

## Krohn, Margaret

---

**From:** Clark Rodgers <Clark.Rodgers@WICOURTS.GOV>  
**Sent:** Friday, October 23, 2020 4:30 PM  
**To:** Esqueda, Carlo; Kerry K. Widish; 'Sonia Kurhajetz'; Bayrd, Carousel; Krohn, Margaret; Thomas COC, Maggie; Rodgers, Clark  
**Subject:** Personnel and Finance Committee meeting letter for 10-28-2020 hearing Agenda Item #B3  
**Attachments:** Personnel-Finance Committee 10-23-2020.docx

CAUTION: External Email - Beware of unknown links and attachments. Contact Helpdesk at 266-4440 if unsure

Agenda Item #B3

Letter in Support of Funding Pretrial Assessor positions

I have registered to give testimony at the 10-28-2020 hearing but would ask that this letter be considered as part of our record for the hearing.

Thank you.

Clark J. Rodgers  
Maggie E. Thomas  
Dane County Pretrial Assessors

**October 23, 2020**

**To:** Members of the Dane County Board of Supervisors  
Personnel and Finance Committee

**From:** Clark J. Rodgers and Maggie E. Thomas  
Dane County Pretrial Assessors

**Subject:** **Agenda item #B3 - Support for Restoring 2.0 FTE Pretrial Services Assessors (positions #3100 and #3058)**

Members of the Personnel and Finance Committee

We, Clark J. Rodgers and Maggie E. Thomas, are the two incumbent Dane County Pretrial Assessors affected by the planned cuts in the Dane County Clerk of Courts budget. Fortunately, on October 22, 2020, the Public Protection and Judiciary Committee voted on amendment PPJ-O-1 to restore funding for two FTE Pretrial Services Assessors (positions #3100 and #3058). By way of information, these cuts would eliminate funding for a program which we believe is vital to the interests of the Dane County Circuit Court and the interests of pretrial justice in Dane County. **We ask you to approve funding for our positions in the upcoming budget cycle.**

Pretrial justice is an important community resource which lends focus on system efforts to reduce unnecessary pretrial detention, the substantial financial costs associated with housing low risk defendants in the jail, and by extension takes steps to reducing systemic racism in the criminal justice system.

In Dane County, the Courts, the District Attorney, and the Office of the Public Defender are attempting to address unnecessary pretrial detention through the use of a Public Safety Assessment (PSA) and a Decision Making Framework (DMF) developed under a grant from Arnold Ventures (AV); formerly known as the Laura and John Arnold Foundation (LJAF). A review of the PSA-DMF is an ongoing project being conducted by the Access to Justice Lab (A2J Lab) at Harvard University. The assessment of data derived from the Dane County Public Safety Assessments will not be completed until the spring of 2022. The Pretrial Assessors in Dane County conducted the Public Safety Assessments which makes up the core of the data for the Access to Justice Lab project.

The PSA is a risk assessment instrument. It was developed through review of criminal history data, demographic data, new crimes, failures to appear (“FTA”), and other potential risk factors. The goal of the PSA is to use criminal history information (age is also used, but not race or gender) to produce scores ranking the level of risk an individual who has been arrested and held in pretrial

custody will fail to appear, be re-arrested for a new crime, or be arrested for a new violent crime after being released before trial.

The Public Safety Assessment (PSA) scores are applied to the Decision Making Framework (DMF), which brings together the information from the PSA with local policies and values, its laws, and its resources to provide a recommendation regarding pretrial release and, if released is used to set supervision level. Judicial officers use the PSA-DMF System in deciding whether to release an individual before trial. This decision rests always with the judicial officer. The PSA-DMF System is one tool in the toolbox that the judicial officer can draw upon in the exercise of their professional discretion.

As the two pretrial assessors in the Dane County Clerk of Courts, Maggie Thomas and I (Clark Rodgers) complete reviews of all new arrestees who have been coded as New Arrests (01); New Arrests with holds for other jurisdictions (01H) and New Arrests with probation holds (01P). The Public Safety Assessment was validated on these types of “New Arrest Cases.” To complete a PSA-DMF assessment, we review data from the Dane County Jail database (Spillman), run and analyze automated criminal records through statewide and national criminal records databases through PS Portal, review statewide and local Circuit Court Access Programs records, and insert this data into the PSA tool which generates the PSA scores. As part of this process, we also assess whether the charges should result in step increases under the Decision Making Framework. Step 2 or Step 4 increases in pretrial supervision recommendations apply in specific types of cases involving crimes of violence, use of firearms, stalking, violation of temporary restraining orders, kidnapping, and arson.

The Court Commissioners, Circuit Court Judges, Assistant District Attorneys, the Office of the Public Defender, and the defense bar all use the Public Safety Assessment to help guide their decision-making during court appearances. The Public Safety Assessment represents a rational approach to decision-making that attempts to reduce unnecessary detention by recommending pretrial release for individuals who present the lowest risk for non-appearance at future court appearances. The PSA is also used by the Dane County Pretrial Services Social Workers in setting a defendant’s pretrial supervision level.

The elimination of funding for our two positions will negatively impact the ability of the Court and the parties to have information that supports rational, objective, evidence-based decision-making about a defendant and reduce unnecessary detention. The loss of our positions will result in lower-risk defendants remaining in pretrial detention for longer periods of time. The loss of our program will create an exponentially larger drain on limited county funds through higher detention costs. It will also make it more difficult for the Dane County Pretrial Social Workers to set appropriate supervision level for defendants on pretrial release.

It goes without saying that the longer a person stays in jail the higher the costs to the county and the community. Unnecessary pretrial detention affects not just the county budget. It also has a negative effect on a defendant leading to instability in his/her family and with their children, creates increased potential for homelessness, unstable employment, weakens community ties and loss of jobs, weakens school involvements, and increased costs in the mental health and medical care. We believe our program has a part to play in reducing systemic racism.

Research has shown that defendants detained for the entirety of the pretrial stage were four times more likely to be sentenced to jail and are three times more likely to be sent to prison than defendants who were released on pretrial release. Often, defendants are sentenced to prison for terms three-times longer than defendants who were sentenced to jail. [See LJAF Research Summary- Pretrial Criminal Justice Research November 2013]

We know that pretrial detention is expensive. On a daily average, there are nearly 750,000 persons incarcerated in local jails across the United States. Nationwide, about 62 percent of the daily jail population are defendants detained pending trial. Many of these detainees are low risk defendants who if released are highly unlikely to commit other crimes and are more likely to return for future court hearings. Federal, State, and Local corrections costs in the United States exceed \$80 billion USD a year. According to an Arnold Ventures (AV) study, “the cost to incarcerate defendants pretrial has been estimated at over \$9 billion per year.

The use of Data, Analytics and Technology can transform the front-end of the criminal justice system by rationalizing decision-making and putting a focus on risk of non-appearance and risk of violence. “By making decisions in this manner, we can reduce crime, make wise use of public resources and make our system more just” Laura and John Arnold Foundation.(LJAF) Research Summary: Pretrial Criminal Justice Research). Dane County is one of less than 10 percent of U.S. jurisdictions that use any sort of pretrial risk assessment tool at the pretrial stage. In the almost four years that two Pretrial Assessors have been completing the PSA’s, we have generated almost 12,000 individual Public Safety Assessments for use in the Dane County Courts.

In conclusion, we believe that the role of the Public Safety Assessors is vital to the Dane County Courts and to the criminal justice system in Dane County and the State of Wisconsin. We are a small, two person, team with many years of experience in the criminal justice and pretrial justice systems. We remain committed to the mission statement we created at the start of our program: - *Making our community safer through data driven pretrial decision-making that is efficient, cost effective, and fair.*

What we do is important to the courts, the justice system, and the community. **We strongly request that funding of our two positions be returned to the Dane County Clerk of Courts budget so that we may continue our role in supporting the operations of the court system and reduce unnecessary detention.**

Maggie Thomas and I will be available by telephone and by Zoom during your session if anyone has questions about our work.

Thank you for your time and attention.

Sincerely,

Clark J. Rodgers

[clark.rodgers@wicourts.gov](mailto:clark.rodgers@wicourts.gov)

[clark.j.rodgers@gmail.com](mailto:clark.j.rodgers@gmail.com)

[608-445-1083](tel:608-445-1083)

Maggie E. Thomas

[maggie.THOMAS@wicourts.gov](mailto:maggie.THOMAS@wicourts.gov)

Dane County Pretrial Assessors

262-930-6853