriffs, law enforcement, county leaders, and more—they’re all impacted by the pretrial system.”

Involving all stakeholders is essential to ensuring that teams identify problems and solutions that will work for all involved. These stakeholders will bring information and viewpoints unique to their position, not just to the policy team but also back to their agency colleagues not on the team. The justice system is made up of many distinct programs and agencies and stakeholders may know very little about work outside their “silos”—having team members that can act as liaisons between their agencies



Grant County, Ind. EBDM Team Members:

- felony court judges
- the county prosecutor
- the jail administrator
- a police chief
- the victim advocate from the prosecutor’s office
- the director of county correctional services
- the director of community corrections
- the chief public defender
- representatives from the county fiscal body
- a mental health agency representative
- representative from the state judicial conference
- the director of community programs at the Indiana Department of Corrections

and the pretrial team helps keep all stakeholders informed about the team’s work and goals. For example, a county may be successfully using an evidence-based, validated pretrial risk assessment on all individuals booked into the jail but judges may not feel comfortable releasing certain eligible individuals because there are not enough supervision options in the community, or prosecutors may not have a clear understanding of how their bail recommendations impact jail populations. If, for example, the team includes voices that can share what resources would be necessary to develop options to safely allow for pretrial releases, it is much more likely that solutions will be created that work for all stakeholders.

County teams should include all relevant stakeholders—those who affect or are affected by pretrial practices and policies. Policy team members should be individuals with “positional power to create change within their own agencies and organizations.”³ Such representatives at the local level can include a county commissioner, county manager, chief judge, chief public defender, chief prosecutor, sheriff, jail and/or community corrections administrator, community service providers, pretrial services director, victim advocates, community representatives and any others relevant to the particular jurisdiction. For an example of critical participants, see the box detailing Grant County’s team members.



State teams should include representatives from all branches of the statewide justice system, several representatives that can speak to the local justice perspective (such as someone from the state's association of counties, or individuals from a large, urban county and a small, rural county), representatives from related systems such as health and human services, treatment and service providers and community members.

MAP YOUR SYSTEM⁴

Once a comprehensive set of stakeholders is convened, the teams should engage in system mapping. System mapping is the process of building a comprehensive visualization of key decisions that are made along the criminal justice continuum, from initial police contact to reentry back into the community and case termination. In addition to displaying the key criminal justice decision points, the system map should also include key decision makers at each point and begin with the examination of the amount of time it takes a case to move from point to point.⁵ Ideally the map will also indicate the volume of cases that flow through each decision point. Teams can come together as a whole to develop the system map over a full day or two, or work groups can be formed around each decision point to construct the map piece by piece. To learn more about creating a system map, visit <https://info.nicic.gov/ebdm/node/68>.

This type of deep dive examination of every element of the justice system is a critical first step to achieving a solid understanding of what works in your jurisdiction and what can be improved. "I initially thought system mapping was silly—I thought, 'I've worked

here for decades, I know how our system works,'" says Judge Jeffrey Kremers, Milwaukee County Circuit Court. "That turned out to not be true at all. I found out an awful lot about who's doing what and how our system really works."

After the system map is complete, a more in-depth analysis of each decision point should be completed, including an examination of written policies, how those policies are applied to practice, other operational practices not formally articulated in written policy, data and information collected, how data and information inform decisions, how data and information is stored and shared and other topics deemed important by your jurisdiction.⁶

System mapping not only helps assess how a criminal justice system works, but also identifies areas of interest for criminal justice system improvements. For an individual county, a system map will show how all the different criminal justice intercept points impact or are impacted by the pretrial system decisions and services. For a state, system mapping will likely highlight the differences among individual counties' pretrial systems. "State teams examined efforts across all the criminal justice decision points. In some cases, they discovered policies and practices about which they were unaware; in other cases, the system mapping revealed certain activities that were presumed to be happening in a certain way that ultimately were not borne out," says Mimi Carter, principal at the Center for Effective Public Policy. "It also led to a recognition that in some areas of work, similarity in approach across counties would be of benefit," such as the use of consistent or comparable pretrial risk assessment tools across counties.

Engage in Planning with Local and State Partners

ENSURE COUNTY REPRESENTATION ON STATE TEAMS AND VICE VERSA

Policy teams should be created at both the county and state levels. County teams should include at least one representative from the state justice system while state teams should include at least one representative that can speak to the local justice perspective (as described previously). These stakeholders will provide unique information about and perspectives on the pretrial justice system. State participation in county teams and county participation in state teams will likely result in the discovery of new ways in which these systems are intertwined and dependent on each other to reach their criminal justice goals.

In both Indiana and Wisconsin, a representative from the state policy team attends each county team's meetings once a month, which participants feel has greatly improved communication. "To have the state's ear at the table and to have them take our ideas, successes and challenges back to the state level has brought huge opportunities," says Rose Baier, criminal justice coordinating council coordinator for Chippewa County, Wis.

Cross-jurisdictional representation can also guard against teams setting policies or goals that will be hindered by regulations or other circumstances beyond their control. For example, Grant County, Ind., had a representative on Indiana's statewide EBDM policy team, which provided leaders with a perspective on statewide barriers that would impact their ability to implement pretrial changes at the local level.

ESTABLISH A PROCESS TO SHARE INFORMATION AMONG TEAMS

As county teams and the state team work through their planning and implementation processes, ongoing dialogue across these teams will increase learning and successes. Because jurisdictions

will all start from different points and focus on different elements, each county will have valuable information to offer to others and to the state. What one county is struggling with another may have successfully found a solution to—having a set process to allow for sharing of lessons learned and successful strategies can accelerate improvements in policy and practice. In Indiana and Wisconsin, participants have found that the statewide team serves as an effective facilitator for sharing information among teams. Because the statewide team both includes members from counties and regularly engages with all county teams, it can be an efficient central repository of questions, answers and information. For example, Beth Robinson, alternative treatment coordinator in Outagamie County, Wis., explains that having a state team representative attend their county team meetings has led to much clearer communication and better knowledge sharing. "It really helps to all be in the same room," she says. "Having a state team person at our meetings to share is so much better than locals trying to read meeting minutes and determine what really happened."

DEVELOP A SHARED LANGUAGE

Another critically important step in the collaboration process is developing a common language that can be used by all partners to discuss the system and its components. This process will likely involve many conversations among all stakeholders, to get everyone on the same page as to why the county and/or state is undertaking this project and what the county/state wants to achieve.

Creating a common language includes developing consistent definitions for terms that are used by county and state teams. Consistent use of terms by all stakeholders not only ensures that communication is clear, but also means that data stored and collected in different systems can be matched and analyzed and that outcomes can be evaluated. For example, developing a standard definition of "recidivism"—does this mean percentage of supervised defendants who are not charged with a new offense

County Elected Officials' Role in Building High-Functioning Pretrial Systems

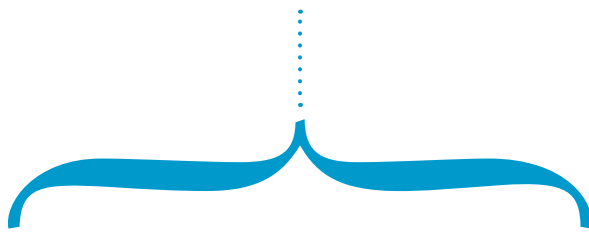
County elected officials play a key role in allocating funding for pretrial programs, leveraging existing resources and forging collaborative partnerships with agencies important to the pretrial justice system, such as behavioral health, housing, health and social services. County leaders will also benefit from learning about evidence-based pretrial programs and legal arguments for improved pretrial systems—this knowledge will help ensure that funding allocations and other decisions support methods proven to increase public safety and more effectively use resources.

Local officials can make pretrial reform a top governmental priority and garner support from and bring together necessary stakeholders. Leaders can informally set a tone that encourages collaboration across agencies and programs, which can enhance information sharing and lead to more effective use of resources, and can make collaborative planning a part of the official working agenda, such as by mandating the creation of teams as described in this document. County elected officials are also important messengers about the impact of pretrial improvements, particularly by educating residents as to how effective pretrial systems meet the dual goals of protecting public safety and efficiently using taxpayer dollars.

during the pretrial stage, not arrested during this stage, not convicted of a new offense during this stage, or something else?—will ensure that team members and system partners are better equipped to meaningfully share information about this measure and perhaps better target resources and services. Shared definitions are a key step in being able to determine the size of the problem facing the pretrial system and to clearly articulate what approaches and strategies the policy team suggests to address the issue.⁷ Collecting data on a problem that has been defined using a common language provides not only baseline data⁸ for knowing the starting point, but also for monitoring progress and evaluating the outcomes⁹ of the collaboration's effort.¹⁰

DEVELOP A SHARED VISION¹¹

Just as important as developing a shared language is deciding on a collective vision of outcomes and goals. Team members should identify what their objectives are and how they will define success. Before deciding on any action steps, teams must determine the goal(s) for their efforts. Setting a wide-ranging, overarching goal as the initial step can be an effective method for bringing team members together around a common purpose. For example, Tom Reed, vice chair of the Milwaukee County Community Justice Council, notes that their team found success by looking at the criminal justice system as a whole and its negative impacts on individuals and communities. “We can build consensus around the idea that we owe it to people to do this work in a way that reduces harm,” he says. “We came together and realized that the system does a lot of harm and we’re not achieving the types of outcomes we want, that the status quo is not acceptable. Agreeing that this work is about reducing the amount of harm was a real catalyst.” Starting with a focus on the criminal justice system as a whole can also help to break team members out of their individual agency viewpoints and silos and orient them to the work other team members and agencies do.



Jurisdictions should not let a lack of “good” data stop them from beginning a pretrial improvement planning process. Teams in Indiana and Wisconsin realized that while data is a critical element of developing and implementing a high-functioning pretrial system, they could examine the preliminary data they did have and use that information as a starting point. Teams did what they could with their initial imperfect data and continue to build on it and gather more and better data as their work progresses. Any county can be proactive and begin to examine its system with existing data.

Implement Change Strategies

DETERMINE POLICIES AND PROGRAMS NEEDED TO ACHIEVE THE VISION¹²

Once the team has agreed on its vision, the next step is to determine how the jurisdiction will successfully reach those objectives. This of course requires analysis of current policy and practice, as well as existing resources that support the vision the policy team has identified. Teams must also educate themselves about evidence-based practices and policies to understand what this research says and how it can be implemented in their jurisdiction. Teams should then identify current or future barriers, as well as resources that are not being used efficiently and may be reinvested more effectively. Once this analysis is complete, the team should identify its goals and decide which policies and practices will continue and which will be modified or ended, as well as what outcomes are desired from the policies and practices that will be implemented moving forward.

DEVELOP CLEAR GUIDANCE TO ASSIST AGENCIES AND JURISDICTIONS

Agencies and organizations tasked with continuing or developing pretrial programs and policies need well-defined parameters and direction. County teams should make sure all stakeholders are clear on the many aspects of program implementation, including who is responsible for what, anticipated timing for all steps/processes, what specific outputs and outcomes are expected, when outputs and outcomes will be measured, what data elements should be tracked and analyzed, etc.

Based on the findings from county and statewide system mapping, as well as ongoing conversations with many stakeholders, the Wisconsin and Indiana state teams found that creating a “template” for a pretrial program can be very helpful for counties seeking to improve their pretrial systems. The EBDM Initiative requires a fair amount of research by a jurisdiction, which many counties do not have the resources to undertake. By providing counties with a research-based template for pretrial improvements, which indicates what a program can or should



look like but can be modified based on each jurisdiction's specific needs, the state teams have provided an evidence-based starting point that also allows for necessary flexibility. For example, all counties ideally would have the same or similar release practices, which promote justice system fairness, and have the same or similar data definitions and collection practices, which promote effective evaluation of pretrial practices and outcomes. Local variations would be appropriate—and sometimes necessary—in terms of who completes the risk assessment or types of release conditions available in a jurisdiction, for example.

PROVIDE ONGOING SUPPORT FOR POLICIES AND PROGRAMS

The EBDM pretrial planning process results in team members being aligned with desired outcomes and goals—and what specific programs and policies need to be in place to achieve these objectives—and will identify existing resources, opportunities for new or additional resources and gaps in resources. In nearly every jurisdiction, how to pay for these desired services will be one of the biggest concerns. And because pretrial changes will have an impact on and require assistance from many parts of the criminal justice system—from law enforcement to the courts to the jail—funding and resource decisions should be made with

such connections in mind. “A county can have the best risk assessment in the world and it suggests a person is appropriate for release pretrial, but if your county doesn’t have the resources to provide monitoring and services, it’s not really okay to let them out,” says Judge Kremers. “It has to be a partnership between the county board or commission, agencies, state players and others to figure out how to pay for it.”

Outputs and outcomes of programs and policies should be reexamined regularly, to ensure that they are resulting in desired goals and that adjustments can be made as necessary. As pretrial systems and programs undergo change, leaders may also be able to shift or reallocate funds or resources from one area of the justice system to another. Reallocations may be possible thanks to cost savings arising from things like reduced jail populations or from cost avoidance, such as a planned-for jail expansion no longer being necessary due to the implementation of more effective pretrial supervision strategies. Teams and county/state leaders may also find that it’s necessary to modify one of their pretrial programs or processes based on data or other feedback, which is to be expected. Regular monitoring of progress will help all participants stay focused on desired outcomes and goals and keep the pretrial justice system moving in the right direction.



End Notes

- ¹ See the NIC’s EBDM home page: <https://info.nicic.gov/ebdm/?q=node/8>.
- ² For guidance on forming a policy team see The EBDM Starter Kit, Activity 1: <https://info.nicic.gov/ebdm/node/41>.
- ³ See The EBDM Starter Kit, Activity 1: <https://info.nicic.gov/ebdm/node/41>.
- ⁴ See Developing a System Map in NIC’s EBDM Starter Kit: <https://info.nicic.gov/ebdm/node/68>.
- ⁵ See Developing a System Map in NIC’s EBDM Starter Kit: <https://info.nicic.gov/ebdm/node/68>.
- ⁶ See Conducting a Policy and Practice Analysis: <https://info.nicic.gov/ebdm/node/69>.
- ⁷ See *Getting It Right: Collaborative Problem Solving for Criminal Justice*: <https://nicic.gov/library/019834>.
- ⁸ See Gathering Baseline Data: <https://info.nicic.gov/ebdm/node/71>.
- ⁹ See Measuring Your Performance: <https://info.nicic.gov/ebdm/node/77>.
- ¹⁰ See *Getting It Right: Collaborative Problem Solving for Criminal Justice*: <https://nicic.gov/library/019834>.
- ¹¹ See Creating a Vision for your Policy Team: <https://info.nicic.gov/ebdm/node/51>.
- ¹² See Prioritizing Your Team’s Targets for Change: <https://info.nicic.gov/ebdm/node/72>.

{ NIC EBDM Sites



INDIANA

- Allen County
- Bartholomew County
- Grant County
- Hamilton County
- Hendricks County
- Jefferson County
- Monroe County
- Porter County
- St. Joseph County
- Starke County
- Tipton County
- State EBDM Policy Team



VIRGINIA

- Albemarle County/
Charlottesville
- Chesterfield/Colonial Heights
- Norfolk
- Petersburg
- Prince William County/
Manassas/Manassas Park
- Richmond
- Staunton/Augusta County/
Waynesboro
- State EBDM Policy Team



WISCONSIN

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