



Counties look to take next step with evidenced-based decision-making

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Tom Reed, regional attorney manager for the State Public Defender's Milwaukee Trial Office, has been working with others in Milwaukee County to use evidence-based decision-making, which is based on social-science research, to reduce recidivism. (Staff photos by Kevin Harnack)

Wisconsin is waiting to see whether it will get more support for a system that uses data and research to change common justice-system practices in a way meant to reduce recidivism rates and produce other desirable outcomes.

The system, known as evidence-based decision-making, is being used more and more often in attempts to predict the likelihood of recidivism and other behaviors. So far, eight counties in Wisconsin have received support for their use of the program, which is sponsored by the National Institute of Corrections, a government agency, and The Center for Effective Public Policy, a non-profit group.

The support has primarily come in two forms: experts who have been sent in to help the eight counties use the system and money to train Wisconsin officials in evidence-based decision-making, said Tommy Gubbin, special-projects coordinator for the state courts.

Gubbin was part of a team enlisted in 2013 to expand the use of evidence-based decision-making at the state level. Two years later, the team helped bring evidence-based decision-making to La Crosse, Chippewa, Marathon, Outagamie, Rock and Waukesha counties.

With those landmarks behind them, Gubbin and his team will next attempt to tie the six counties' efforts into what is being done with evidence-based decision-making in Milwaukee and Eau Claire counties, where the program got its start about six years ago. Wisconsin officials applied for approval of that step in July and expect to find out in September whether the National Institute of Corrections will continue to support the state's work.

Tom Reed, regional attorney manager for the State Public Defender's Milwaukee Trial Office, said the goal is both to reinforce the work already done in the six counties outside Milwaukee and Eau Claire and help Milwaukee County officials learn from their counterparts' experiences.

"It will take a longer view of where we want to go," Reed said. "But it will never be mandatory for a county to participate."



Some of the best results have come from steps such as screening offenders when they are being booked and using a voluntary questionnaire to identify any needs the person has. The screenings are meant to gauge how likely a suspect might be to try to skip bail. Because holding someone in custody is expensive, authorities are eager to release people who can be trusted to come to court at the appointed time.

Ultimately, Reed said, the county was trying to ascertain things like whether offenders have stable home lives. But many of the factors they were taking into account turned out to have little bearing on a person's chances of showing up in court.

Reed said the resulting changes to what Milwaukee County officials take into account in evidence-based decision-making have helped drive down the recidivism rate for local offenders. But much remains to be done.

"It's a work in progress," said Reed. "No one is declaring victory down here. We think we're on a path that will have much more effective outcomes in the criminal justice system."

Even with its successes, the system is not without critics.

One misconception Reed said he has encountered throughout the years stems from the belief that evidence-based decision-making eliminates any need for independent judgment.

"No one is saying you should use these risk tools as an absolute prediction for what someone is going to do, so that can lead you to believe none of it makes any difference," Reed said.

To a certain extent, the Wisconsin Supreme Court recently attempted to rebut that notion using a decision that drew attention to a sometimes criticized component of the system: risk scores, which are an assessment of the likelihood that a particular person will re-offend. Risk scores appear in pre-sentencing reports that are provided to judges.

The Supreme Court's decision came in a case involving Eric Loomis, a La Crosse man who had appealed his sentence of six years in jail and five years of supervision for charges including eluding an officer and stealing a car. Loomis alleged that the risk score that was used to gauge his chances of recidivism had violated his due-process rights because he could not examine its accuracy and because it took in account his sex.

The justices, however, unanimously denied Loomis' appeal, finding that judges may consider the risk score as long as it does not become the only dispositive factor in a particular sentencing decision.

Regardless of whether Wisconsin receives more support from National Institute of Corrections, evidence-based decision-making is here to stay. Gubbin says all six Wisconsin counties that joined the fold in 2015 are committed to continuing with the system.

Also, Gubbin and his team are developing resources and training to support counties that want to give evidence-based decision-making a try.

"The law is a conservative institution, not in a political sense, but in the sense that it is slow to change," Reed said. "And up to a point that is an important role. Stability lets people plan for things. ... It really is not just to not try to use modern tools. That's just very short-sighted."



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