

EBDM Decision Point: Charging Decision

Why this Decision Point is Important:

- The charging decision serves as a starting point to the formal adversarial process; as such, it has significant impact on defendants, victims, and on state/local resources.
- Charging decisions have permanent consequences for defendants (e.g., criminal charges are added to CCAP, Wisconsin's court case management system). They have the potential to either increase or reduce harm.
- Decisions at this point directly impact both court calendar workload as well as prosecutor/defense workloads.

What Should Happen at this Decision Point:

1. Decisions are transparent, fair, and consistent.
2. Decisions are informed by information specific to the defendant and the victim, to ensure appropriate charging practices (i.e., use of person-specific information to guide diversion, rather than charges alone).
3. Decisions are informed by substantive knowledge regarding specific areas of concern (e.g., mental illness, trauma informed care, persons with disabilities).
4. Decision makers have cultural competency to ensure fair and equitable outcomes for all persons regardless of race, religion, or socio-economic status.
5. Decisions support the broad goals of making the victim whole but also preventing future victimization through evidence-based risk reduction strategies, resulting in the achievement of harm reduction for the victim, the defendant, and the community as a whole.
6. The least restrictive option available to achieve public safety and harm reduction is pursued.
7. Prosecutors are supported and incentivized to invest the time and effort necessary to conduct 'harm reduction' charging decisions.
8. Resources are made available to enable prosecutors to make the best possible charging decisions.
9. Community education is essential to supporting prosecutors to make effective, evidence-based charging decisions.
10. Ensure defense counsel has appropriate training and knowledge of providing ethical and zealous representation within an evidence-based framework.

Selected Research:

- Low risk youth are more likely to benefit from caution programs, while moderate to high risk youth are more likely to benefit from intervention programs (namely, CBT-based interventions). *Primary Citation: Wilson & Hoge (2013a)*
- Transfer of juveniles to adult criminal court has the potential to aggravate short-term recidivism rates. *Primary Citation: Bishop, Frazier, Lanza-Kaduce, & Winner (1996)*
- Pre-booking diversion options for adult offenders with serious mental illness is associated with fiscal savings. *Primary Citation: Cowell, Hinde, Broner, & Aldridge (2013)*
- Consistent with research indicating that criminal justice contact can increase offending risk (e.g., Loughran et al., 2009), both caution and intervention diversion programs have been shown to be more effective in reducing general recidivism compared to the more restrictive traditional forms of criminal justice processing (i.e., incarceration and probation). *Primary Citation: Gendreau, Goggin, & Little (1996)*
- Validated risk assessments have been demonstrated to effectively identify risk and criminogenic needs. *Primary Citation: Gendreau, Goggin, & Little (1996)*
- Recidivism is more likely reduced when the justice system focuses on criminogenic needs, uses a cognitive behavioral approach, reserves more intensive services for the higher risk offender, and uses aftercare services. *Primary Citation: Andrews (2007)*

Resources:

Further resources on the topic

