

Milwaukee County Early Intervention Programs

Milwaukee County offers the opportunity for some defendants, under appropriate circumstances, to participate in one of several early intervention programs.¹ The purpose of these early intervention programs is to maximize the opportunity to support and encourage prosocial attitudes and behaviors among those who become involved in the justice system, while minimizing the potential negative consequences that may accrue to an individual involved in the system, such as social stigma, exposure to higher risk offenders, and loss of prosocial supports (family, employment, educational activities, etc.).

This document is intended to guide determinations concerning eligibility for the Early Intervention (EI) programs. Nothing in this document limits the District Attorney Office’s discretion in making charging decisions. However, this document does set forth parameters for the parties to consider in balancing the need to protect the community and hold offenders accountable with the importance of providing these same offenders with the opportunity to become pro-social and productive members of our community. Since these goals are often accomplished effectively with reduced charges, parties are encouraged to negotiate an appropriate charge at the outset of the action. This goal should be particularly taken into account when public protection can be accomplished while reducing long-term consequences to the offender.

Research demonstrates that the delivery of swift services and interventions², commensurate with the possibility that an individual will continue criminal behavior (“level of re-offense risk”)³ and the presence of risk factors that are indicators of criminal behavior (“criminogenic needs”)⁴— offers the greatest opportunity for public safety. These strategies also provide for the best use of criminal justice dollars and resources, by reducing the costs of processing cases for those at lower risk to reoffend and instead investing those resources in those who pose the greatest risk to the community⁵.

¹ While the purpose of this document is to primarily describe the Diversion and Deferred Prosecution Programs, eligibility for the Day Reporting Center, Drug Treatment Court and the Veterans Treatment Initiative Programs are also summarized in order to provide a complete picture of the intervention options available in the County.

² Burden et al., 2001; Dayan & Abbot, 2001; Griffith et al., 2000; Higgins & Silverman, 1999; Marlowe & Kirby, 1999; Murphy, Vuchinich, & Simpson, 2001; Rhine, 1997.

³ Andrews, 2007; Andrews & Bonta, 2007; Andrews, Bonta, & Wormith, 2006; Andrews & Dowden, 2007; Andrews, Dowden, & Gendreau, 1999; Bonta, 2007; Dowden, 1998; Gendreau, Goggin, & Little, 1996; Lipsey & Cullen, 2007

⁴ Andrews, 2007; Andrews et al., 1990.

⁵ Aos & Drake, 2010; Aos, Miller, & Drake, 2006; Johnson, Austin, & Davies, 2002; Pew Center on the States, 2009.

Milwaukee County’s early intervention programs are based upon these important research findings. The goal of all of these programs is to reduce the long-term recidivism risk of individuals involved in the justice system while at the same time ensuring public safety and the efficient allocation of limited criminal justice resources.

The Milwaukee County Diversion Program offers those who are determined to be at low risk for re-offense—based upon the results of one or more scientifically validated criminal re-offense risk assessment scales—and who are not excluded by criteria listed below⁶ the opportunity to be diverted from the justice system. **Diversion** requires that these individuals, after being arrested for a crime that the Milwaukee County District Attorney’s Office (“MCDA”) determines can be proven beyond a reasonable doubt (hereinafter referred to as the “provable charge”) and is not subject to legitimate 4th, 5th or 6th amendment claims⁷, meet specific program expectations⁸ and remain crime free for the term of the Diversion. All participants in the Diversion Program will be required to have the assistance of legal counsel and will complete and sign a written Diversion Agreement. Those who successfully meet these conditions will not be subject to a criminal charge on their record. Those who fail to meet these conditions will be prosecuted for their provable charge.

The Milwaukee County Deferred Prosecution Program offers those who are determined to be moderate to high risk for re-offense—based upon the results of one or more scientifically validated criminal re-offense risk assessment scales—and who are not excluded by criteria listed below⁹, the opportunity to have their judgment of conviction deferred for their provable charge, which is not subject to legitimate 4th, 5th or 6th amendment claims¹⁰, until such time as the individual has successfully demonstrated their ability to lead a pro-social, law abiding life.¹¹ All participants in the **Deferred Prosecution Agreement (“DPA”) Program** will be required to have the assistance of legal counsel and will complete and sign a written agreement. No defendant will be denied a DPA if they, in good faith, decline to waive a preliminary hearing or litigate a legitimate suppression motion. Those who are not successful in the DPA will be prosecuted for their provable charge. By virtue of the assessed risk level and/or nature of the offenses committed by individuals who might participate in this program, a permanent record of these individuals’ arrest will be maintained, regardless of successful completion of the DPA.

⁶ See Pretrial Diversion, Charges Resulting in Exclusion, pages 3-4 of this document.

⁷ Consistent with current practice, the Early Intervention Program is not be used for cases that are not provable or subject to legitimate 4th, 5th or 6th amendment claims.

⁸ See pages 10-11 later in this document.

⁹ See DPA: Charges Resulting in Exclusion, pages 5-6 of this document.

¹⁰ Consistent with current practice, the Early Intervention Program is not be used for cases that are not provable or subject to legitimate 4th, 5th or 6th amendment claims.

¹¹ Individuals who participate in the Deferred Prosecution Program must agree to participate in behavior changing programs and services that have been demonstrated through research to be effective in reducing this likelihood of re-offense, as determined by their individual risk assessment results.

Milwaukee County Criminal Justice System Vision Statement

By applying what the evidence tells us about what actually works in protecting the community and holding offenders accountable, Milwaukee County's criminal justice system will make the smartest possible use of its limited resources, continuously improving its performance against quantifiable goals and reinvesting the savings in programs that reduce crime in the first place.

The Milwaukee County District Attorney's Office—and its justice system partners—have developed specific goals, a transparent selection process and criteria, and methods for enhancing the likelihood of the success of these programs by basing these practices on contemporary research findings. These approaches will be evaluated and, if supported by the data, modified over time to ensure that they result in their intended public safety outcomes, and promote the vision and goals of the Milwaukee County criminal justice system.

Early Intervention Eligibility Criteria

PRETRIAL DIVERSION: Defendants who score low on the LSI-R:SV (or LSI-R) (scores ranging from 0 to 2 on the LSI-R:SV, or 1 to 13 to on the LSI-R) who have a provable charge with crimes other than those identified below are eligible for Pretrial Diversion.

Pretrial Diversion: Charges Resulting in Exclusion

- Operating While Intoxicated: Individuals charged with any Operating While Intoxicated Offense are ineligible.
- Residential burglary: Individuals charged with residential burglary are ineligible (unless the victim, who is a family member or neighbor, **specifically requests diversion**).
- Firearms charges: Firearm offenses are ineligible.
- History of Firearms: Individuals with a history of felony firearm charges will be ineligible. However, a person with a history of a misdemeanor firearms case in their past, when such case is 5 years or older from a current non-firearms charge, will be considered on a case by case basis.
- Felony sex offenses: Individuals charged with a felony sex offense are ineligible unless otherwise approved by the Sensitive Crimes Deputy District Attorney.
- Crimes of violence: any charge or history of homicide or other crime that involves great bodily harm as defined in Wis. Stats. Section 939.20 (14) unless approved by the District Attorney.
- Public welfare and entitlement charges: Individuals with any charge (e.g., theft, attempt theft, forgery, fraudulent applications) wherein the defendant's actions defraud or attempt to defraud a State of Wisconsin Agency (e.g., Workers Compensation, Unemployment Compensation, W2, etc.) are ineligible unless approved by a Deputy District Attorney.

- Domestic violence: Individuals charged with domestic violence will be reviewed on a case by case basis for Diversion consideration by the Domestic Violence Team Captain or a Deputy District Attorney.
- Gang involved: Individuals with a history of arrests, criminal convictions or other information that is documented consistent with the provisions of Wisconsin Stats. Section 939.22(9) and (21) for gang related activity will be ineligible unless approved by a Deputy District Attorney.
- Drug offenses: Individuals charged with drug offenses are ineligible for diversion if any of the following conditions exist¹²:
 - Individuals are in possession of drugs in the following amounts/weights or greater:
 - 500 or more grams of marijuana or,
 - 5 or more grams of cocaine or,
 - 3 or more grams of heroin, or
 - 5400 or more milligrams of Oxycodone (180 pills of 30 mg Oxy or 68 pills of 80 mg pills) or
 - 180 or more pills of Schedule II Narcotics (morphine, etc) or
 - 200 or more pills of Schedule III through V controlled substances or
 - Evidence suggests individuals have an ongoing pattern of distributing drugs over a period of six months or more for the sole or primary purpose of supporting themselves and/or others through the financial gains derived from drug distribution

DEFERRED PROSECUTION: Defendants who score low/moderate (scores ranging from 14 to 33 on the LSI-R), who are charged with crimes other than those identified below, are eligible for Deferred Prosecution.¹³ Defendants who are on Department of Corrections supervision who would otherwise meet the DPA eligibility criteria shall be considered on a case by case basis for a DPA in conjunction with a formal Alternative to Revocation.

¹² Individuals in possession of prescription drugs must have their case “reviewed” by the “Pill Prosecutor” in the Violent Crimes Unit who specializes in such cases to determine eligibility for Early Intervention. Defendants employed by a Pharmacy, medical office, hospital or whose job duties permit access to prescription medications, and who then utilize their employment to fraudulently obtain medications will only receive a Diversion or DPA if approved by the “Pill Prosecutor”. Any Early Intervention programming offered to persons holding a professional license/registration in the medical field must contain language requiring the defendant to notify the Department of Safety and Professional Services within 14 days of entry into the DPA/Diversion, and provide the Department with a copy of the criminal complaint, police reports, and DPA/Diversion agreement. Any DPA/Diversion offered to persons who utilized their employment in the healthcare field to obtain prescription medications must include a provision prohibiting the defendant from working in any capacity where they will have access to prescription medications during the pendency of the agreement.

¹³ Individuals who have an LSI-R score between 33-40 who are determined not to be appropriate for Milwaukee County Drug Treatment Court may be considered for a DPA through the Milwaukee County Day Reporting Center assuming they meet the DRC’s remaining eligibility requirements.

DPA: Charges Resulting in Exclusion

- Operating While Intoxicated: Individuals charged with any Operating While Intoxicated Offense are ineligible.¹⁴
- Residential Burglary: Individuals charged with residential burglary will be ineligible **unless the victim supports a DPA**.
- Firearms charges: Firearm Charges are ineligible.
- History of Firearms: Individuals with a history of felony firearm charges will be ineligible. However, a person with a history of a misdemeanor firearms case in their past, when such case is 5 years or older from a current non-firearms charge, will be considered on a case by case basis.
- Felony sex offenses: Individuals charged with a felony sex offense are ineligible unless otherwise approved by the Sensitive Crimes Deputy District Attorney.
- Crimes of violence: any charge or history of homicide or other crime that involves great bodily harm as defined in Wis. Stats Section 939.20 (14) unless approved by the District Attorney.
- Public welfare and entitlement charges: Individuals with any charge (e.g., theft, attempt theft, forgery, fraudulent applications) wherein the defendant's actions defraud or attempt to defraud a State of Wisconsin Agency (e.g., Workers Compensation, Unemployment Compensation, W2, etc.) are ineligible unless approved by a Deputy District Attorney.
- Domestic violence: Individuals charged with domestic violence will be reviewed on a case by case basis for deferred prosecution consideration by the Domestic Violence Team Captain or a Deputy District Attorney.
- Gang involved: Individuals with a history of arrests, criminal convictions or other information that is documented consistent with the provisions of Wisconsin Stats. Section 939.22(9) and (21) for gang related activity will not be eligible unless approved by a Deputy District Attorney.
- Drug offenses: Individuals charged with drug offenses are ineligible for a DPA if any of the following conditions exist:
 - Individuals are in possession of drugs in the following amounts/weights or greater¹⁵:

¹⁴ Veterans with any Operating While Intoxicated misdemeanor 2nd, 3rd or 4th offense may be determined to be eligible for a Deferred Sentencing or Enhanced Sentencing Agreements as outlined on page 9.

¹⁵ Individuals in possession of prescription drugs must have their case "reviewed" by the "Pill Prosecutor" in the Violent Crimes Unit who specializes in such cases to determine eligibility for Early Intervention. Defendants employed by a Pharmacy, medical office, hospital or whose job duties permit access to prescription medications, and who then utilize their employment to fraudulently to obtain medications will only receive a Diversion or DPA if approved by the "Pill Prosecutor". Any Early Intervention programming offered to persons holding a professional license/registration in the medical field must contain language requiring the defendant to notify the Department of Safety and Professional Services within 14 days of entry into the DPA/Diversion, and provide the Department with a copy of the criminal complaint, police reports, and DPA/Diversion agreement. Any DPA/Diversion offered to persons who utilized their employment in the healthcare field to obtain prescription medications must include a provision prohibiting the defendant from working in any capacity where they will have access to prescription medications during the pendency of the agreement.

- 500 or more grams of marijuana or,
- 5 or more grams of cocaine or,
- 3 or more grams of heroin, or
- 5400 or more milligrams of Oxycodone (180 pills of 30 mg Oxy or 68 pills of 80 mg pills) unless approved by the “Pill Prosecutor” or
- 180 or more pills of Schedule II Narcotics (morphine, etc) unless approved by the “Pill Prosecutor” or
- 200 or more pills of Schedule III through V controlled substances unless approved by the “Pill Prosecutor” or
- Evidence suggests individuals have an ongoing pattern of distributing drugs over a period of six months or more for the sole or primary purpose of supporting themselves and/or others through the financial gains derived from drug distribution.

Other Intervention Options

DAY REPORTING CENTER (DRC): The purpose of the Day Reporting Center is to provide an alternative to incarceration for moderate risk sentenced offenders or those entering into a DPA who are identified as being in need of structured substance abuse, cognitive intervention, employment readiness, education and/or parenting programming. Defendants who are assessed as moderate risk/moderate need are eligible for the DRC provided the following criteria are met.

Day Reporting Center: Eligibility¹⁶

- Score between 24 and 40¹⁷ on the LSI-R
- Milwaukee County resident
- Milwaukee County case

Day Reporting Center: Charges Resulting in Exclusion

Defendants will not generally be considered if:

- The current offense was committed with a weapon or where the victim was threatened with or sustained bodily harm.
- The current offense is domestic violence in nature.
- The defendant has prior conviction(s) for any type of sexual assault.

¹⁶ The eligibility requirements for defendants to be sentenced to the DRC are identical to those for DPA’s except the defendant must have a minimum of 4 months to serve after credit for good time and time-served and eligibility for electronic monitoring on sentenced cases is subject to criteria imposed by the MCSJ.

¹⁷ An individual with a score of 24-33 on the LSI-R is considered moderate risk with a 48.1% chance of recidivating; an individual with a score of 34-40 is considered medium/high risk with a 57.3% chance of recidivating. *Source:* D.A. Andrews and James L. Bonta. 2001. LSI-R User’s Manual. New York: MHS.

DRUG TREATMENT COURT (MCDTC): The mission of the Milwaukee County Drug Treatment Court (“MCDTC”) is to enhance public safety through the reduction of recidivism by coordinating effective and accountable substance abuse treatment and supportive services for offenders with substance abuse problems.

Drug Treatment Court: Eligibility

Defendants who are assessed as moderate to high risk/moderate high need are eligible for MCDTC provided the following inclusionary criteria are met:

- Milwaukee County resident at time of arrest
- Age 18 or older
- Be charged with a felony offense or determined to be a chronic, habitual misdemeanant.
- Determined to be AODA dependent, as determined by a series of assessments, including the ASI/ASAM.¹⁸
- Assessed on the LSI-R as moderate/high risk to reoffend (score of 24 to 40)
- Faces a minimum joint recommendation of nine months of incarceration straight time.
- Agree to fully participate in MCDTC

Drug Treatment Court: *Charges/Criminal History Resulting in Exclusion:*

- Sex, firearms or other offenses deemed violent by the MCDA.
- Manufacture, delivery, possession with intent or conspiracy to commit offenses involving 40 or more grams of cocaine, 2,500 grams or more of marijuana or 15 grams or more of heroin.
- “Violent Offenders,” which is defined pursuant to our federal grant, as an individual who:
 - (1) is charged with or convicted of an offense (presenting offense) that is punishable by a term of imprisonment exceeding one year, during the course of which offense or conduct:
 - (A) the person carried, possessed, or used a firearm; and
 - (B) there occurred the death or serious bodily injury to any person; or
 - (C) there occurred the use of force against the person of another, without regard to whether any of the circumstances described in subparagraph (A) or (B) is an element of the offense or conduct of which or for which the person is charged or convicted; or
 - (2) has 1 or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

¹⁸ Additional assessments may be used for defendants who are part of the Veterans Treatment Initiative; see pages 8-9.

The term “crime of violence” means—

(a) an offense that has as an element of use, attempted use, or threatened use of physical force against the person or property of another, or

(b) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

Veterans Treatment Initiative (“MCVTI”): Milwaukee County’s Veterans are among the groups of offenders who may be afforded access to the above-referenced Early Intervention Programs. This is in recognition of the connection between their service related trauma, substance abuse, mental illness and other conditions that frequently lead to criminal justice involvement. Veterans also enjoy the advantage of ready access to treatment programs through the Veterans Administration (“VA”) and other Veterans Service Organizations (“VSO”) which MCVTI will seek to leverage. Through increased and effective use of existing resources and early intervention programming, MCVTI will assist justice involved veterans while not detracting from other similarly challenged populations.

The Mission of the MCVTI is to successfully rehabilitate Veterans in recognition of their service to our country and the challenges this service may present to them and their families by diverting them from the traditional criminal justice system and providing them with the tools they will need to lead a productive and law-abiding life.

The framework for MCVTI generally parallels other Milwaukee County Early Intervention Programs. Veterans will be identified early on by self-reporting to various agencies and VA will determine eligibility for treatment and services. Veterans will be screened for risk levels and needs using the standard early intervention framework. Given the prevalence of post traumatic stress disorder, veterans will also be assessed for this using VA developed tools. Appropriate Early Intervention Program services (Diversion, DPA or MCDTC) will be identified using existing risk ranges and offense prohibitions. Veterans will be linked with treatment and monitoring through VA or other VSOs. Duration of agreements, staffing requirements, sanctions and incentives are identical to the other Early Intervention programming outlined in this document.

Additionally, Veterans will be required to work with a mentor provided by a VSO. Mentors will provide advice and counseling to and advocacy on behalf of Veterans and may provide limited feedback to the court and parties on the Veterans’ efforts. However, the mentor does not function as a monitor and will not provide more extensive information absent concerns about the immediate safety of the Veteran or others or the potential for commission of a crime of violence or sexual assault.

The substance which veterans most frequently choose to abuse is alcohol. The VA, National Institute of Drug Abuse and Department of Defense all recognize a significant increase in the number of Veterans reporting heavy alcohol abuse.¹⁹ Consequently, this places Veterans at greater risk for related harmful behaviors such as drunk driving. Indeed, VA has even instituted a safe driving initiative designed to educate Veterans on the dangers of drunk driving. In Milwaukee County, Veterans represent approximately 5% of the total population. On the other hand, they represent over 11% of defendants charged with alcohol related traffic offenses.

In order to address this specific need, Veterans charged with Operating While Intoxicated as a second, third or fourth (misdemeanor only) offense will be allowed to participate in the following early intervention programming:

Deferred Sentencing Agreements (DSA). Veterans charged with OWI as a second offense may be allowed to enter into an agreement wherein the Veteran pleads guilty, is convicted, but sentencing is deferred for a period of 6 months. Similar to a DPA, the Veteran must agree to follow certain conditions designed to enhance their ability to lead a pro-social, law abiding life. Most notable among these is alcohol treatment. Unlike a DPA however, upon successful completion of the agreement, the conviction remains in effect and the State will recommend that the Veteran is to be sentenced to the lesser of a two tiered recommendation specified in the agreement. If the Veteran is not successful, the State will make a greater recommendation. The eligibility framework, treatment and monitoring, staffing requirements, sanctions and incentives are identical to the Early Intervention programming outlined in this document.

Enhanced Probation. Veterans charged with OWI as a third or fourth (misdemeanor only) offense, who are determined to have been deployed or suffered military related trauma, may be allowed to enter an agreement whereby they will plead guilty, have judgment of conviction entered and placed on probation. Length of probation varies dependant on the offense level. Veterans must serve the mandatory minimum sentence as a condition of probation with a greater amount stayed for later use as a sanction. After serving the initial period, the Veteran must report to the probation agent, comply with the rules of supervision and also appear regularly in court as part of the Veterans Treatment Initiative. Department of Corrections (DOC) will monitor, provide treatment resources for and advise the court on compliance of program Veterans. Upon successful completion of probation, the balance of the conditional time will be permanently stayed and the Veteran will be successfully discharged from probation and the program. Violations not warranting revocation will result in imposition of sanctions by the agent or court. Other mandatory provisions (license suspension, IID, AODA and divers safety plan) must be completed during probation. More serious violations will result in discharge from the program and probation revocation being sought by the Department of Corrections.

¹⁹ The National Council on Alcohol and Drug Dependence reports that between 2006 and 2008, 1 in 8 veterans returning from Iraq or Afghanistan were referred for alcohol counseling. Among the 30 million veterans nationwide, 30% reported binge or heavy drinking.

Pretrial Diversion Case Process and Program Expectations

DIVERSION PROGRAM PROCESS

- A defendant who meets the eligibility criteria for Pretrial Diversion will be considered for Pretrial Diversion at the charging conference.
- Cases involving victims must involve victim consultation, including concerning restitution.
- If the offer is accepted by the defendant with the assistance of counsel, a Diversion Agreement will be put into place, which will include restitution in a stipulated amount, if applicable.
- No criminal complaint will be filed.

DIVERSION PROGRAM EXPECTATIONS

- Diversion Agreements generally will be six months in length.
- A set of reasonable requirements are developed and conveyed to the participant at the time of the offer by legal counsel.
- Given that the diversionary population is assessed as low-risk, Diversion is focused on accountability, not problem solving or risk reduction.
- Requirements (conditions) should be related to accountability and encourage defendants to continue/pursue pro-social activities.
- Over-conditioning should be avoided.
- To this end, problem solving issues, if discovered, should be addressed through recommendation and referrals but not result in mandated services.
- Standard program expectations include:
 - Remain crime free during the diversion process.
 - Pay restitution, if applicable.
- The diversion program offers two “tracks”.
- Track 1 is a Restorative Justice track²⁰. It may include:
 - Victim-offender mediation (or alternative of community service)
 - Letter(s) of apology.
- Track 2 is an Accountability track. It may include restitution and/or community service hours (emphasizing previous point: this should be minimal, and perhaps selective). Short term targeted educational programs or class, such as a “shoplifters’ group”, CCAP education class or active referral for school/job training. There should be minimal contact with the individual during Diversion. Counsel will still be representing the individual while on Diversion, so the participant has someone to contact if a problem arises.

²⁰ The Office encourages the use of the Community Conferencing Program (“CCP”) for appropriate victim cases. This program provides a service to victims and impacted communities, while holding offenders accountable for their actions in a more meaningful way.

DIVERSION COMPLETION

- Diversion participants will be considered to have successfully completed their Diversion if program requirements are met and they have remained crime free during the six month diversionary period and paid all restitution (agreements will be extended liberally as long as participants are making a good faith effort to pay).

OTHER DIVERSION CONSIDERATIONS

- If an individual has remained crime free, but has not completed the terms of the Pretrial Diversion by the end of the agreement and the defendant has made a good faith effort to complete the agreement, the diversion may be extended.
- If a Diversion participant is arrested while on a Pretrial Diversion agreement, the District Attorney's Office will consider the nature of the new charge and may offer a Deferred Prosecution Agreement which combines the original Diversion Agreement with a new Deferred Prosecution Agreement offer.
- If an individual has completed a Diversion Agreement successfully in the past and is arrested again, the case will be reviewed by the District Attorney's Office to determine appropriateness for Pretrial Diversion (assuming the individual meets the eligibility criteria). An offer of DPA may also be considered. Factors to be considered are the current LSIR-R score or the results of another long-term recidivism risk and needs assessment, length of time from the completion of the previous Diversion and the particular type of new charge.

Deferred Prosecution Case Process and Program Expectations

Deferred Prosecution Agreement Process:

- Conditions of a DPA must address risk reduction and can include accountability strategies. The definition of this population is that they present with both risks and needs.
- The requirements must be: tailored to the individual based on a thorough and individualized assessment of risks and the needs in order to reduce long term risk of re-offense and crafted in such a way that the individual is able to reasonably meet expectations. While the following is a list of potential requirements, over-conditioning should be avoided and emphasis should be placed on addressing the most significant criminogenic needs as opposed to trying to address every need of the defendant.
- The Milwaukee County District Attorney's Restorative Justice Programming (the "RJP") should be considered in cases deemed appropriate for DPA's.

- **Risk Reduction Strategies**
 - Cognitive Behavioral Therapy (CBT)
 - Substance Abuse/Mental Health Treatment, if indicated
 - Anger Management with CBT component
 - Parenting with CBT component
- **Accountability Requirements**
 - Remain crime free for the duration of the DPA
 - Drug Testing, if indicated and performed by the substance abuse provider
 - Pay restitution, if applicable
 - Complete community service hours, if appropriate
 - Complete restorative justice requirements, if appropriate
 - Electronic Monitoring/GPS
 - Complete short term targeted educational programs or class, such as a “shoplifters’ group”, etc.
- Professional Case Management is the ideal means to fully assess and monitor DPA participants as the risks and needs are greater for this population as defined by the committee. Counsel will still represent the individual while on a DPA, but the role for counsel should be one of engagement with the participant and the case manager.
- Progress/compliance reports will be required at three and six month intervals.
- DPA duration will be based on risk and need, but generally 6 months but less than a year.
- DPA participants will be considered successful if they complete the requirements as agreed and remain crime free during the period of monitoring under the DPA.

Additional DPA Considerations

- Staffings with the defendant, defense attorney, assistant district attorney and case manager should be held to discuss program compliance. When addressing negative behavior a written plan should be put in place to address the non-compliance.
- If a defendant has not completed all the requirements of the agreement at the end of its term, but a good faith effort has been made, an extension may be granted by stipulation of all the parties.
- If the DPA participant fails to complete the requirements of the agreement, he or she will be sentenced on the charge(s) as pled.
- If a participant is arrested while on a DPA, the District Attorney’s Office will consider the nature of the new charge and may consider referring the individual to Drug Court or the Day Reporting Center for further intervention. The case under which the individual was offered a DPA may be bundled with the new charge. In rare situations, a new DPA with more intensive conditions could be offered with an extension of the original DPA.

- If an individual has completed a DPA successfully in the past and is arrested again, the case will be reviewed by the District Attorney's Office to determine if they would be eligible for another deferred prosecution agreement. Factors to be considered are LSI-R score (or other long-term recidivism risk/need assessment), length of time from the completion of the deferred prosecution agreement and the particular type of new charge.

References

Andrews, D.A. (2007). Principles of effective correctional programs. In L.L. Motiuk & R.C. Serin (Eds.), *Compendium 2000 on Effective Correctional Programming*. Ottawa, Canada: Correctional Service of Canada.

Andrews, D.A. & Bonta, J. (2007). *Risk-Need-Responsivity Model for Offender Assessment and Rehabilitation* (2007-06). Ottawa, Canada: Public Safety Canada.

Andrews, D. A. & Bonta, J. (1998). *The Psychology of Criminal Conduct* (2nd ed.). Cincinnati, OH: Anderson.

Andrews, D.A., Bonta, J., & Wormith, J.S. (2006). The Recent Past and Near Future of Risk and/or Need Assessment. *Crime & Delinquency*, 52(1): 7-27.

Andrews, D. A., & Dowden, C. (2007). The risk-need-responsivity model of assessment in human service and prevention and corrections crime prevention jurisprudence. *Canadian Journal of Criminology and Criminal Justice*, 49(4), 439–464.

Andrews, D. A., Dowden, C., & Gendreau, P. (1999). *Clinically relevant and psychologically informed approaches to reduced reoffending: A meta-analytic study of human service, risk, need, responsivity, and other concerns in justice contexts*. Unpublished manuscript. Ottawa, ON: Carleton University.

Andrews, D. A., Zinger, I., Hoge, R. D., Bonta, J., Gendreau, P., & Cullen, F. T. (1990). Does correctional treatment work? A clinically relevant and psychologically informed meta-analysis. *Criminology*, 28, 369–404.

Aos, S., Miller, M., & Drake, E. (2006). *Evidence-based public policy options to reduce future prison construction, criminal justice costs, and crime rates*. Olympia, WA: Washington State Institute for Public Policy.

Aos, S. & Drake, E. (2010). *WSIPP's Benefit-Cost Tool for States: Examining Policy Options in Sentencing and Corrections*. Olympia, WA: Washington State Institute for Public Policy.

Bonta, J. (2007). Offender assessment: General issues and considerations. In L. L. Motiuk and R. C. Serin (Eds.), *Compendium 2000 on effective correctional programming*. Ottawa, ON: Correctional Service Canada. Retrieved from: <http://www.csc-scc.gc.ca/text/rsrch/compendium/2000/index-eng.shtml>

Burdon, W.M., Roll, J.M., Prendergast, M.L., & Rawson, R.A. (2001). Drug courts and contingency management. *Journal of Drug Issues*, 31: 73–90.

Dayan, P. & Abbott, L.F. (2001). *Theoretical Neuroscience: Computational and Mathematical Modeling of Neural Systems*. Cambridge, MA: MIT Press.

Dowden, C. (1998). *A meta-analytic examination of the risk, need and responsivity principles and their importance within the rehabilitation debate*. Unpublished master's thesis. Ottawa, ON: Carleton University, Department of Psychology.

Gendreau, P., Goggin, C., & Little, T. (1996). *Predicting adult offender recidivism: What works! (1996-07)*. Ottawa, ON: Solicitor General of Canada.

Griffith, J.D., Rowan-Szal, G.A., Roark, R.R., & Simpson, D.D. (2000). Contingency Management in Outpatient Methadone Treatment: A Meta-analysis. *Drug and Alcohol Dependence*, 58: 55-66.

Higgins, H., & Silverman, K. (1999). *Motivating behavior change among illicit-drug abusers: Research on contingency management interventions*. Washington, DC: American Psychological Association.

Johnson, K.D., Austin, J. & Davies, G. (2002). *Banking Low-Risk Offenders: Is it a Good Investment?* Washington, DC: The George Washington University, The Institute on Crime Justice and Corrections.

Lipsey, M.W., & Cullen, F. T. (2007). The effectiveness of correctional rehabilitation: A review of systematic reviews. *Annual Review of Law and Social Science*, 3, 297–320.

Marlowe, D.B., & Kirby, K.C. (1999). Effective Use of Sanctions in Drug Courts: Lessons from Behavioral Research. *National Drug Court Institute Review*, II (1): 11-xxix.

Murphy, J.G., Vuchinich, R.E., & Simpson, C.A. (2001). Delayed Reward and Cost Discounting. *The Psychological Record*, 51: 571-588.

Pew Center on the States (2009). *One in 31: The Long Reach of American Corrections*. Washington, DC: The Pew Charitable Trusts.

Rhine, E. (1993). *Reclaiming Offender Accountability: Intermediate Sanctions for Probation and Parole Violators*. Laurel, MD: American Correctional Association.