

# EBDM Decision Point: Diversion and Deferred Prosecution

## Why this Decision Point is Important:

- Diversion and deferred prosecution options are less resource intensive than traditional court case processing.
- Diversion and deferred prosecution options can result in expedited collection of restitution, contributing to victim restoration.
- Diversion and deferred prosecution options offer the ability to avoid or reduce some of the collateral consequences of justice system involvement (e.g., entry of charges and/or judgment of conviction into CCAP, Wisconsin's court case management system) (i.e., offer a harm reduction potential).
- Diversion and deferred prosecution options can result in individuals receiving needed services sooner, thereby contributing to community safety.
- By reducing a portion of cases flowing through traditional case processing, greater attention can be afforded to those cases that are processed through traditional means.

## What Should Happen at this Decision Point:

1. There is statewide availability of diversion and deferred prosecution options, resulting in fair and equitable treatment for all, regardless of race, religion, or socio-economic status.
2. Communities are risk tolerant.
3. Input from victims is considered in determining if diversion is appropriate and in determining conditions; victims are informed of outcomes.
4. Sufficient time and resources are available to properly assess options for individual cases.
5. Defendants are properly prepared by counsel to assure informed decisions.
6. Assessments of defendants' ability to understand the options presented are made.
7. Prosecutors and defense counsel have the necessary information to guide appropriate use of diversion/deferred prosecution, including risk and needs assessments.
8. The least restrictive option available to achieve public safety and harm reduction goals is pursued.
9. The decisions that are made provide the best opportunity for the defendant to change their behavior, thereby increasing the likelihood of reduced recidivism.
10. Defendants are appropriately held accountable for their actions.

## Selected Research:

- 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)
- The majority of services and more intensive supervision should be directed to higher risk offenders. *Primary Citation:* Lowenkamp & Latessa (2004)
- Transfer of juveniles to adult criminal court has the potential to aggravate short-term recidivism rates. *Primary Citation:* Bishop, Frazier, Lanza-Kaduce, & Winner (1996)
- Diversion of non-violent drug offenders into substance abuse treatment as opposed to incarceration produces long-term cost savings. *Primary Citation:* Anglin, Nosyk, Jaffe, Urada, & Evans (2013)
- Drug court participants should be selected based on risk level (i.e., the risk principle holds in drug court settings; drug court is most effective with high risk individuals). *Primary Citation:* Marlowe et al. (2006)
- Validated risk assessments have been demonstrated to effectively identify risk and criminogenic needs. *Primary Citation:* Gendreau, Goggin, & Little (1996)
- The success of diversion programs is contingent on quality of program design and implementation. Diversion programs that include family-based interventions and demonstrate a high level of fidelity monitoring are especially promising insofar as reducing recidivism rates among juvenile offenders. *Primary Citation:* Schwalbe, Gearing, MacKenzie, Brewer, & Ibrahim (2012)

## Resources:

Further resources on the topic

