Diversion Programs:
A Survey of Wisconsin Practices

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Introduction

Interest in alternatives to formal case processing has grown in the face of declining justice system resources and growing evidence that expensive punitive measures alone often contribute little to public safety. Diversion programs are among the alternatives that have received increased attention.\(^1\) Discussions of diversion practices have often focused on formal programs with ambitious objectives and a wide array of treatment interventions to pursue them.\(^2\) However, there is reason to believe diversion is far more widespread and varied in structure and purpose than a literature review might suggest. Anecdotal information in Wisconsin suggests diversion of cases has long been common place. There have always been incidents that could have been formally prosecuted but were not. The reasons for diversion are many – preservation of limited resources, restoration of the victim, treatment of the offender, and providing the offender an opportunity to avoid the stigma of a criminal conviction. Given the renewed interest in alternatives to formal prosecution there is value in taking a closer look at existing

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\(^1\) As examples of renewed interest in diversion, at the national level the American Bar Association has created a Task Force to draft a new set of Standards to update and supplement former Pretrial Release Standards on diversion. At the state level, the Wisconsin Office of Justice Assistance recently awarded $1.17 million in federal Recovery Act funds to assist Wisconsin prosecutors develop diversion programs for non-violent misdemeanor offenders. Nineteen applications for funding of diversion programs were received and five awards were made. Four were to individual counties and the fifth to help create a multi-county program.

\(^2\) For example, the National Association of Pretrial Services Agencies (NAPSA) conducted a national survey between November of 2004 and March of 2008 resulting in their “Pretrial Diversion in the 21st Century” report, released in 2009. Sixty-nine programs from 26 states responded to the survey resulting in the suggestion that the NAPSA sample reflected “27 percent of the 253 known programs nationwide.” NAPSA Monograph 8.
Wisconsin practices. To this end, an online survey of Wisconsin prosecutors was conducted between April and June of 2008. The survey consisted of forty-nine questions regarding informal disposition practices. Fifty-seven of Wisconsin’s seventy-one district attorneys responded at least in part. Nearly half completed the entire survey. Fourteen did not respond at all.

This report summarizes their responses. It consists of four parts. The first is a description of the survey instrument and a definition of terms. The second is a brief summary of what prosecutors reported with more detailed responses provided in an appendix. The third is a review of current statutory treatment of diversion in Wisconsin. Finally, suggestions are offered that could improve existing practices.

1. The Survey Instrument

The first task in developing a survey instrument was a definition of terms. Diversion, deferred prosecution, therapeutic, or restorative justice have, from time to time, been applied to describe similar practices. We decided to use the term “diversion” as follows:

Consider a diversion program to be any means of resolving a case other than formal adjudication. It may include restitution in lieu of charges; participation in a restorative justice program; referral to a treatment court; referral of juvenile offenders to teen courts, and customized treatment or community service plans.

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3 The survey instrument was developed in part by two University of Wisconsin Law School students, MacKenzie Bishop and Rebecca Kratz under the supervision of Clinical Professor Ben Kempinen. Both participated in the Law School’s Prosecution Project and were interested in additional study connected to their internships. The initial draft of the survey instrument was revised several times after comments and suggestions from staff members of several Wisconsin diversion programs and the University of Wisconsin Survey Center.

4 Appendix II is a summary report of the survey responses. Additional information with comments from participating prosecutors is available from the author as part of an Excel file.

5 Appendix I-1-8.

6 NAPSA has defined diversion as “a strategy designed to offer a non-punitive case processing to selected individuals charged with a crime.” Performance Standards and Goals for Pretrial Release and Diversion (1978) 21.
The survey was separated into two parts. The first focused on formal programs and the second on informal practices. We suggested the following distinction between the two:

By “formal” we wish to include existing programs with standards and criteria, staff support and some form of regularized oversight of the participant. “Informal” diversion includes all other ways of resolving a case without resort to formal adjudication.

The survey focused on four general areas: (1) eligibility criteria, (2) administrative structure and costs, (3) program procedures, including point of entry, use of written agreements, conditions, procedural safeguards, typical length of involvement, oversight responsibility, responses to violation of program conditions, and (4) data collection.

For the sake of convenience we decided on an online survey. We were granted access to the state district attorney list serve to explain the survey to all Wisconsin prosecutors and ask for their cooperation. In addition to completing the survey prosecutors were asked to provide any additional information to supplement their survey answers. Three counties submitted brochures, reports, outlines and sample diversion agreements. The survey was operational for six weeks.

2. Summary of Responses

The following is a snapshot of the information gathered:

- Nearly all counties reported diverting cases from formal processes
- District attorneys exercised nearly complete control over diversion programs

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7 Appendix I-10.

8 App. II-1, 12. Thirty-six counties reported having some type of formal diversion program and twenty-two said they did not. The reasons for the lack of a formal program included insufficient funds (20/22), insufficient time (11/22), too great of a caseload (10/22), lack of interest (3/22), and insufficient support from law enforcement (3/22). Thirty-six counties reported informal diversion practices, eighteen of which also reported formal programs, suggesting both approaches in a significant number of communities. Fifty-four of fifty-seven responding counties (95%) reported diverting at least some cases.
- Eligibility was generally but not always limited to non-assaultive minor offenses\textsuperscript{10}
- Offenders with a serious prior record or previous diversion failure were often excluded from participation\textsuperscript{11}
- Approximately one-third of the counties diverting cases relied on written eligibility criteria\textsuperscript{12}
- Four of five programs were administered by the district attorney – either an assistant prosecutor or non-attorney staff rather than by an external agency\textsuperscript{13}

\textsuperscript{9} App. II-4, 16. In counties with both formal and informal diversion practices prosecutors reported controlling access to diversion.

\textsuperscript{10} App. II-1-2, 13. Counties with formal programs reported diverting misdemeanor property crimes (25/31), other non-assaultive misdemeanors (23/31), misdemeanor drug crimes (21/31), and felony property offenses (19/31). Less common, but sometimes included, were non-OWI criminal traffic cases (11/31), non-criminal traffic cases (6/31), some felony drug offenses (10/31), and a variety of other offense types such as worthless checks (2/31) and failure to pay child support (1/31). Four reported domestic cases were diverted in extraordinary situations. Sometimes the specific charge would disqualify a defendant from diversion. Nearly two-thirds of respondents (15/23) did not divert cases involving felony crimes against the person, and approximately one-fifth (5/23) excluded assaultive misdemeanors. Twelve reported excluding a variety of other offenses including sexual assaults (2/23) and felony drug crimes (2/23).

Counties without formal programs diverted property crimes (21/29), non-OWI criminal traffic cases (15/29), non-criminal traffic cases (12/29), misdemeanor drug crimes (11/29), and other misdemeanor offenses (15/29). Three counties said domestic cases were diverted in special circumstances. Diversion was rarely allowed for assaultive felonies (18/20) or misdemeanors (14/20). One county excluded felony drug offenses and another reported excluding all crimes except criminal traffic cases.

On the whole, counties with informal practices appeared to divert a smaller percentage of total cases but included a wider range of offense types than those with formal programs. The 2008 NAPSA Performance Standards and Goals for Pretrial Diversion/Intervention (afterward NAPSA Standards) recommend case by case assessments rather than categorical exclusions based on the type of offense or offender. Standard 3.1.

\textsuperscript{11} App. II-2, 14. Counties with formal or informal diversion practices were quite similar in identifying disqualifying offender characteristics. Most commonly mentioned were a prior diversion failure (38/51), a prior record for the same conduct as the current charge (34/51), and prior record of assaultive conduct (32/51). Other factors included any prior adult record, the use or possession of weapons, domestic cases involving children, or a prior conviction for escape. Three counties reported diversion was generally unavailable if the offender had any prior record at all.

In contrast to the reported Wisconsin reliance on criminal history, the NAPSA “Pretrial Diversion in the 21\textsuperscript{st} Century” report found that many national programs relied on risk assessment tools to make eligibility determinations. Monograph 16.

\textsuperscript{12} App. II-2, 14. Seventeen counties reported written eligibility criteria, fifteen with formal programs and two without. NAPSA Standards 3.3 and 3.4 recommend written eligibility criteria and periodic monitoring to ensure consistent application to individual cases.
• Yearly program costs estimates varied widely from $0 to $147,000.  

• Four of five counties reported financial support from participant fees.

• Most cases were deferred after formal charges were filed the use of conditional pleas of guilty was common and participation was voluntary rather than as part of a sentence or a condition of bail.

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13 App. II-3, 15. Most prosecutors reported they monitored diverted offenders. Only nine counties reported their programs were administered by a different county agency while another nine relied on independent contractors. This appeared to be due to insufficient resources to implement a different supervision model rather than the choice of state prosecutors. Ironically, this likely results in greater inefficiencies given that prosecutors lack the time and, in some cases, the expertise to administer a diversion program. NAPSA Standards 9.2 through 9.5 recommend management and supervision of diverted offenders by a separate agency with sufficient resources and trained staff.

14 App. II-3-4, 15-16. Counties with formal programs reported a mix of support from their own operating budgets, other county funds, and external sources. All counties with informal practices reported no costs beyond attorney and staff salaries. The NAPSA “Preliminary Diversion in the 21st Century” report found that diversion programs received funding from the county (38/69), the state (31/69), or participants (32/69) and that the median yearly budget was $159,000.

15 App. II-4, 16. A variety of formulas were used to calculate participant fees. Monthly payments were common. In general, fees were less than $200, with only six counties reporting greater amounts. Several reported offenders were responsible for treatment costs if required, a practice that likely precluded diversion of some offenders lacking the means to pay. For some reason, the request for cost information was not popular. Only eighteen counties answered this question at all, with six respondents stating they did not know how much diversion cost. Seven stated costs were absorbed into the regular budget of the District Attorney. One county reported a yearly budget of $147,000.00, and another $95,000. A number of counties reported flexibility when the offender was unable to pay, suggesting indigency did not invariably operate to exclude participation except, perhaps, when expensive treatment requirements were conditions of diversion. See NAPSA Standard 3.5.

16 App. II-5, 17. Less than one-third of counties reported pre-charge diversions. The most common point of diversion was following a conditional plea of guilty with twenty of fifty-nine respondents reporting such a procedure.

17 Combining diversion with a conditional plea of guilty was popular because it preserved a conviction in the event of a failure of diversion. The defendant would appear in court, entry a plea of guilty or no contest and engage in a typical colloquy with the court. See Wis. Stat. §971.08. The court would find the plea was voluntary and intelligently made but judgment would not be entered on the plea, avoiding a conviction. If the defendant’s diversion failed, judgment could be entered based on the prior findings and all that remained would be sentencing. On the other hand, if the defendant successfully completed the diversion program charges could be dismissed without the need to vacate a conviction. In this way, a conditional plea could serve both the interests of the defendant and the prosecutor and also appears consistent with Wisconsin case law. Cf. State v. Daley, 288 Wis. 2d 646, 709 N.W. 2d 888 (Ct. App. 2005) and State v. Dawson, 2004 WI App 173, 276 Wis. 2d 418, 688 N.W. 2d 12 (2004).

The National District Attorney’s Association favors conditional pleas when offenders are diverted, National Prosecution Standards, Standard 44.5(e) whereas the NAPSA Standards do not. Standard 4.3. Technically viewed, mandatory diversion would be possible only if explicitly ordered as part of a sentence, which in turn would require a conviction, or, as a condition of bail. Neither of these formal mechanisms seemed to be common, suggesting that participation was voluntary with the consent of all parties and the court.
• A determination of probable guilt accompanied almost all diversions\(^{18}\)

• Most diverted offenders were represented by counsel to the point of diversion\(^{19}\)

• Written diversion agreements signed by the parties were common\(^{20}\)

\(^{18}\) App. II-6, 18. Based on the answers received and the experience of the author referred cases are uniformly screened for prosecutive merit – e.g., a sufficient factual basis to charge – regardless of whether or not diversion was considered. In many counties additional inquiries into factual guilt were reported in addition to the typical prosecutor screening. There was no evidence that weak cases were systematically diverted because the defendant could not be convicted. Thus, reported practices were consistent with NAPSA Standard 1.4 which requires a determination of prosecutive merit prior to diverting a case. Other procedures to ensure guilt were reported. An in-court admission to a judge was the most common procedure, with fifteen of twenty-nine counties reporting an admission without conviction and an additional nine reporting an admission in connection with a guilty plea. Other procedures included admissions to the diversion program administrator (6/29) or to law enforcement (4/29). Counties with informal diversion practices relied on in court admissions either in connection with a guilty plea (9/26) or without (10/26). Others inquiries into culpability included admissions to the program administrator (8/26) or law enforcement (5/26).

\(^{19}\) App. II-6, 18. Participants appeared to be represented by counsel up to the point of diversion in most cases. Although only one of twenty-eight prosecutors said counsel was always involved, nine estimated counsel was present more than 75% of the time and ten between 50% and 75% of cases. Only eight reported counsel was involved less than half of the time. Two inferences are suggested by these responses. First, they parallel Wisconsin patterns of representation in minor offense cases where many misdemeanants are not eligible for public defenders under existing criteria and, second, it appears that the absence of counsel did not significantly prevent access to diversion. Counties without formal programs reported a slightly higher presence of counsel in diverted cases than those with formal programs – two of twenty-six said counsel was involved all of the time, seven reported more than 75%, twelve between 50% and 75% and six estimated counsel was involved in less than half of diverted cases. NAPSA Standards recommend the involvement of counsel in all cases and an opportunity for the offender to consult with counsel prior to acceptance of a diversion offer. Standards 2.2, 4.1.

\(^{20}\) App. II-5, 17. Twenty-five of thirty-one counties with formal programs reported written diversion agreements signed by the participant. All reported standard conditions, the most common of which were (1) no new criminal charges (22/28), (2) payment of participation fees and related costs (18/28), (3) compliance with treatment conditions (13/28), and (4) acceptance of responsibility for the underlying conduct (12/28). All counties included additional conditions customized to the particular case. Most often they addressed restitution, treatment, drug testing, employment, or educational requirements. Length of participation ranged from one month to three years. Frequently the length of participation was tied to satisfaction of program conditions. Successful completion generally resulted in a final court appearance to resolve the pending charge according to the terms of the diversion agreement.

Twenty of twenty-six counties with informal diversion practices also required written agreements signed by the participant. The most common standard conditions were (1) no new criminal charges (19/22), (2) compliance with treatment conditions (10/22), (3) payment of restitution (7/22), and (4) obtaining an alcohol or drug abuse assessment (7/22). All twenty-six counties included specialized conditions on a case-by-case basis. They addressed the same issues as counties with formalized programs – restitution, treatment, drug testing, employment, and education requirements. Length of participation varied but was generally one year or less, a significant difference from counties with formal programs. The length of participation was often tied to satisfaction of the conditions of participation.

NAPSA Standards recommend individualized written agreements in all cases. Standards 5.1 through 5.6. Sample diversion agreements were submitted by Kenosha County (App. I-34-39), La Fayette County (App. I-11-14), and Milwaukee County (App. I-47-49).
- Oversight was most often the responsibility of the prosecutor or her staff as an add-on to other responsibilities\(^{21}\)

- Some form of due process accompanied removal from diversion for a violation of conditions\(^{22}\)

- The most common responses to program violations were termination, extension of the program length, and revision of conditions\(^{23}\)

- Fewer than half of reporting counties collected data regarding their diversion programs\(^{24}\)

\(^{21}\) App. II-9, 21. Usually the prosecutor assigned to the case or a member of her staff monitored an offender’s compliance with the conditions of diversion, sometimes accompanied by periodic court appearances.

\(^{22}\) App. II-10, 22. In counties with formal programs the threshold determination that a violation occurred was made by the program administrator (21/29), corrections (5/29), a judicial officer at a status court hearing (4/29), or through self-reporting to the program administrator (4/29). Thirteen counties reported other procedures, including review of the participant’s case by the assigned prosecutor, investigation by law enforcement or community volunteers involved in supervision of the individual. Notice that a participant may have violated the diversion agreement typically occurred in one of two ways – either because of a new arrest or a failure to comply with a condition, such as a missed appointment. Upon learning of an alleged violation several counties conducted a court hearing (21/30) while others acted following a review of the reported violation by the program administrator (18/21), a process sometimes involving an interview of the participant (7/30). Counsel was sometimes involved in the violation process. No counties reported that counsel was always involved and the remaining counties varied – some estimating counsel in more than 75% of cases (9/27), others estimating involvement in between 50% and 75% of cases (9/27), and others suggesting involvement less than half of the time (9/27). A finding of a violation triggered one (or more) of three responses – termination of the diversion and reinstatement of the criminal charges (19/30), extension of the agreement (17/30), or revision of the conditions (16/30).

Counties without formal programs were slightly more reliant on self-reporting than those with greater structure (18/27). Responsibility for day to day oversight was the responsibility of the program administrator or district attorney staff (14/27), the court, accomplished through regular status hearings (7/27), or corrections (5/27). Managers learned of alleged violations either because of a new arrest or the failure to comply with a non-criminal related condition. Fifteen of twenty-five counties reported final determinations by a program administrator, eight included interviews with the participant as part of the process, and thirteen reported violation determinations were made in court. Counsel was less likely to be involved in counties with informal practices, with only one county reporting that counsel was always involved and nearly half – eleven of twenty-five – estimating counsel was involved in less than half of the violation determinations. Responses to violations paralleled responses in counties with formal programs and included termination of the program and reinstatement of the criminal charges (26/27), extension of the length of the agreement (13/27), or revision of the required conditions (10/27).

\(^{23}\) App II-11, 23. The most frequent response to violation of program conditions was termination and a return of the case to a formal track. Less frequent responses included lengthening the period of control or revision of the conditions of the diversion agreement. See n. 22.
3. Wisconsin Legislation and Diversion

As commonplace as diversion practices are, one might assume that prosecutors find guidance from the statutes for authority and guidance. However, to date the Wisconsin legislative treatment has been haphazard and incomplete, typically focusing on a single narrow issue or the same issue in different ways in different statutes. Little general guidance can be gleaned from the current statutes and many common practices receive no statutory mention at all.

For example, Wis. Stat. §971.37 authorizes prosecutors to enter into deferred prosecution agreement in domestic abuse cases, providing a list of included crimes. It requires that agreements be in writing, allows for summary termination, and entitles the participant to dismissal of the charges with prejudice if the agreement is successfully completed. Subsec. (5) provides, “[t]his section does not preclude use of deferred prosecution agreements for any alleged violations not subject to this section” but is silent about whether the procedural requirements for agreements under Wis. Stat. §971.37 apply to other offense types.

Wis. Stat. §971.41, the newest diversion statute, only addresses worthless check cases. It provides substantial detail about program minutiae, explicitly allows a prosecutor to contract with private contractors to operate the program, and permits

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24 App. II-11, 23. Thirteen of twenty-seven counties with formal program reported maintaining statistics regarding the operation of the program. No further information about the type of information was available.

Only three of twenty-five reporting counties with informal diversion practices reporting maintaining statistics about the cases diverted.

NAPSA Standards recommend collection and analysis of program data on a regular basis, Standards 9.8 and 9.8, and creation of procedures to protect the confidentiality of participant data. Standards 8.1 through 8.4.

25 The 2008 NAPSA Performance Standards and Goals for Pretrial Diversion/Intervention, are examples of a document intended to guide practitioners on the wide range of issues related to informal resolution of criminal cases. The American Bar Association has also formed a committee to develop standards for diversion of cases. See n. 1. Comprehensive legislative treatment of diversion could provide similar guidance to state criminal justice actors.
charging a participation fee. It neither permits nor prohibits a prosecutor from
developing similar approaches to other offenses or offenders.

Wis. Stat. §971.38 addresses conditions for diversion agreements. It permits
community service if the district attorney, participant and community organization all
agree. It is not limited to any particular class of offense or offender. Wis. Stat. §967.057
prohibits as a condition of diversion making the payment of money to an organization
designated by the — a response to prior practices in some Wisconsin counties.

Wis. Stat. §§971.29 and 971.40 address oversight — who is responsible to make sure a
participant complies with the conditions of the diversion agreement. The former allows,
but does not require, the department of corrections to supervise participants in counties
with a population of less than 100,000. Wis. Stat. §971.40 allows oversight by volunteers
in probation if such a program exists in the local community. The statutes are silent
regarding whether a prosecutor may or should monitor persons placed in a diversion
program or whether there are any limits to supervision by other public or private
entities. Of interest, if the department agrees to be involved pursuant to Wis. Stat.
§971.29 the participant must admit guilt in writing and agree to comply with all program
conditions. No other diversion-related statute requires an admission of guilt although
this is clearly the practice of state prosecutors. By way of comparison, Wis. Stat.
§971.41(1) permits diversion in worthless check cases as long as there is probable cause
the participant committed the offense even if there is no formal admission of guilt.

Wis. Stat. §967.055(3) prohibits diversion for drunk driving related offenses. It is the
only statute that expressly excludes certain cases from informal dispositions.

The Wisconsin juvenile code addresses diversion in a somewhat more
comprehensive manner in Wis. Stat. §938.245. Perhaps this is because alternatives to
formal adjudication may be viewed as more appropriate in non-adult cases. Under the juvenile code there is shared authority to divert an offender - an intake worker has authority to divert a juvenile offender, a power shared with the prosecutor and trial court as well. *In re Lindsey*, 262 Wis. 2d 200, 663 N.W. 2d 757 (2003).

The lack of comprehensive legislative treatment of diversion and the recognition of inherent executive power to divert cases\(^{26}\) raises the question of what purposes the current statutory scheme were intended to or actually do serve.

\section{4. Impressions and Suggestions}

The widespread use of diversion practices reflect a mix of objectives – efficient use of limited resources, restoration of the victim, treatment of the offender, and providing the offender an opportunity to avoid the stigma of a criminal conviction. Whether these or other objectives are being achieved is unclear given the lack of data. There are a wide range of approaches to diversion in Wisconsin counties, ranging from established programs with stable funding to *ad hoc* decisions by individual prosecutors. There appears to be minimal sharing of experiences and expertise between counties and little interest at the state legislative level to develop a comprehensive statutory scheme or provide financial or logistical support for local initiatives. Diversion in Wisconsin is truly a local matter, which is its greatest strength and at the same time the greatest impediment to expanding successful programs to other counties.

There is little doubt that state prosecutors have done much at the local level with few resources and no external guidance. An appropriate question is how individual program strengths can be shared and strengthened and weaknesses remedied?

A number of suggestions present themselves.

(1) Legislative Attention. There could be value in a state-wide study of diversion practices and development of a comprehensive statutory structure to encourage uniformity on matters of general application while permitting flexibility to deal with local nuances. Input from a broad spectrum of Wisconsin criminal justice shareholders could ensure that statutory attention would be based on experience and reflect realistic “best practice” guidance.

(2) Financial support at the state level. State-wide financial support could focus on two areas of need – development of new program in counties where none currently exist and support for the expansion or improvement of existing programs.27

(3) A mission statement for each program. With or without state-wide support each county should develop a written mission statement for any diversion program. The statement should identify the problem(s) addressed, the planned response(s) and what performance measures should be used to determine success.

(4) Written procedures and practices developed by local shareholders. Each community should develop written procedures and practices to address all aspects of the operation of their local programs, creating a document that would be accessible to the community and subject to ongoing revision and refinement. Existing national standards are a ready source of guidance for the development of such a document.

27 A notable exception has been the efforts of the Wisconsin Office of Justice Assistance in its recent distribution of federal stimulus funds. See n. 1. Perhaps the experience of those counties receiving funding for diversion programs and the grant reporting requirements will increase interest and knowledge of the potential of this alternative to formal prosecution of cases. The Supreme Court’s Effective Justice Strategies Subcommittee to its Planning and Policy Advisory Committee has also been involved in efforts to help communities develop innovative response to their local public safety issues.
(5) **Data collection and analysis.** Data collection and analysis should be a core element of all diversion programs. Without this information it is impossible to know if existing practices are achieving the program goals, and, if not, how procedures and practices should be changed. Increasingly criminal justice agencies are using data to evaluate and improve programming and processes. Evaluations are typically formative\(^2^8\) or summative\(^2^9\) or customized to respond to particular interests.\(^3^0\) A more vigorous approach to data collection and analysis of diversion programs can provide helpful information to those who administer them, others who wish to replicate the programs in their own communities, and those asked to provide funding for them.

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\(^2^8\) Formative evaluation is a method of judging a program while its activities are happening by focusing on the process to measure whether all steps are being followed as planned.

\(^2^9\) Summative evaluation is a method of judging a program at the end of program activities to see if the aggregate steps or process accomplished the overall program goal or goals. The focus is on outcomes.

\(^3^0\) Data collected is often of several types depending on its purpose. For example, budget information may be collected with an eye toward seeking additional funding support. Gross numbers of participants may be collected for similar purposes. Measures of successful are tied to program goals and can vary from number of participants diverted, number of participants who completed all conditions of their agreements, number of participants who did not re-offend within a particular period of time, or a combination of criteria.
Diversion Programs: A Survey of Wisconsin Practices

APPENDIX I

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APPENDIX II

| Summary of Responses* | 1-23 |

* Excel spreadsheets with all responses including comments available from author on request.
Survey of Wisconsin Prosecutors – Deferred Prosecution Programs

Note: Consider a diversion program to be any means of resolving a case other than formal adjudication. It may include restitution in lieu of charges; participation in a restorative justice program; referral to a treatment court; referral of juvenile offenders to teen courts, and customized treatment or community service plans. By “formal” we wish to include existing programs with standards and criteria, staff support and some form of regularized oversight of the participant. “Informal” diversion includes all other ways of resolving a case without resort to formal adjudication.

(1) Name of County

(2) Does a formal diversion program exist in your county? Yes or No.

If yes, please go to question #3

If no, please go to question #26

Formal Diversion Programs

(3) What types of offenses are eligible for diversion?
   Please check all that apply.
   A. Criminal traffic (non-OWI)
   B. Non-criminal traffic
   C. Misdemeanor drug offenses
   D. Felony drug offenses
   E. Misdemeanor property crimes
   F. Other misdemeanor offenses
   G. Felony property crimes
   H. Other. Please Explain

(4) Are certain types of offenses excluded from diversion?

   A. Assaultive felonies
   B. Assaultive misdemeanors
   C. Other. Please Explain

(5) Are there any types of offenders who are ineligible for diversion?

   A. Prior assaultive record
   B. Prior criminal record
   C. Unsuccessful participant in prior diversion program
D. Other. Please Explain

(6) Are there written guidelines describing eligibility and procedures? Yes or No.

If available in electronic form please e-mail to kempinen@wisc.edu

(7) Who is responsible for administration of the program?
(Please check all that apply)

A. Attorney staff
B. Secretary-Support Staff in District Attorney's Office
C. Separate Program Administrator employed by District Attorney
D. Other County Agency
E. Independent Contractor
F. Other. Please Explain

(8) How is the program funded?
Please check all that apply.

A. County funds-District Attorney budget
B. County funds other than District Attorney budget. Please Describe Source
C. Federal Grant. Explain source, amount and duration
D. Participant-funded in whole or part

(9) If participant-funded what is the cost to participate?

A. $1-$99
B. $100-$199
C. $200-$299
D. More than $299
E. Other. Please Explain

(10) What was the cost of administration of the program last year?

If yearly budget documents available in electronic form please e-mail to kempinen@wisc.edu

(11) Who decides which cases or offenders will be invited to participate?
(Please check all that apply)

A. DA or ADA
B. Trial Judge
C. Social Service Agency
D. Other. Please Explain
(12) At what point does the offender enter the program?

A. Pre-charging  
B. Post-charging but pre-plea  
C. At conditional plea of guilty  
D. Post-conviction – part of sentence  
E. Post-conviction – alternative to revocation  
F. Varied points of entry. Please specify at which points the defendant may enter the program.

(13) Is a written contract required between the offender and the program administrator? Yes or No.

If available in electronic form please e-mail to kempinen@wisc.edu

(14) What procedures are used to ensure the participant is guilty of the underlying charges?

A. Admission to law enforcement  
B. Admission to program administrator  
C. Admission to judge in connection with plea of guilty and conviction  
D. Other. Please specify

(15) Are participants represented by counsel at the point of acceptance into the program?

A. All  
B. More than 75% of the time  
C. Between 50% and 75% of the time  
D. Less than 50% of the time  
E. Less than 25%

(16) Are certain participant conditions required in all cases? Yes or No.

(17) If the answer to the previous question was yes check all that apply.

A. AODA assessment  
B. Restitution  
C. Compliance with treatment  
D. Obtain High School diploma  
E. Employment  
F. Payment of Costs of Participation in Program  
G. Payment of Court Costs  
H. No new charges brought against participant
I. Supervision check in
J. Accept responsibility for charge(s)
K. Not on supervision in other jurisdiction
L. Other. Please specify.

(18) Are conditions sometimes required on a case by case basis?
   Yes or No.

(19) If the answer to the previous question was yes check all that apply.
   A. AODA assessment
   B. Restitution
   C. Compliance with treatment
   D. Obtain high school Diploma
   E. Employment
   F. Payment of Costs of Participation in Program
   G. Payment of Court Costs
   H. No new charges brought against participant
   I. Supervision check in
   J. Accept responsibility for charge(s)
   K. Not on supervision in other jurisdiction
   L. Domestic violence treatment
   M. Parenting classes
   N. Other. Please specify

(20) How long is the participant in the program?
   A. Less than 6 months
   B. 6 months to less than 1 year
   C. 1 year or more
   D. Until all conditions satisfied
   E. Varied. Explain.

(21) Oversight of the participant - how is compliance tracked?
   A. Self-report by participant to program administrator
   B. Self-report by participant to service provider
   C. Monitored by Program Administrator or staff
   D. Status appearance before judge-court commissioner
   E. Probation or parole agent
   F. Other. Please specify.

(22) How is it determined whether a participant has violated program conditions?
   A. Review of report of violation made by program administrator
   B. Interview of participant by program administrator
C. A and B  
D. Court hearing

(23)  Is the participant represented by counsel if alleged to have violated program conditions?

A. All  
B. More than 75% of the time  
C. Between 50% and 75% of the time  
D. Less than 50% of the time  
E. Less than 25% of the time

(24)  What are the consequence(s) of violation of program conditions? 
Please check all that apply.

A. Termination and reinstatement of criminal charges.  
B. Extension of terms of participation.  
C. Revision of conditions of agreement.  
D. Other. Please specify.

(25)  Are program-related statistics maintained? Yes or No.

If yes and available in electronic form please e-mail to kempinen@wisc.edu

Informal Diversion Practices

Note: If your answer to Question 27 is “No” and you have completed questions one through twenty-five you are finished. Thank you for your cooperation.

(26)  You have indicated that your county does not have a formal diversion program. 
Which of the following are factors affecting your county’s lack of a formal diversion program? Please check all that apply.

A. Insufficient funds  
B. Not interested  
C. Not enough time  
D. Insufficient support from other law enforcement agencies  
E. Too heavy of a caseload  
F. Other. Please Explain.

(27)  Are any cases informally diverted in your county? Yes or No.

(28)  What types of offenses are eligible for informal diversion?  
Please check all that apply.

A. Non-OWI criminal traffic
B. Non-criminal traffic
C. Misdemeanor drug offenses
D. Felony drug offenses
E. Misdemeanor property crimes
F. Other misdemeanor offenses
G. Felony property crimes
H. Other. Please Explain

(29) Are certain types of offenses excluded from diversion?

A. Assaultive felonies
B. Assaultive misdemeanors
C. Other. Please Explain

(30) Are there any types of offenders who are ineligible for diversion?

A. Prior assaultive record
B. Prior criminal record
C. Unsuccessful participant in prior diversion
D. Other. Please Explain

(31) Are there written guidelines describing eligibility and procedures? Yes or No.

If available in electronic form please e-mail to kempinen@wisc.edu

(32) Who is responsible for administration of the program?

A. Attorney staff
B. Secretary-Support Staff in District Attorney’s Office
C. Separate Program Administrator employed by District Attorney
D. Other County Agency
E. Independent Contractor
F. Other. Please Explain

(33) How is the program funded?

A. County funds-District Attorney budget
B. County funds other than District Attorney budget. Please Describe Source
C. Federal Grant. Explain source, amount and duration
D. Participant-funded in whole or part

(34) If participant-funded what is the cost to participate?

A. $1-$99
B. $100-$199
C. $200-$299

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D. More than $299
E. Other. Please Explain

(35) What was the cost of administration of the program last year?

If yearly budget document available in electronic form please e-mail to kempinen@wisc.edu

(36) Who decides which cases or offenders will be invited to participate?

A. DA or ADA
B. Trial Judge
C. Social Service Agency
D. Other. Please Explain

(37) At what point does the defendant enter the program?

A. Pre-charging
B. Post-charging but pre-plea
C. At conditional plea of guilty
D. Post-conviction – part of sentence
E. Post-conviction – alternative to revocation
F. Varied points of entry. Please specify at which points the defendant may enter the program

(38) Is a written contract required between the offender and the program administrator?
Yes or No.

If available in electronic form please e-mail to kempinen@wisc.edu

(39) What procedures are used to ensure the participant is guilty of the underlying charges?

A. Admission to law enforcement
B. Admission to program administrator
C. Admission to judge without conviction
D. Admission to judge in connection with plea of guilty and conviction
E. Other. Please specify

(40) Are participants represented by counsel at the point of acceptance into the program?

A. Always
B. More than 75% of the time
C. Between 50% and 75% of the time
D. Less than 50% of the time
E. Less than 25% of the time
(41) Are certain participant conditions required in all cases?
   Please check all that apply.

   A. AODA assessment
   B. Restitution
   C. Compliance with treatment
   D. Obtain high school Diploma
   E. Employment
   F. Payment of Costs of Participation in Program
   G. Payment of Court Costs
   H. No new charges brought against participant
   I. Supervision check in
   J. Accept responsibility for charge(s)
   K. Not on supervision in other jurisdiction
   L. Domestic violence treatment
   M. Parenting classes
   N. Other. Please specify

(42) Are conditions sometimes imposed on a case by case basis?

(43) If yes check all that apply.

   A. AODA assessment
   B. Restitution
   C. Compliance with treatment
   D. Obtain high school Diploma
   E. Employment
   F. Payment of Costs of Participation in Program
   G. Payment of Court Costs
   H. No new charges brought against participant
   I. Supervision check in
   J. Accept responsibility for charge(s)
   K. Not on supervision in other jurisdiction
   L. Domestic violence treatment
   M. Parenting classes
   N. Other. Please specify

(44) How long is the participant in the program?

   A. Less than 6 months
   B. 6 months to less than 1 year
   C. 1 year or more
   D. Until all conditions satisfied
   E. Varied. Explain.
(45) Oversight of the participant - how is compliance tracked?

A. Self-report by participant to program administrator
B. Self-report by participant to service provider
C. Monitored by Program Administrator or staff
D. Status appearance before judge-court commissioner
E. Probation or parole agent
F. Other. Please specify.

(46) How is it determined whether a participant has violated program conditions?

A. Review of report of violation made by program administrator
B. Interview of participant by program administrator
C. A and B
D. Court hearing

(47) Is the participant represented by counsel if alleged to have violated program conditions?

A. Always
B. More than 75% of the time
C. Between 50% and 75% of the time
D. Less than 50% of the time

(48) What are the consequence(s) of violation of program conditions?
    Please check all that apply.

A. Termination and reinstatement of criminal charges.
B. Extension of terms of participation.
C. Revision of conditions of agreement.
D. Other. Please specify.

(49) Are program-related statistics maintained? Yes or No.

If yes and available in electronic form please e-mail to kempinen@wisc.edu

Note: This completes our survey of state diversion programs. Thank you for taking the time to share your experiences and knowledge with us.
April 21, 2008

Wisconsin District Attorneys:

We write to ask your cooperation in a state-wide survey of Wisconsin diversion practices.

University of Wisconsin Law School students Rebecca Kratz and MacKenzie Bishop are studying diversion practices in Wisconsin as part of their participation in our Prosecution Project. Rebecca has interned in the Dane County District Attorney’s Office and MacKenzie has interned both in Waukesha and Racine Counties. A central part of their research is to inventory existing practices in each and every Wisconsin county. The link below will connect you to a survey which we ask your office to complete. When all responses are received our findings will be shared on line with all state prosecutors and other interested parties.

We realize this request asks you to take time out from an already overwhelming schedule. At the same time, I know from my work with state prosecutors that all over the State of Wisconsin local prosecutors and other system shareholders have demonstrated great creativity in managing their unique public safety problems. We see tremendous value in cataloging these efforts in a form that can be shared so that each county may has the benefit of knowing the efforts and creativity of all Wisconsin communities.

Thus, we ask your cooperation in responding to our request. You can easily access the online survey by hitting the control key and clicking your mouse on either the link below or the link in the first paragraph. If you cannot complete the entire survey in one sitting you can close the file and return later. We plan on having the survey website available for two months after which we will gather and report on the responses. Please contact me if you have any questions. Thank you for your cooperation.

Prosecution Diversion Survey

Very truly yours,

Ben Kempinen
Director, Prosecutor Project
Clinical Associate Professor
University of Wisconsin Law School
975 Bascom
Madison WI 53706
(608) 262-7908
kempinen@wisc.edu
LAFAYETTE COUNTY DISTRICT ATTORNEY'S OFFICE
INFORMAL DEFERRED PROSECUTION AGREEMENT

(Welfare Fraud)

TO: ~

It appearing that you are reported to have committed an offense against the statutes of the State of Wisconsin on or about and between ~ by unlawfully and intentionally receiving income in your household and failing to notify Lafayette County Department of Human Services of receipt of the same and continuing to receive public assistant, resulting in the fraudulent overpayment of AFDC benefits in the amount of $~ and Food Stamps in the amount of $~, in violation of Secs. 49.12(6), 49.12(1), 49.127(2m) and (8)(a)2., Wis. Stats.; and it further appearing that a formal complaint has been filed against you in the office of the Lafayette County District Attorney and it further appearing, after an investigation of the offense and your background, that the interests of the community and yourself can best be served by the following procedure;

NOW, THEREFORE, on the authority of the Lafayette County District Attorney, Charlotte L. Doherty, prosecution in this County for this offense shall be deferred for a period of 12 months until ~ and no criminal charges will be filed against you provided you abide by the following contract conditions:

1. ~ hereby acknowledges the receipt of unreported income in her household from ~ and her failure to notify Lafayette County Department of Human Services of receipt of the same within 10 days after such receipt and acknowledges she received an overpayment of AFDC benefits in the amount of $~ and of Food Stamps in the amount of $~.

2. ~ agrees to reimburse Lafayette County Department of Human Services in the amount of $~ for the above referenced overpayment of AFDC benefits and Food Stamps. ~ shall pay Lafayette County Department of Human Services the sum of $~ herewith and shall further pay it the sum of $~ per month commencing on the ~ day of ~ and continuing on the ~ day of each month thereafter until ~ at which time the entire outstanding balance remaining due at that time shall be paid in full.

3. In further consideration of the State's agreement to defer prosecution for the above reference welfare fraud, ~ agrees not to apply for public assistance or Food Stamps for a period of 6 months from the date hereof. ~ acknowledges that she has the continuing right to apply for public assistance and Food Stamps but that her application for such benefits may be grounds for termination by the State of this Deferred Prosecution Agreement.

4. ~ understands that upon her failure to pay any one of the above mentioned monthly payments or upon her application for public assistance or Food Stamps for a period of 6 months from the date hereof, the District Attorney may during the period of the Deferred Prosecution Agreement, revoke this
Deferred Prosecution Agreement and charge ~ with Welfare Fraud contrary to Secs. 49.12(6) and 49.12(1), and Food Stamp Fraud contrary to Secs. 49.127(2m) and (8)(a)2., Wis. Stats.

5. If ~ complies with the above conditions for repayment during the deferred prosecution period, no criminal prosecution shall be instituted as a result of the complaint filed by the Lafayette County District Attorney's Office.

Dated this ~ day of ~.

Charlotte L. Doherty  
Lafayette County District Attorney

I hereby state that I have read the above and understand the conditions of my Deferred Prosecution Agreement and agree that I will comply with said conditions. I fully understand the charges against me. I am also aware of my constitutional right to a speedy trial and hereby voluntarily waive my speedy trial rights for the duration of this agreement. I understand that I may at any time during the deferred prosecution period request that my Deferred Prosecution Agreement be terminated and court proceedings be re-instituted. I have been advised of my right to consult with an attorney.

~

Dated: ________________________________

WITNESSED:

~
LAFFAYETTE COUNTY DISTRICT ATTORNEY’S OFFICE
INFORMAL DEFERRED PROSECUTION AGREEMENT

(Criminal cases)

TO:  ~

It appearing that you are reported to have committed an offense against the statutes of the State of Wisconsin on or about ~ in the ~, Lafayette County, Wisconsin by ~, contrary to Sec. ~, Wis. Stats.; it further appearing that a formal complaint has been filed against you in the office of the Lafayette County District Attorney and it further appearing, that after investigation of the offense and your background, that the interests of the community and yourself can be best served by the following procedure;

NOW, THEREFORE, on the authority of the Lafayette County District Attorney, Charlotte L. Doherly, prosecution in this County for this offense shall be deferred for a period of 1 year until ~ and no criminal charges will be filed against you provided you abide by the following contract conditions:

1. ~ shall undergo an initial intake assessment at Lafayette County Department of Human Services and shall comply with all recommendations of said intake assessment including, but not limited to individual and family counseling and attendance at ALANON meetings and participate in all treatment for ~ deemed appropriate by Lafayette County Department of Human Services.

2. ~ shall provide the Lafayette County District Attorney’s Office with verification that within seven days from the date hereof she has made an appointment for the initial intake assessment with Lafayette County Department of Human Services.

3. ~ shall sign the appropriate releases for Lafayette County Department of Human Services AODA unit and staff to exchange information with the Lafayette County District Attorney’s Office regarding ~’s progress and compliance with the recommendations of Lafayette County Department of Human Services under Paragraph 1.

4. ~ shall be responsible for the payment of any costs associated with the services provided by Lafayette County Department of Human Services for which it normally charges its clients.

5. If ~ violates the terms of this contract, the District Attorney may, during the period of the deferred prosecution:

1. Revoke or modify, add or delete conditions of this Deferred Prosecution Agreement, or

2. Charge ~ with ~ in violation of Sec. ~, Wis. Stats.
6. If ~ complies with the above conditions during the deferment period no criminal prosecution will be re-instituted as a result of the complaint filed with the Lafayette County District Attorney's Office.

Dated this ~ of ~.

__________________________________________
~

Charlotte L. Doherty
Lafayette County District Attorney

I hereby state that I have read the above and understand the conditions of my Deferred Prosecution Agreement and agree that I will comply with said conditions. I fully understand the charges against me. I am also aware of my constitutional right to a speedy trial and hereby voluntarily waive my speedy trial rights for the duration of this contract. I understand that I may at any time during the deferred prosecution request that my Deferred Prosecution Agreement be terminated and court proceedings be re-instituted. I have been advised of my right to consult with an attorney.

__________________________________________
~

Dated: __________________________

WITNESSED:

__________________________________________
STATE OF WISCONSIN

STATE OF WISCONSIN,

Plaintiff,

vs.

~, Defendant.

MOTION FOR STAY OF ENTRY OF JUDGMENT, STIPULATED CONDITIONS FOR DISMISSAL, AND ORDER FOR STAY OF ENTRY OF JUDGMENT AND DISMISSAL

Case No. ~

TO: ~
Attorney for Defendant

Please take notice that the State of Wisconsin by District Attorney Charlotte L. Doherty will move the Lafayette County Circuit Court on the ~ day of ~, at ~ or as soon thereafter as counsel can be heard for an order staying the entry of a judgment of conviction in the above captioned action and for an order dismissing the above captioned action 12 months from the date of hearing herein, upon the defendant's compliance with the stipulated conditions for dismissal as set forth herein.

Dated this _______ day of ~.

Charlotte L. Doherty,
District Attorney

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STIPULATION

Now comes the State of Wisconsin by District Attorney Charlotte L. Doherty and the defendant, ~, in person, and by attorney, ~, and hereby stipulates and agrees as follows:

1. That the defendant, ~, shall enter pleas of "guilty" to the misdemeanor charge of Battery/Domestic Abuse, contrary to Sec. 940.19(1) and 968.075(1)(a), Wis. Stats., and to the misdemeanor charge of Disorderly Conduct/Domestic Abuse, contrary to Sec. 947.01 and 968.075(1)(a), Wis. Stats., as charged in the criminal complaint on file herein.

2. In consideration of the above guilty plea in Count ~, the State of Wisconsin will move the court for the dismissal of the charge in Count ~ of ~ contrary to Sec. ~ as set forth in the criminal complaint on file herein.

3. That the State of Wisconsin will move the Circuit Court of Lafayette County to stay entry of judgment upon defendant's guilty pleas for a period of 12 months and will further move the Lafayette County Circuit Court for an order dismissing the criminal complaint in the above captioned action upon the defendant's compliance with the terms and conditions of this stipulation.

4. That the defendant shall refrain from any further violations of local, state, or federal laws. Traffic laws other than traffic violations involving operation of a motor vehicle while under influence of intoxicants do not apply to this stipulation.

5. Defendant shall notify the Lafayette County Circuit Court or Lafayette County District Attorney's Office of any change in defendant's residence or address within 10 days.

6. Defendant shall pay the court costs of this action in the amount of $~. Said payment shall be made to the Lafayette County Clerk of Court on or before ~(4 months time). Failure to pay the costs as set forth in this paragraph, may be grounds for revocation of the court's order staying entry of judgment.

7. Defendant shall not engage in any violent or abusive conduct directed toward ~.

8. Defendant shall participate in the assessment process of the Lafayette County Restorative Justice Program. He shall cooperate with the staff in the program and do what he is asked in a timely manner. If he is deemed appropriate to participate, he will complete the victim/offender conference.

9. During the course of this Deferred Prosecution Agreement the defendant shall not possess or consume any alcoholic beverages or controlled substances not prescribed as medication for defendant by defendant's physician. Defendant shall not enter into any establishment where the primary purpose is the sale of alcoholic
beverages. Defendant further agrees that defendant’s refusal to consent to a reasonable request of a law enforcement officer, based on probable cause, to submit to a urine, breath, saliva or blood test for purposes of determining the quantity of alcohol or drugs in defendant’s urine, breath, saliva, or blood may be grounds for termination of this Deferred Prosecution Agreement.

10. Defendant shall undergo an initial clinical intake assessment at Lafayette County Department of Human Services and shall comply with all the recommendations of said intake assessment including if required any outpatient psychiatric or psychological evaluations as Lafayette County Department of Human Services deems appropriate, shall participate in all treatment deemed appropriate by Lafayette County Department of Human Services including psychotherapy and counseling for individual and family and group at a frequency and duration to be determined by Lafayette County Department of Human Services. Defendant shall be responsible for the payment of the standard costs and charges associated with defendant’s attendance at said program.

11. Defendant shall undergo an AODA Assessment at Lafayette County Human Services and shall comply with all the recommendations of said AODA Assessment, including, if required, inpatient and/or outpatient treatment, individual or family counseling, and group therapy, and cooperation in all monitoring requested including blood, urine and breath testing. Defendant shall further sign the appropriate releases for the AODA unit to exchange information with the District Attorney’s Office and the Lafayette County Circuit Court regarding defendant’s progress and compliance with defendant’s AODA Assessment and recommendations.

12. Defendant shall pay the cost of the Initial Intake Assessment and the AODA Assessment according to the sliding fee scale of Lafayette County Department of Human Services. Said payment shall be made by cash or money order at the time of the first appointment.

13. Nonpayment of program costs or unexcused absences from the counseling or AODA or program sessions are grounds for revocation of this stipulation and agreement.

14. Defendant shall further sign the appropriate releases for Lafayette County Department of Human Services AODA unit and psychologists, psychiatrists, counselors and staff to exchange information with the District Attorney’s Office and the Lafayette County Circuit Court regarding the defendant’s progress and compliance with defendant’s AODA and clinical intake assessments and the recommendations based thereon.

15. Defendant shall contact the Lafayette County Department of Human Services within seven (7) days of the date hereof to make appointments for the AODA

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assessment and clinical intake assessment and defendant shall keep all scheduled appointments. All appointments and therapy are to be completed on the schedule to be determined by Lafayette County Department of Human Services with the intention that the assessments and any treatment and therapy commence immediately and that substantial progress be made in defendant’s programming in the first 6 months of the term of this agreement.

16. Defendant understands that copies of this motion and stipulation shall be provided to the AODA Unit, to the ~ Police Department, and to the Lafayette County Sheriff’s Department for purposes of monitoring defendant's compliance with the terms and conditions of this stipulation.

17. Upon defendant's successful compliance with the terms and conditions of this stipulation, the District Attorney's Office will move the Lafayette County Circuit Court for a dismissal of the complaint on file in the above captioned action.

or

18. Upon defendant's successful compliance with the terms and conditions of this stipulation, and receipt by the Lafayette County District Attorney's Office of a letter from his supervising probation agent for Count ~ of Lafayette County Case No. ~ that he has successfully completed probation without violations, the Lafayette County District Attorney's Office will move the Lafayette County Circuit Court for the dismissal of Count 1 of the Information on file in the above captioned action. If the defendant does not provide the Lafayette County District Attorney with said letter from his probation agent on or before ~, the State will set this matter on for hearing on the State's Motion to Terminate the Deferred Prosecution Agreement and to enter a Judgment of Conviction on defendant’s guilty plea in Count ~.

STIPULATED AND AGREED this _______ day of ~.

______________________________  __________________________
Charlotte L. Doherty,  ~
District Attorney  Defendant

______________________________
~
Attorney for Defendant
ORDER FOR STAY OF ENTRY OF JUDGMENT AND ORDER FOR DISMISSAL

NOW, THEREFORE, upon all the facts, file, evidence, and proceedings, herein, upon the defendant's pleas of guilty and upon the foregoing stipulation of the parties,

IT IS HEREBY ORDERED AND ADJUDGED that:

1. Entry of a judgment of conviction upon the defendant's entry of said guilty pleas is hereby stayed until the ~ day of ~.

2. Upon the defendant's successful compliance with the terms and conditions of the foregoing stipulation, the criminal charges in the above captioned action shall be and are hereby dismissed, effective ~.

3. Upon defendant's failure to comply with any of the terms or conditions of the foregoing stipulation, and upon proper motion of the plaintiff, State of Wisconsin, filed with the Lafayette County Circuit Court on or before ~, the order for stay of entry of judgment shall be terminated, a judgment of conviction entered against the defendant and the above captioned action scheduled for sentencing and other proceedings according to law.

4. It is hereby ordered that the charge in Count ~ of ~ and the charge in Count ~ of ~ as charged in the criminal complaint are dismissed.

Dated this __________ day of ~.

BY THE COURT:

______________________________
Honorable William D. Johnston
Circuit Court Judge
PRESS RELEASE
Kenosha County "DA" Diversion/Accountability Worthless Check Program

District Attorney Robert Zapf announced that Kenosha County has a new worthless check program that stands to benefit merchants, law enforcement officials and hold bad check writers accountable for their conduct. The program known as the Kenosha County "DA" Diversion/Accountability Worthless Check Program was developed in cooperation with Financial Crimes Services, a not-for-profit private company that works with law enforcement, merchants, financial institutions and citizens to prevent financial theft, fraud and collect restitution.

On May 25, 2006, Governor Doyle, while in Kenosha, signed into law a bill that created a deferred prosecution program for offenders who agree to participate in a program as an alternative to criminal prosecution.

District Attorney Robert Zapf said that this is a "win-win program" for the community. Merchants benefit because we now have a clearly identified countywide program that recovers restitution, no check is too small to be referred and the legwork is done by Financial Crimes Services. Law enforcement benefits because they can now devote their attention to more serious crimes such as forgery and identity theft cases. The criminal justice system benefits because we keep low-level first offender cases out of the court system. Offenders benefit because they can avoid a criminal conviction and hopefully learn from their mistakes.

The program is run at no cost to taxpayers or area merchants. It is solely supported by the people who issue the worthless checks. As part of the program, merchants forego their right to recover any service charges or civil penalties. Instead, they are collected through the check diversion program. Merchants also forego the $30 non-sufficient fund fee allowed by statute to FCS to provide its services.

The main goals of the program are to collect restitution for victims, hold bad check writers accountable, arm merchants and employees with proper check cashing/acceptance procedures and reduce the cost for investigating and prosecuting worthless check cases and enhance the effective use of law enforcement and prosecution resources.

Here is how the program works.

Once a merchant receives a bad check, it is referred to FCS for processing and handling. All checks coming into the system are reviewed by FCS pursuant to guidelines determined by the DA's office. FCS is responsible for daily operations and management of all clerical and accounting functions relating to the handling of the worthless check. If the bad check writer is eligible for the program, FCS contacts the person, explains the program and gives the offender the opportunity to participate in the program. The program is voluntary. The check writer is required to pay 100% of the value of the check plus any bank fees or costs. Also, the bad check writer is required to attend a 4-hour financial management class. The fee to take the class is $100. If the check writer fails to pay restitution or complete the program, the case is then brought to the attention of the DA's office for further review and handling.
Checks that are not eligible for the program are promissory notes, agreements to hold a check for deposit or credit extensions, second party checks, payroll checks and checks that are already being handled by a collection agency or law firm.

DA Zapf said, “As consumers and taxpayers, we all pay higher prices because of the losses associated with people issuing worthless checks.” Law enforcement and the district attorney’s office spend significant resources investigating and prosecuting people who issue worthless checks. This program will now bring structure and meaning to how we deal with bad check writers in Kenosha County. Zapf said another advantage to using the services of FCS is that the agency keeps a database of all bad checks written by a particular person for a period of six years or more. Recently, FCS has expanded their programming into Wisconsin and has opened a Milwaukee office to accommodate our area needs.

Zapf said, “I’m excited about this program. Law enforcement is supportive of this program and shortly the business community will become very excited about this program.” How successful the program will be remains open. According to FCS program materials, they project that FCS will recover $1.6 million in restitution for merchants this year and the recidivism rate after participating in the class is less than 1 percent.

The Kenosha Area Chamber of Commerce and the Kenosha Area Convention and Visitors Bureau have expressed their interest and support for this program. A special meeting to discuss the program is planned for Tuesday, March 20, 2007 at 9:30 a.m. at the Kenosha Museum, 5500 1st Avenue, Kenosha, Wisconsin. For more information, contact the Kenosha Area Chamber of Commerce 262-654-1234 or Scott Adkisson, Financial Crime Services at 1-800-906-8182.
Kenosha County DA
“Diversionary/Accountability”
Worthless Check Program

RESTITUTION GUIDE FOR MERCHANTS AND RESIDENTS
As consumers and taxpayers, we all pay higher prices because of the losses associated with people issuing worthless checks. Our office and law enforcement spend significant resources investigating and prosecuting people who issue worthless checks. Along with this, the number of worthless check cases increase every year.

In response to concerns regarding worthless checks, my office and your local law enforcement, in conjunction with Financial Crimes Services (FCS) have implemented a worthless check diversion program.

The main goals of the program are:

- Restitution for victims
- Increase accountability of people who issue worthless checks
- Educate and assist Kenosha County merchants and residents in reducing the number of worthless check written
- Reduce the costs for investigating and prosecuting worthless check cases

The program is at no cost to the taxpayer or area merchants. It is solely supported by the people who issue the worthless checks.

If you have further questions after reviewing this packet, please contact the Financial Crimes Services, Inc. (FCS) check diversion program at 1-800-906-8182.

Very truly yours,

Robert D. Zapf
District Attorney
INTRODUCTION

The worthless check restitution program has four main goals. They are:

- Increase the amount of restitution returned to victims of bad checks
- Increase the accountability of all worthless check writers, regardless of the amount of the check
- Promote to local merchants more effective check acceptance and protection procedures
- Reduce the risk of repeat worthless check activity through proper training

Program Summary

The restitution program process is as follows:

1. Checks are entered into the FCS system.
2. Check writers are contacted by the FCS restitution program regarding the checks. Three scenarios are then possible:
   
   A. Check writer pays the Check Diversion Program - 100% of the face value of the check is returned to the merchant plus bank fees if paid.
   B. Offender completes a financial counseling program offered by the Check Diversion Program.
   C. Check writer fails to pay – the check is sent for prosecution review and proceedings.
   D. If check is not at prosecutable limit check writer is red flagged. The system will then notify if more checks are entered and prosecution review is done again.

Checks eligible for the Program

- NSF, Account Closed, Stop Payment, Refer to Maker, Debit card charge backs, ACH NSF’s and Electronic Checks received within Kenosha County that do not exceed $2500.00. If your check exceeds $2500.00 please report to law enforcement.
- Worthless checks LESS THAN 120 DAYS from the date issued by the check writer. (exception: first time program users can send checks up to 2 years old)

Checks not eligible for the Program

- Promissory notes and/or arrangement to hold the check for deposit or credit extensions.
- Second party checks
- Payroll Checks
- Checks that are currently in collections by a collection agency or attorney (law firm) (checks can be forwarded to check diversion program after agency has sent them back)
STEPS TO FILING A COMPLAINT FORM

The two documents below must be completed before any checks can be processed in the program.

1. The “Memorandum of Understanding”. Send this with your first checks. You need to send this in one time only.
2. A completed “Preliminary Worthless Check Report” form must accompany each batch of check(s) submitted.
   You must submit the original check(s) or copy (if checks are imaged) stamped by the bank with the reason it was returned to you.

Mail checks to:
Kenosha County DA Program
PO Box 190
Hager City, WI 54014-0190

WORTHLESS CHECK PROGRAM REPORTING

Once a worthless check has been entered into the program:

1. For information on checks sent in call 1-800-906-8182 or visit www.financialcrimes.net
   1. Restitution recovered will be handled as follows:
      • Paid in full restitution will be deposited into a trust account and paid back weekly
      • Payment plans will be deposited into a trust account and paid back after final payment is received.
      • All reports will be available on line and only payments will be mailed.
         (there will be no reports sent out – you must sign on for online reporting to review activity)

WHEN TO CONTACT YOUR LOCAL LAW ENFORCEMENT AGENCY

Report:

• Counterfeit check(s)
• Altered checks
• Forged checks of any amount
• Checking account opened using fraudulent information
• Stolen checks
• Payroll checks
• Second party checks

You must report these crimes immediately upon knowing.
SIGNAGE

The following signage is required by Wisconsin law to allow merchants to enforce collection of service charges and civil penalties. This must be posted where your customers can see the service charge at the time the check is accepted by the merchant. Copy as needed.

IT’S AGAINST THE LAW TO WRITE A BAD CHECK IN WISCONSIN

Checks returned to us for nonpayment are subject to a service charge of

$30

Additional civil penalty may be imposed on checks returned for nonpayment after 30 days.
1. Check the signatures on the identification card and match this signature to the signature on the check (endorsement line). If these signatures do not match, acceptance should be declined.

2. Make sure the identification card matches name and address on the check. If time permits, write down good address as indicated by customer.

3. Record or circle the Drivers License number or identification number.

4. Record date of birth (i.e. DOB 1/29/72).

5. Make sure photo on identification card matches customer.

6. Have employee initial upper left corner.

7. Telephone number.
MEMORANDUM OF UNDERSTANDING

To: Financial Crimes Services  
Kenosha County DA Program  
P.O. Box 190  
Hager City, WI  54014-0190

It is my intention to submit worthless checks to Financial Crimes Services (FCS) who is contracted to run the Kenosha County DA Program. This is an acknowledgement to cooperate with all aspects of this program including:

To appear as witness, or have my staff appear as witnesses, as required for any prosecution of a worthless check submitted in this program.

I further agree that once a check has been submitted, I will NOT ACCEPT restitution from anyone, except from the Check Diversion Program. If restitution is accepted from anyone other than the Check Diversion Program, I could be liable for services performed and could be excluded from future service of this program for at least one year.

If I accept payment directly from the bad check writer, I will report payment to FCS within 24 hours. I understand that if payments directly to my business seem excessive, I may be assessed $30 for each check for which I accept payment.

By this acknowledgement, when I forward a check to FCS for the Kenosha County District Attorney’s Check Diversion Program, I am foregoing my right to personally recover any service charges or civil penalties. These service charges or penalties, if any, will be collected through the Check Diversion Program. I also understand that I am gifting the $30.00 NSF fee allowed by state statute to the Financial Crimes Services to provide this service.

I am aware, and fully understand that this program was established by the Kenosha County District Attorney and the Kenosha County District Attorney’s Office is held harmless and has no liability for the inability to make recovery of any check(s).

I also understand that the Kenosha County Sheriff’s Office, Police Departments and District Attorney’s office may pursue any and all legal criminal remedies for recovery of check(s) available to their offices.

I agree that in the event of a disputed check, a process for arbitration will be used to resolve the claims. I also agree to accept and abide by the decision of the mediator’s judgement and make settlement of any fees, if found liable as a due course of arbitration. FCS may mediate my claims in good faith and be held harmless for any activities taken on my behalf.

I have received the copies of the restitution forms and guidelines for submitting checks to this program that I must complete. I recognize that a request for complaint form must be completed for each batch of checks being submitted.

As a merchant, I will ensure that I communicate to all my employees the proper check cashing/acceptance procedures, and display our check cashing policy and Wisconsin state law regarding check penalties as required by this program.

I understand that with out proper photo identification such as a drivers license or state identification card recorded or verified during the transaction there may be limitations in pursuing the worthless check writer.

________________________________________  __________________________  ____________
Signature of Company Representative  Title  Date

Please type or print the following information

Business Name ________________________________________________

Address ____________________________________________________

City/State/Zip ______________________________________________

Contact Name ______________________________ Telephone number __________________________

Email Address: ______________________________________________

App. I-28
PRELIMINARY WORTHLESS CHECK REPORT
AND REQUEST FOR COMPLAINT

Mail to: Kenosha County DA Program
P.O. Box 190
Hager City, WI 54014-0190

The Kenosha County District Attorney authorizes Financial Crimes Services to provide this service and to report individuals for criminal prosecution who meet guidelines.

MASTER FILE NUMBER (FCS Complete) CASE NUMBER (FCS/Police Complete) COURT FILE NUMBER (FCS/Police Complete)

BELOW TO BE COMPLETED BY PERSON WHO ACCEPTED THE CHECK (Please fill out form as completely as you can)

<table>
<thead>
<tr>
<th>VICTIM OR FIRM NAME</th>
<th>ADDRESS</th>
<th>BANK FEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>PERSON FILING COMPLAINT</td>
<td>CITY, STATE, ZIP CODE</td>
<td>BUSINESS PHONE</td>
</tr>
<tr>
<td>( )</td>
<td>( )</td>
<td></td>
</tr>
<tr>
<td>E-MAIL ADDRESS</td>
<td>BUSINESS FAX</td>
<td></td>
</tr>
<tr>
<td>( )</td>
<td>( )</td>
<td></td>
</tr>
</tbody>
</table>

CAN ACCEPTOR ID CHECK WRITER THROUGH PHOTO LINE UP OR IN PERSON (CIRCLE ONE)
YES NO
(if yes is circled attach the single check with this form, if NO circled attach as many checks as you would like)

<table>
<thead>
<tr>
<th>PHONE # ADDRESS</th>
<th>ADDITIONAL WITNESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>PHONE # ADDRESS</td>
<td>DOB</td>
</tr>
<tr>
<td>DOB</td>
<td></td>
</tr>
</tbody>
</table>

Fill in the above information if you have circled YES above

Fill in the above information if you have circled YES above

DO YOU HAVE VIDEO OR RECORDING CUSTOMER AND IS IT AVAILABLE: YES ___ No ___

If yes please make still images and attach to form

PHONE CALLS/DATE:

COMMENTS

__________________________________________________________________________

The check(s) in question is (are) submitted for criminal prosecution. By submitting this check(s) for prosecution, I agree NOT to accept restitution from the suspect or his/her agent. I certify that this report is true, accurate and complete to the best of my knowledge.

DATE: ___________________________ Victim Signature and Title ___________________________ Company ___________________________

App. I-29
KENOSHA COUNTY UNDERAGE DRINKING ACCOUNTABILITY PROGRAM (KCUDAP)

The purpose of this program is to give you an alternative. KCUDAP is designed to hold you accountable but at the same time give you the option to avoid having the underage drinking citation on your record and losing your driver’s license. If you have been issued a citation for underage consumption or possession of alcohol, and you are under the age of 21, you have the following options:

OPTION 1: PLEA NOT GUILTY

You can enter a not guilty plea and request a trial. (See back of citation for more information.)

At trial, if you are found not guilty, the citation will be dismissed and that ends the matter. If you are found guilty, then the Court will impose a monetary fine (forfeiture) and **impose a period of suspension of your operating privileges up to 90 days for a first offense and up to one-year suspension for a second offense.**

OPTION 2: FORFEIT OR PLEA GUILTY

You can forfeit (not show up in Court) or enter a guilty plea and proceed to the sentencing.

If you forfeit, plead guilty, no contest or admit the violation, the Court will proceed to sentencing. The Court will impose a monetary fine (forfeiture) and **impose a period of up to 90 days suspension of your operating privileges for a first offense and up to one year suspension of your operating privileges for a second offense.**

OPTION 3: PARTICIPATE IN PROGRAM

You can request to participate in the Kenosha County Underage Drinking Accountability Program (KCUDAP).

Participation in the KCUDAP program is purely voluntary. You must admit your violation. If you admit your violation and request to participate in the program, the Court will accept your plea but defer any sentence to give you the opportunity to complete the program. There will be no trial. If you do not complete the program or re-offend, the Court will then impose a money fine (forfeiture) and suspend your operating privileges. If you successfully complete the program, you may have your citation dismissed, fine reduced and avoid suspension of your operating privileges as follows:
<table>
<thead>
<tr>
<th>First Offense</th>
<th>Second Offense (within 12 months)</th>
</tr>
</thead>
</table>
| 1. You must enroll, attend and successfully complete an approved AODA underage drinking educational program, which includes:  
   a. Self-screen  
   b. Attend all 12 hours of class  
   c. Be on time and actively participate  
   d. Pass the test with a 70% or better score  
   e. Complete all assignments  
   f. Pay all costs  
2. If under age 17, one parent/guardian must attend all Court appearances and one program class.  
3. No other violations during program and within one year of date of violation.  
4. If you successfully complete the program, then:  
   a. Court will dismiss the citation  
   b. There will be no DL suspension  
   c. There will be no monetary fine (forfeiture)                                                                                                                                                                      | 1. You must complete an alcohol and drug assessment within 30-60 days (pay all costs).  
2. Complete any recommended treatment plan within 180 days of enrollment (pay all costs).  
3. No other violations during program, treatment plan or for one year after the date of violation.  
4. If you successfully complete the assessment/treatment plan, the Court will find you guilty and impose a fine (forfeiture) but the monetary amount can be reduced by the Court.  
5. Your driving privileges will not be suspended.                                                                                                                                                                    |
District Attorney's Underage Drinking Deferred Prosecution/Accountability Program Agreement

AGREEMENT entered this _______ day of __________________, _________ by and between the Kenosha County District Attorney's Office and the undersigned (hereinafter referred to as the "offender").

It has been reported to the Kenosha County District Attorney's Office that the offender has committed an offense of underage drinking in violation of the laws of the State of Wisconsin and the ordinances of Kenosha County. Law enforcement has referred the offender's case to the District Attorney's Office for further prosecution. This is a civil forfeiture matter and not a criminal offense. After review of the police reports, the information provided to this office and the offender's background, it appears that the offender's interests and the interests of the community can be best served by deferral of the offender's prosecution to permit the offender the opportunity to enroll in and attend an educational program known as the "Prime for Life" sponsored by the HOPE Council – Helping Others through Prevention and Education herein after referred to as the "HOPE Council." (Formerly known as the Alcohol and Other Drug Council of Kenosha County Inc.)

THEREFORE, by the authority vested in this office to make charging and prosecutorial decisions and, subject to the offender's agreement to voluntarily participate in this program, continued prosecution of the underage drinking violation in Kenosha County will be deferred, provided the offender meets and complies with the following contract conditions:

1. **Eligibility:** This program is a voluntary program. It is designed to be a first offender program. In order to be eligible to receive the District Attorney's recommendation of dismissal after successful completion of the program, the offender must be a "first offender." A person who has a prior conviction for underage drinking or has another offense pending anywhere is not considered a first offender for this program. However, a person who has a prior conviction for underage drinking or has another offense pending, may still be eligible to enroll in and complete the program but the District Attorney's recommendation upon successful completion of the program for a second offense will be a reduced forfeiture amount not a dismissal. As defined herein, a second offense is one committed by the offender during the 12-month period next preceding the date of present offense. A person who has previously attended this program is by definition not a "first offender." If the offender is under 17 years of age, the offender's parent(s) or guardian must agree/consent to the offender's participation in the program.

2. **Full Disclosure:** The offender must be open, honest and truthful and disclose any prior conviction or arrest for underage drinking including any pending charges. A failure to disclose any prior conviction, arrest or pending charges for underage drinking will be considered a material breach of this agreement and immediate grounds for termination from the program.

3. **Admission/Waiver:** The offender agrees and admits to all of the elements of the offense of underage drinking and agrees that if the offender does not successfully complete the program, a judgment of forfeiture can be entered by the Court against the offender without further notice. The offender understands that by entering and signing this agreement, the offender waives any right to further contest this matter and agrees that a judgment of forfeiture can be
entered by the Court for the specified amount of the bond quoted on the face of the citation or as otherwise deemed appropriate by the Court.

4. **No Legal Advice:** SCR 20:3.8(d) prohibits prosecutors from giving legal advice to an unrepresented person including but not limited to whether to obtain counsel or whether to accept or reject a settlement offer. The offender understands and agrees that the District Attorney and his representatives cannot and will not provide legal advice on how to proceed in the handling of this matter. The offender understands that any decision to enter into this agreement is solely the decision of the offender and is made freely and voluntarily on his/her part. The offender by entering into this agreement is not relying upon any statement or representation made by the District Attorney's office other than what is stated herein.

5. **Program Conditions**
   
a. **Offender agrees to attend and complete the "Prime for Life" (12.0 hours of educational programming) offered by the HOPE Council, 5942 6th Avenue, Kenosha, Wisconsin, 53140-3703, Phone (262) 658-8166; or provide documentation from the HOPE Council showing successful completion of a comparable underage drinking program approved by them.**

b. **Cooperation/Attendance:** Offender agrees to cooperate and actively participate in the program and any counseling recommended. The offender must (1) attend each class, (2) be on time, (3) successfully complete the program in the time allotted and (4) act in a respectable and dignified manner at all times. As defined herein, successful completion means successful completion of the program as determined by the director of the program at the director's sole discretion and pass any tests administered by the program. Unexcused absences, malingering or disrespectful behavior are immediate grounds for termination of this agreement and from the program.

c. **Pay all costs/no refunds:** Offender agrees to pay all costs associated with the program. The offender understands that if for any reason, the offender fails to complete the program or violates the terms of this agreement, there will be no refund of any monies previously paid by the offender for the program.

d. **No alcohol/further violations:** The offender agrees that during the term of this agreement, the offender shall not consume any alcoholic beverages or illegal drugs. The offender agrees that consumption of alcohol or illegal drugs or any further alcohol related or criminal law violations during the term of this agreement constitutes a material breach of this agreement and grounds for immediate termination from the program. The offender further agrees that if the offender violates any of the terms and conditions of this agreement, that a judgment of forfeiture can be entered by the Court without further notice to the parties.

e. **Self-Screen/Alcohol Assessment:** The offender agrees to cooperate and undergo a self-screen evaluation or alcohol assessment as deemed necessary or required by the program director. The offender agrees to be responsible for any and all costs associated with the self-screen evaluation or alcohol assessment. The offender agrees to cooperate with any treatment plan or counseling recommended by the program director. The offender agrees to sign a consent and authorization for the release of
confidential healthcare/medical information to allow the District Attorney’s office access to information regarding your compliance with this program, treatment or counseling. The offender agrees to provide said release to HOPE Council upon admission into the program. The District Attorney will utilize this information only for the purpose of this case and will otherwise maintain the confidential nature of this information.

f. **Successful Completion of Program:** Upon successful completion of the program as determined by the program director, the HOPE Council will prepare and provide the offender with a “certificate of completion.” The offender must provide a copy of the certificate of completion to the District Attorney’s Office. Upon receipt of the certificate of completion, the District Attorney will recommend to the Court that the underage drinking citation be dismissed (if a first offense) and/or impose a reduced forfeiture (if a second offense).

**NOTE: Disclaimer:** The Court is not bound to follow any recommendations or agreements made by or with the District Attorney and can impose up to the maximum penalty under the law.

**UNDERSTANDING AND ACKNOWLEDGMENT**

The undersigned has read the foregoing agreement, fully understands its contents and freely and voluntarily enters into the agreement understanding that if the offender does not successfully complete the program as set forth herein or violates any of the terms or conditions of this agreement, that the Court will enter a judgment of forfeiture without further notice to the parties. If under age 17, the undersigned parent(s)/guardian(s) hereby acknowledge reading this agreement, understand its contents and consent to the offender’s participation in the program.

---

Signature of Offender

Date

Print Name

Address

(____) Phone Number

Parent(s)/Guardian(s) Signature (if applicable) Date

Attorney for offender (if applicable) Date

Approved By ADA Date

---

Date April 11, 2008 App. I-34
NOTICE TO OFFENDER

Program Name: Kenosha County District Attorney's Underage Drinking Deferred Prosecution/Accountability Program

Program Sponsor: HOPE Council – Helping Others through Prevention and Education (Formerly known as the Alcohol and Other Drug Council of Kenosha County, Inc.)

Course Title: “Prime for Life”

Contact Person: Program Coordinator c/o HOPE Council 5942 6th Avenue Kenosha, WI 53140-3703 262-658-8166
MILWAUKEE COUNTY DISTRICT ATTORNEY'S OFFICE
CHARGING PROTOCOL
DIVERSION AND DEFERRED PROSECUTION AGREEMENTS

GOALS
1) To ensure that all members of our community who violate the law are held accountable while receiving a fair and just result.
2) To help offenders overcome the obstacles that may lead them to the criminal justice system and assist them in becoming productive members of our community.
3) To help protect the citizens of our community by placing the majority of limited resources into prosecuting violent criminal offenses.

PROCEDURES
Cases that rise to the level of probable cause should be considered for diversion or a deferred prosecution agreement. However, diversion and deferred prosecution agreements should not include cases where possible constitutional violations are at issue or in cases where an assistant district attorney reasonably believes the case cannot be proved beyond a reasonable doubt.

I. DIVERSION
When reviewing any case, an offender with little or no record of violent crimes, or an apparent mental health and/or drug treatment issue should first be considered for a Milwaukee County District Attorney’s Office Diversion Agreement (the “Diversion Agreement”). Successful completion of a Diversion Agreement, which is a pre-charge non-court approved agreement between the defendant, his or her attorney and the Milwaukee County District Attorney’s Office, will result in criminal charges not being filed. A person who fails a diversion agreement is not ineligible for a speedy disposition.

The attached Diversion Agreement should be used in these cases. All Diversion Agreements must specify the charges the Assistant District Attorney anticipates filing as well as the likely recommendation if the defendant fails.

The Milwaukee County District Attorney’s Restorative Justice Programming (the “RJP”) should be considered in cases deemed appropriate for diversion. A nonexclusive list of cases believed to be well suited for the RJP is attached. Questions concerning the RJP and the appropriateness of referring a case within the context of a diversion agreement should be directed to David Lerman or Erin Katzley.

Although all cases will be reviewed on a case-by-case basis, the following General and Violent Crime Unit cases will not generally be eligible for a Diversion Agreement:
(a) Cases involving the possession or use of a firearm or offenders who have any criminal history of these type of offenses;

(b) Offenders who are arrested on a new Manufacture, Delivery or Possession with Intent to Deliver any type of controlled substances who have two or more prior Manufacture, Delivery or Possession with Intent to Deliver any type of controlled substance convictions;

(c) Offenders who are arrested on Manufacture, Delivery, or Possession with Intent to Deliver Cocaine or Conspiracy to commit these offenses involving 40 or more grams of cocaine.

(d) Offenders who are arrested for felony level sex offenses or any offenders who have any criminal history of these types of offenses;

(e) Drunk driving cases;

(f) Prostitution cases;

(g) Lewd and lascivious behavior (and its variations);

(e) Graffiti;

(h) Violent crimes in a school zone pursuant to Wis. Stats. Section 939.632.

II. DEFERRED PROSECUTION AGREEMENTS

When it is determined that a Diversion Agreement is not appropriate, an offender should be considered for a deferred prosecution agreement. The attached Deferred Prosecution Agreement ("DPA"), which requires an admission of guilt, a plea, and a request for deferred judgment, should be used for all deferred prosecution agreements.

An offender, who is not already a felon, should be considered for a DPA a plea to one or more misdemeanor offenses even if the current offense could be proved at felony level.

If an offender is already a convicted felon, and the facts of the case warrant a felony conviction, then the deferred prosecution agreement should include a plea to a felony. The RJP may also be considered appropriate as a component of a DPA. In fact, it may be appropriate for most if not all of the components of the DPA to be handled by the RJP. Questions concerning the RJP and the appropriateness of referring a case within the context of a DPA should be directed to David Lerman or Erin Katzfey.

Successful completion of a DPA could result in the dismissal of the charge, a reduction to a lesser criminal charge or a non-criminal charge.
While the goal is for complete success, there will also be offenders that will fail. Therefore, all DPA’s should include negotiations in the event that the offender fails and is ultimately going back to court for sentencing.

Any and all violations of the agreements must be looked at on a case-by-case basis to determine if termination is necessary.

Extension of the DPA may be appropriate in limited circumstances.

The cases specified in letter a through f above will generally not be appropriate for a DPA. However, cases involving prostitution (both the act and the solicitation thereof); graffiti; violent crimes occurring in a school zone pursuant to Wis. Stats. Section 939.632; and lewd and lascivious behavior (and its variations) may be appropriate for a DPA subject to the approval of your team captain.

III. RESTITUTION

Pursuant to the restitution statute and notice to the victim(s), any and all restitution issues should be dealt with in a proactive manner. If restitution can be stipulated to, then it should be agreed to as part of the program. If an offender agrees to pay restitution, but is unable to pay during the period of the diversion or DPA agreement, a contract should be entered into which is legally enforceable in a court of law to hold the offender liable for the restitution pursuant to a civil judgment (see attached example of proposed Stipulation and Order) in the case of a DPA or should be paid to the extent possible by the assignment to the victim of any bail on deposit in the case of a Diversion. Assuming a showing of a good faith effort to pay, nonpayment of restitution by itself cannot be used to terminate a Diversion or DPA.

IV. VICTIMS

Following the rules of victim notification is a requirement of both Diversion and DPA’s.
1. Pre-charging

**Summary charges Provable?**

- **no**
  - **No Process**

- **yes**
  - Clear Constitutional violation?
    - **no**
      - **No Process**
    - **yes**
      - **Divertible/Deferrable per protocol?**
        - record: minimal and/or nonviolent felony or misd
        - charge divertible/deferrable by policy
        - confer with vict. If applicable obtain restitution amt/contacts.

**Diversion**
- No/minimal record
- Summary charge = misd/ nonviolent felony

**Diversion & DPA**
- DPA
  - nonviolent/older record
  - Summary charge = felony or misd
- J2K
  - TAD eval
  - TAD-J2K monitoring
  - non TAD – rev treatment db for alt provider
  - refer to trained PB atty

**Defense atty**
- e-form: SPD eligible
- Review reports
- Negotiate
- charge/dispo for failure
- detmnn monitoring agency (non TAD)
  - deft OK

**Not SPD eligible**

**DOC**
- Deft. On supervision?
  - Contact DOC liaison Kevin Ward
  - (KEvin.Ward@doc.stat.e.wi.us) to determine ATR likelihood

**DPA**
1. Issue DPA charges (consult with victim if applicable).
2. If in custody – put through incustody intake court.
3. If out of Custody - Contact Branch 33 for IA/PGP/DPA date (complete green sheet with date).
4. Draft DPA (ADA or def atty)
5. Mark as DPA (top of yellow card/DA file/complaint worksheet/prepare issuing worksheet w/ copy of DPA) and include yellow DPA sticker on file(felony) or clipped to yellow card (misdemeanor).
6. Fwd to Rogerick Griffin/ CCP box (CCP cases only)
7. Clerk of court routing documents.
8. Provide copy of filed DPA to victim (if applicable).

**Diversion**
1. Draft (ADA or def atty) (consult with victim if applicable).
2. Include charges that will be issued and likely recommend/executive agreement.
3. (in custody only) R & O/l (to J2K – N/A if other provider)
4. Fwd to Rogerick Griffin/ CCP box (CCP cases only) – Rogerick to forward copy of Diversion to victim if applicable.
5. return/apply bail to restitution
2. Pending DPA or Diversion Agreement

- agency begins monitoring.
- Rogerick maintains file
- route to CCP (if applicable)

**DPA only:**
1. Conduct IA, guilty plea, DPA hearing, set PR bond (misdemeanor) or
2. Conduct IA, PH waiver, (felony), plea, DPA hearing, set PR bond (br 33 only).
3. Return to Rogerick Griffin.
4. Midpoint review scheduled (V/W informs the victim of status if applicable).

**Monitoring agency:**
1. Monitors progress on completion of conditions.
2. Monthly reports detailing (non)compliance to deft. Atty and Rogerick Griffin

**CCP only:**
1. ADA/paralegal contacts defense atty/schedules/conducts pre-conf.
2. Facilitator conducts conference.
3. conditions of agreement refined (eg: restitution/community service).
4. Return w/ conference agreement to Rogerick Griffin.

**compliance**

**non-compliance**

**(other than new charges)**

- re-negotiate new/old case
- schedule w/draw of DPA with court (DPA only).
- court w/draws DPA/enters JOC/contacts sentg or transfers to court with new case.

**non-compliance (new charges)**

- monitoring agency reviews conducted bi-weekly w/ deft.
- Non-compliance addressed with deft thru graduated sanctions
imposed by agreement of parties:
1. Attendance at reviews: Noncompliant defendants will be required to attend periodic reviews conducted by the monitoring agency. Attendance may be required for part of or the entire session.
2. Extension: As noted in the agreement, durations can be extended for noncompliance.
3. Attendance at court reviews: Noncompliant defendants may be required to observe court reviews in Branch 33 or another DPA court.
4. Changes in agreement conditions: Noncompliant defendants may be required to perform additional conditions not previously listed in agreement (eg: additional community service).
5. Increased reporting requirements: Reporting can be gradually increased from weekly to daily reports dependant upon compliance with the program.
6. Bail modification: In the case of non-compliance with DPAs, the state may recommend bail modification for a determinate period. The court retains discretion to order this.
7. Conversion to DPA: In the case of non-compliance with diversions, the state may issue charges and require the defendant to participate in a DPA.
2. DPA or Diversion completion.

1. Monitoring agency provides final report.
2. Completion determined at agency review (w/out deft.)

Completion

Non-completion

- Agreement terminated – def.
  Sentenced (DPA) or charges issued (Diversion)
- Agreement extended/conditions modified per negotiation/future review dates set to determine completion
- Restitution converted to civil judgment upon good faith showing/def’s inability to pay

Deft. Discharges
- (Diversion) at agency/ final review
- (DPA) court review
  - Victim notified if applicable.
Diversion and DPA Outcome Report

Deferred Prosecution Outcomes (1/1/07-12/31/07)

- Not Completed, 52, 41%
- Completed, 76, 59%

Diversion Outcomes (1/1/07-12/31/07)

- Not Completed, 42, 45%
- Completed, 52, 55%
Participant: ____
Phone number(s): ____
Address: ____
Start Date: _____ End Date: _____

I, _____, agree to take part in the Milwaukee County Diversion Program. I understand that if I fulfill this Agreement, the District Attorney will not file a charge(s) against me. I understand that if I do not fulfill this Agreement, I will be terminated from this program, my case will be sent to the District Attorney, and my case will be reviewed for criminal charge(s). The initial charge(s) that the District Attorney may file against me if I am terminated from this program is _____. The initial disposition which the District Attorney may recommend for this charge is _____.

An absolute requirement for this Agreement is that I must avoid committing a crime during the term of this Agreement. I may be terminated from the program upon a probable cause showing that I committed a crime.

I understand and agree that my case will be held open until (date and time) ____. I must appear at Room 110 Milwaukee County Criminal Justice Facility, 949 N 9th St. on that date and time unless otherwise notified by one of the parties to this agreement.

I understand that my case will be reviewed to determine if I am doing the things listed below satisfactorily. If the caseworker feels that further treatment is needed, I understand that the time period can be extended so that I can complete this treatment.

I understand that I can quit this program at any time, but if I do, my case will be charged as it would have had I not entered this program. I understand that all information about my cooperation with this program will be shared with the District Attorneys and their staff, the caseworker, and my defense attorney.

I understand that I will be required to pay a fee in the amount of $50.00 payable to ____ in order to participate in this program. I will make all reasonable efforts to pay this fee but failure to pay this fee alone does not constitute grounds for termination from the program.

As a participant in the Diversion Program, the following contract goals will be mutually agreed upon. These goals can be re-evaluated and amended as necessary.

1. _____
2. _____
3. _____

As a condition of this agreement, I must:

- Meet with my case worker on an agreed upon schedule. All statements made to my caseworker are confidential and cannot be used against me if I fail this program and am later prosecuted by the District Attorneys Office.
Meetings will start on ____ and will occur weekly with a designated caseworker, the frequency of said meetings may be adjusted with the consent of the parties and based on my compliance.

Make a good faith effort to pay an assessment in the amount of $50.00 to _____. Absent any other violation, failure to pay this assessment will not automatically be grounds for termination of this agreement.

Keep my case worker advised of my current address and contact information at all times. Any changes must be reported immediately.

Participate in any additional programming as determined by my caseworker.

The specific conditions for this Diversion Agreement are outlined below. I agree to:

☐ Participate in GED/HSED Program

☐ Participate in anger management counseling as arranged by _____.

☐ Participate in AODA/mental health assessment through _____.

☐ Participate in required substance abuse and/or mental health treatment.

☐ Undergo random screens for drugs and alcohol.

☐ Sign any releases necessary for monitoring my progress in this program.

☐ Have no contact with ____ or _____.

☐ Pay restitution in the amount of ____ to _____. Any bail on deposit will be applied to restitution. (see attached Diversion Bail Return Form)

☐ Participate in the Milwaukee County District Attorney’s Community Conferencing or other Restorative Justice Program or alternatively perform ____ hours community service. (FOREWARD COPY OF AGREEMENT TO CCP)

☐ _____ monies on inventory (inventory #: _____) related to this case shall be _____.

☐ Obtain/maintain _____-time employment.

☐ Perform _____ hours community service

☐ Attend school.

The statements written above have been read by me or to me, and I understand and agree to each of them. The Milwaukee Diversion Program has been explained to me and I want to be part of the program. I participate in this Program voluntarily and I accept all of the conditions of the Program. I understand that the information on my case may be gathered for statistical purposes.
Participant Signature                                      Date

Monitoring agency representative/case worker Name

_____________________________________________Signature __________________________Date

Counsel for Participant Name ______ / □ pro se

_____________________________________________Signature __________________________Date

Assistant District Attorney Name ______

_____________________________________________Signature __________________________Date

☐ Route to CCP

App. I-45
Survey of Wisconsin Prosecutors – Prosecution Diversion Survey

APPENDIX II

1. Name of county?
   
<table>
<thead>
<tr>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>57</td>
</tr>
</tbody>
</table>

   answered question 57
   skipped question 0

2. Does a formal diversion program exist in your county?

<table>
<thead>
<tr>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>63.2%</td>
</tr>
<tr>
<td>No</td>
<td>36.8%</td>
</tr>
</tbody>
</table>

   answered question 57
   skipped question 0

3. What types of offenses are eligible for diversion? Please check all that apply.

<table>
<thead>
<tr>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-OWI criminal traffic</td>
<td>35.5%</td>
</tr>
<tr>
<td>Non-criminal traffic</td>
<td>19.4%</td>
</tr>
<tr>
<td>Misdemeanor drug offenses</td>
<td>67.7%</td>
</tr>
<tr>
<td>Felony drug offenses</td>
<td>32.3%</td>
</tr>
<tr>
<td>Misdemeanor property crimes</td>
<td>80.6%</td>
</tr>
<tr>
<td>Other misdemeanor offenses</td>
<td>74.2%</td>
</tr>
<tr>
<td>Felony property crimes</td>
<td>61.3%</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>58.1%</td>
</tr>
</tbody>
</table>

   answered question 31
   skipped question 26
4. Are certain types of offenses excluded from diversion?

<table>
<thead>
<tr>
<th>Offense</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assaultive felonies</td>
<td>65.2%</td>
<td>15</td>
</tr>
<tr>
<td>Assaultive misdemeanors</td>
<td>21.7%</td>
<td>5</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>52.2%</td>
<td>12</td>
</tr>
</tbody>
</table>

answered question: 23

skipped question: 34

5. Are there any types of offenders who are ineligible for diversion?

<table>
<thead>
<tr>
<th>Ineligibility</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior assaultive record</td>
<td>70.0%</td>
<td>21</td>
</tr>
<tr>
<td>Prior record for similar offense</td>
<td>73.3%</td>
<td>22</td>
</tr>
<tr>
<td>Unsuccessful participant in prior diversion</td>
<td>76.7%</td>
<td>23</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>40.0%</td>
<td>12</td>
</tr>
</tbody>
</table>

answered question: 30

skipped question: 27

6. Are there written guidelines describing eligibility and procedures? If available in electronic form please e-mail kempinen@wisc.edu

<table>
<thead>
<tr>
<th>Response</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>57.7%</td>
<td>15</td>
</tr>
<tr>
<td>No</td>
<td>42.3%</td>
<td>11</td>
</tr>
</tbody>
</table>

answered question: 26

skipped question: 31
7. Who is responsible for administration of the program?

<table>
<thead>
<tr>
<th>Role</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorney staff</td>
<td>41.9%</td>
<td>13</td>
</tr>
<tr>
<td>Secretary-Support Staff in District Attorney's Office</td>
<td>25.8%</td>
<td>8</td>
</tr>
<tr>
<td>Separate Program Administrator, employed by District Attorney</td>
<td>22.6%</td>
<td>7</td>
</tr>
<tr>
<td>Other County Agency</td>
<td>19.4%</td>
<td>6</td>
</tr>
<tr>
<td>Independent Contractor</td>
<td>22.6%</td>
<td>7</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>19.4%</td>
<td>6</td>
</tr>
</tbody>
</table>

answered question: 31
skipped question: 26

8. How is the program funded?

<table>
<thead>
<tr>
<th>Funding Source</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>County funds - District Attorney budget</td>
<td>44.8%</td>
<td>13</td>
</tr>
<tr>
<td>Participant-funded in whole or part</td>
<td>79.3%</td>
<td>23</td>
</tr>
<tr>
<td>County funds other than District Attorney budget, or Federal Funds. Please describe source</td>
<td>31.0%</td>
<td>9</td>
</tr>
</tbody>
</table>

answered question: 29
skipped question: 28
9. If participant-funded what is the cost to participate?

<table>
<thead>
<tr>
<th>Cost Range</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1-$99</td>
<td>23.1%</td>
<td>6</td>
</tr>
<tr>
<td>$100-$199</td>
<td>15.4%</td>
<td>4</td>
</tr>
<tr>
<td>$200-$299</td>
<td>7.7%</td>
<td>2</td>
</tr>
<tr>
<td>More than $299</td>
<td>15.4%</td>
<td>4</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>38.5%</td>
</tr>
</tbody>
</table>

answered question: 26
skipped question: 31

10. What was the cost of administration of the program last year? If yearly budget document available in electronic form please e-mail kempinen@wisc.edu

Response Count: 18
answered question: 18
skipped question: 39

11. Who decides which cases or offenders will be invited to participate?

<table>
<thead>
<tr>
<th>Decider</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>DA or ADA</td>
<td>96.8%</td>
<td>30</td>
</tr>
<tr>
<td>Trial Judge</td>
<td>19.4%</td>
<td>6</td>
</tr>
<tr>
<td>Social Service Agency</td>
<td></td>
<td>9.7%</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td></td>
<td>19.4%</td>
</tr>
</tbody>
</table>

answered question: 31
skipped question: 26
12. At what point does the defendant enter the program?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-charging</td>
<td>6.5%</td>
<td>2</td>
</tr>
<tr>
<td>Post-charging but pre-plea</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>At conditional plea of guilty</td>
<td>38.7%</td>
<td>12</td>
</tr>
<tr>
<td>Post-conviction – part of sentence</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>Post-conviction – alternative to revocation</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>Varied points of entry (please specify)</td>
<td>54.8%</td>
<td>17</td>
</tr>
</tbody>
</table>

answered question 31

skipped question 26

13. Is a written contract required between the offender and the program administrator? If available in electronic form please e-mail kemphn@wisc.edu

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>80.6%</td>
<td>25</td>
</tr>
<tr>
<td>No</td>
<td>19.4%</td>
<td>6</td>
</tr>
</tbody>
</table>

answered question 31

skipped question 26
14. What procedures are used to ensure the participant is guilty of the underlying charges?

<table>
<thead>
<tr>
<th>Procedure</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Admission to law enforcement</td>
<td>13.8%</td>
<td>4</td>
</tr>
<tr>
<td>Admission to program administrator</td>
<td>20.7%</td>
<td>6</td>
</tr>
<tr>
<td>Admission to judge without conviction</td>
<td>51.7%</td>
<td>15</td>
</tr>
<tr>
<td>Admission to judge in connection with plea of guilty and conviction</td>
<td>31.0%</td>
<td>9</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>27.6%</td>
<td>8</td>
</tr>
</tbody>
</table>

answered question 29

skipped question 28

15. Are participants represented by counsel at the point of acceptance into the program?

<table>
<thead>
<tr>
<th>Representation</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Always</td>
<td>3.6%</td>
<td>1</td>
</tr>
<tr>
<td>More than 75% of the time</td>
<td>32.1%</td>
<td>9</td>
</tr>
<tr>
<td>Between 50% and 75% of the time</td>
<td>35.7%</td>
<td>10</td>
</tr>
<tr>
<td>Less than 50% of the time</td>
<td>28.6%</td>
<td>8</td>
</tr>
</tbody>
</table>

answered question 28

skipped question 29

16. Are certain participant conditions required in all cases?

<table>
<thead>
<tr>
<th>Condition</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>93.1%</td>
<td>27</td>
</tr>
<tr>
<td>No</td>
<td>6.9%</td>
<td>2</td>
</tr>
</tbody>
</table>

answered question 29

skipped question 28
17. If Answer to previous question is yes please check all that apply.

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>I answered no</td>
<td>3.6%</td>
<td>1</td>
</tr>
<tr>
<td>AODA assessment</td>
<td>21.4%</td>
<td>6</td>
</tr>
<tr>
<td>Restitution</td>
<td>39.3%</td>
<td>11</td>
</tr>
<tr>
<td>Compliance with treatment</td>
<td>46.4%</td>
<td>13</td>
</tr>
<tr>
<td>Obtain high School diploma</td>
<td>14.3%</td>
<td>4</td>
</tr>
<tr>
<td>Employment</td>
<td>10.7%</td>
<td>3</td>
</tr>
<tr>
<td>Payment of Costs of Participation in Program</td>
<td>64.3%</td>
<td>18</td>
</tr>
<tr>
<td>Payment of Court Costs</td>
<td>39.3%</td>
<td>11</td>
</tr>
<tr>
<td><strong>No new charges brought against participant</strong></td>
<td>78.8%</td>
<td>22</td>
</tr>
<tr>
<td>Supervision check in</td>
<td>28.6%</td>
<td>8</td>
</tr>
<tr>
<td>Accept responsibility for charge(s)</td>
<td>42.9%</td>
<td>12</td>
</tr>
<tr>
<td>Not on supervision in other jurisdiction</td>
<td>14.3%</td>
<td>4</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>39.3%</td>
<td>11</td>
</tr>
</tbody>
</table>

answered question: 28

skipped question: 29

18. Are conditions sometimes imposed on a case-by-case basis?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>93.3%</td>
<td>28</td>
</tr>
<tr>
<td>No</td>
<td>6.7%</td>
<td>2</td>
</tr>
</tbody>
</table>

answered question: 30

skipped question: 27
19. If answer to previous question is yes please check all that apply

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>I answered no</td>
<td>3.4%</td>
<td>1</td>
</tr>
<tr>
<td>AODA assessment</td>
<td>72.4%</td>
<td>21</td>
</tr>
<tr>
<td>Restitution</td>
<td>75.9%</td>
<td>22</td>
</tr>
<tr>
<td>Compliance with treatment</td>
<td>75.9%</td>
<td>22</td>
</tr>
<tr>
<td>Obtain high school Diploma</td>
<td>79.3%</td>
<td>23</td>
</tr>
<tr>
<td>Employment</td>
<td>69.0%</td>
<td>20</td>
</tr>
<tr>
<td>Payment of Costs of Participation in Program</td>
<td>55.2%</td>
<td>16</td>
</tr>
<tr>
<td>Payment of Court Costs</td>
<td>41.4%</td>
<td>12</td>
</tr>
<tr>
<td>No new charges brought against participant</td>
<td>65.5%</td>
<td>19</td>
</tr>
<tr>
<td>Supervision check in</td>
<td>34.5%</td>
<td>10</td>
</tr>
<tr>
<td>Accept responsibility for charge(s)</td>
<td>44.8%</td>
<td>13</td>
</tr>
<tr>
<td>Not on supervision in other jurisdiction</td>
<td>17.2%</td>
<td>5</td>
</tr>
<tr>
<td>Domestic violence treatment</td>
<td>75.9%</td>
<td>22</td>
</tr>
<tr>
<td>Parenting classes</td>
<td>75.9%</td>
<td>22</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>44.8%</td>
<td>13</td>
</tr>
</tbody>
</table>

answered question 29
skipped question 28
### 20. How long is Participant in Program?

<table>
<thead>
<tr>
<th>Duration</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 6 months</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>6 months to less than 1 year</td>
<td>13.3%</td>
<td>4</td>
</tr>
<tr>
<td>1 year or more</td>
<td>23.3%</td>
<td>7</td>
</tr>
<tr>
<td>Until all conditions satisfied</td>
<td>3.3%</td>
<td>1</td>
</tr>
<tr>
<td>Varied (please explain)</td>
<td>60.0%</td>
<td>18</td>
</tr>
</tbody>
</table>

Answered question 30

Skipped question 27

### 21. Oversight of Participants - How is Compliance Tracked?

<table>
<thead>
<tr>
<th>Method</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Self-report by participant to program</td>
<td>41.4%</td>
<td>12</td>
</tr>
<tr>
<td>administrator</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Self-report by participant to service</td>
<td>13.8%</td>
<td>4</td>
</tr>
<tr>
<td>provider</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Monitored by Program Administrator or staff</td>
<td>72.4%</td>
<td>21</td>
</tr>
<tr>
<td>Status appearance before judge-court</td>
<td>13.8%</td>
<td>4</td>
</tr>
<tr>
<td>commissioner</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Probation or parole agent</td>
<td>17.2%</td>
<td>5</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>44.8%</td>
<td>13</td>
</tr>
</tbody>
</table>

Answered question 29

Skipped question 28
22. How is it determined whether a participant has violated program conditions?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Review of report of violation made by program administrator</td>
<td>60.0%</td>
<td>18</td>
</tr>
<tr>
<td>Interview of participant by program administrator</td>
<td>6.7%</td>
<td>2</td>
</tr>
<tr>
<td>Review and Interview</td>
<td>23.3%</td>
<td>7</td>
</tr>
<tr>
<td>Court hearing</td>
<td>70.0%</td>
<td>21</td>
</tr>
</tbody>
</table>

answered question: 30
skipped question: 27

23. Is participant represented by counsel if alleged to have violated program conditions?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Always</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>More than 75% of the time</td>
<td>33.3%</td>
<td>9</td>
</tr>
<tr>
<td>Between 50% and 75% of the time</td>
<td>33.3%</td>
<td>9</td>
</tr>
<tr>
<td>Less than 50% of the time</td>
<td>33.3%</td>
<td>9</td>
</tr>
</tbody>
</table>

answered question: 27
skipped question: 30
24. What are the consequence(s) of violation of program conditions? Check all that apply.

<table>
<thead>
<tr>
<th>Consequence</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Termination and reinstatement of criminal charges.</td>
<td>63.3%</td>
<td>19</td>
</tr>
<tr>
<td>Extension of terms of participation.</td>
<td>56.7%</td>
<td>17</td>
</tr>
<tr>
<td>Revision of conditions of agreement.</td>
<td>53.3%</td>
<td>16</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>53.3%</td>
<td>16</td>
</tr>
</tbody>
</table>

answered question: 30
skipped question: 27

25. Are program-related statistics maintained? If yes and available in electronic form please e-mail kempinen@wisc.edu

<table>
<thead>
<tr>
<th>Response</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>48.1%</td>
<td>13</td>
</tr>
<tr>
<td>No</td>
<td>51.9%</td>
<td>14</td>
</tr>
</tbody>
</table>

answered question: 27
skipped question: 30
28. What types of offenses are eligible for informal diversion? Please check all that apply.

<table>
<thead>
<tr>
<th>Offense</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-OWI criminal traffic</td>
<td>51.7%</td>
<td>15</td>
</tr>
<tr>
<td>Non-criminal traffic</td>
<td>41.4%</td>
<td>12</td>
</tr>
<tr>
<td>Misdemeanor drug offenses</td>
<td>37.9%</td>
<td>11</td>
</tr>
<tr>
<td>Felony drug offenses</td>
<td>13.8%</td>
<td>4</td>
</tr>
<tr>
<td>Misdemeanor property crimes</td>
<td>44.8%</td>
<td>13</td>
</tr>
<tr>
<td>Other misdemeanor offenses</td>
<td>51.7%</td>
<td>15</td>
</tr>
<tr>
<td>Felony property crimes</td>
<td>27.6%</td>
<td>8</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>41.4%</td>
<td>12</td>
</tr>
</tbody>
</table>

answered question 29
skipped question 28

29. Are certain types of offenses excluded from diversion? Please check all that apply.

<table>
<thead>
<tr>
<th>Offense</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assaultive felonies</td>
<td>90.0%</td>
<td>18</td>
</tr>
<tr>
<td>Assaultive misdemeanors</td>
<td>70.0%</td>
<td>14</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>35.0%</td>
<td>7</td>
</tr>
</tbody>
</table>

answered question 20
skipped question 37
26. You have indicated that your county does not have a formal diversion program. Which of the following are factors affecting your county’s lack of a formal diversion program? Check all that apply.

<table>
<thead>
<tr>
<th>Factor</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Insufficient funds</td>
<td>90.9%</td>
<td>20</td>
</tr>
<tr>
<td>Not interested</td>
<td>13.6%</td>
<td>3</td>
</tr>
<tr>
<td>Not enough time</td>
<td>50.0%</td>
<td>11</td>
</tr>
<tr>
<td>Insufficient support from other law enforcement agencies</td>
<td>13.6%</td>
<td>3</td>
</tr>
<tr>
<td>Too heavy of a caseload</td>
<td>45.5%</td>
<td>10</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>45.5%</td>
<td>10</td>
</tr>
</tbody>
</table>

answered question 22

skipped question 35

27. Are any cases informally diverted in your county?

<table>
<thead>
<tr>
<th>Response</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>70.6%</td>
<td>36</td>
</tr>
<tr>
<td>No</td>
<td>29.4%</td>
<td>15</td>
</tr>
</tbody>
</table>

answered question 51

skipped question 6
30. Are there any types of offenders who are ineligible for diversion?

<table>
<thead>
<tr>
<th>Category</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior assaultive record</td>
<td>52.4%</td>
<td>11</td>
</tr>
<tr>
<td>Prior record for similar offense</td>
<td>57.1%</td>
<td>12</td>
</tr>
<tr>
<td>Unsuccessful participant in prior diversion</td>
<td>71.4%</td>
<td>15</td>
</tr>
<tr>
<td>Other. Please Explain</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>38.1%</td>
<td>8</td>
</tr>
</tbody>
</table>

answered question 21

skipped question 36

31. Are there written guidelines describing eligibility and procedures? If available in electronic form please e-mail kempinen@wisc.edu

<table>
<thead>
<tr>
<th>Response</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>7.1%</td>
<td>2</td>
</tr>
<tr>
<td>No</td>
<td>96.4%</td>
<td>27</td>
</tr>
</tbody>
</table>

answered question 28

skipped question 29
### 32. Who is responsible for administration of the program?

<table>
<thead>
<tr>
<th></th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorney staff</td>
<td>67.9%</td>
<td>19</td>
</tr>
<tr>
<td>Secretary-Support Staff in District Attorney's Office</td>
<td>39.3%</td>
<td>11</td>
</tr>
<tr>
<td>Separate Program Administrator employed by District Attorney</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>Other County Agency</td>
<td>10.7%</td>
<td>3</td>
</tr>
<tr>
<td>Independent Contractor</td>
<td>7.1%</td>
<td>2</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>10.7%</td>
<td>3</td>
</tr>
</tbody>
</table>

answered question: 28
skipped question: 29

### 33. How is the program funded?

<table>
<thead>
<tr>
<th></th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>County funds-District Attorney budget</td>
<td>43.5%</td>
<td>10</td>
</tr>
<tr>
<td>Participant-funded in whole or part</td>
<td>52.2%</td>
<td>12</td>
</tr>
<tr>
<td>County funds other than District Attorney budget or Federal Grant, Please Describe Source and Duration</td>
<td>13.0%</td>
<td>3</td>
</tr>
</tbody>
</table>

answered question: 23
skipped question: 34
34. If participant-funded what is the cost to participate?

<table>
<thead>
<tr>
<th>Category</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1-$99</td>
<td>12.5%</td>
<td>2</td>
</tr>
<tr>
<td>$100-$199</td>
<td>18.8%</td>
<td>3</td>
</tr>
<tr>
<td>$200-$299</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>More than $299</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>68.8%</td>
<td>11</td>
</tr>
</tbody>
</table>

answered question 16
skipped question 41

35. What was the cost of administration of the program last year? If yearly budget document available in electronic form please e-mail kempinen@wisc.edu

<table>
<thead>
<tr>
<th>Category</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>13</td>
</tr>
</tbody>
</table>

answered question 13
skipped question 44

36. Who decides which cases or offenders will be invited to participate?

<table>
<thead>
<tr>
<th>Category</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>DA or ADA</td>
<td>100.0%</td>
<td>28</td>
</tr>
<tr>
<td>Trial Judge</td>
<td>3.6%</td>
<td>1</td>
</tr>
<tr>
<td>Social Service Agency</td>
<td>3.6%</td>
<td>1</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>7.1%</td>
<td>2</td>
</tr>
</tbody>
</table>

answered question 28
skipped question 29
37. At what point does the defendant enter the program?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-charging</td>
<td>14.3%</td>
<td>4</td>
</tr>
<tr>
<td>Post-charging but pre-plea</td>
<td>14.3%</td>
<td>4</td>
</tr>
<tr>
<td>At conditional plea of guilty</td>
<td>28.8%</td>
<td>8</td>
</tr>
<tr>
<td>Post-conviction – part of sentence</td>
<td>3.6%</td>
<td>1</td>
</tr>
<tr>
<td>Post-conviction – alternative to revocation</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>Varied points of entry. Please specify at which points the defendant may enter the program</td>
<td>42.9%</td>
<td>12</td>
</tr>
</tbody>
</table>

answered question: 28

skipped question: 29

38. Is a written contract required between the offender and the program administrator? If available in electronic form please e-mail kempinen@wisc.edu

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>76.9%</td>
<td>20</td>
</tr>
<tr>
<td>No</td>
<td>26.9%</td>
<td>7</td>
</tr>
</tbody>
</table>

answered question: 26

skipped question: 31
39. What procedures are used to ensure the participant is guilty of the underlying charges?

<table>
<thead>
<tr>
<th>Procedure</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Admission to law enforcement</td>
<td>19.2%</td>
<td>5</td>
</tr>
<tr>
<td>Admission to program administrator</td>
<td>30.8%</td>
<td>8</td>
</tr>
<tr>
<td>Admission to judge without conviction</td>
<td>38.5%</td>
<td>10</td>
</tr>
<tr>
<td>Admission to judge in connection with plea of guilty and conviction</td>
<td>34.6%</td>
<td>9</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>26.9%</td>
<td>7</td>
</tr>
</tbody>
</table>

answered question: 26

skipped question: 31

40. Are participants represented by counsel at the point of acceptance into the program?

<table>
<thead>
<tr>
<th>Representation</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Always</td>
<td>7.7%</td>
<td>2</td>
</tr>
<tr>
<td>More than 75% of the time</td>
<td>26.9%</td>
<td>7</td>
</tr>
<tr>
<td>Between 50% and 75% of the time</td>
<td>46.2%</td>
<td>12</td>
</tr>
<tr>
<td>Less than 50% of the time</td>
<td>23.1%</td>
<td>6</td>
</tr>
</tbody>
</table>

answered question: 26

skipped question: 31
41. Are certain participant conditions required in all cases? Please check all that apply.

<table>
<thead>
<tr>
<th>Condition</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>AODA assessment</td>
<td>31.8%</td>
<td>7</td>
</tr>
<tr>
<td>Restitution</td>
<td>31.8%</td>
<td>7</td>
</tr>
<tr>
<td>Compliance with treatment</td>
<td>45.5%</td>
<td>10</td>
</tr>
<tr>
<td>Obtain high School diploma</td>
<td>13.6%</td>
<td>3</td>
</tr>
<tr>
<td>Employment</td>
<td>18.2%</td>
<td>4</td>
</tr>
<tr>
<td>Payment of Costs of Participation in Program</td>
<td>22.7%</td>
<td>5</td>
</tr>
<tr>
<td>Payment of Court Costs</td>
<td>22.7%</td>
<td>5</td>
</tr>
<tr>
<td>No new charges brought against participant</td>
<td>86.4%</td>
<td>19</td>
</tr>
<tr>
<td>Supervision check in</td>
<td>13.6%</td>
<td>3</td>
</tr>
<tr>
<td>Accept responsibility for charge(s)</td>
<td>18.2%</td>
<td>4</td>
</tr>
<tr>
<td>Not on supervision in other jurisdiction</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>27.3%</td>
<td>6</td>
</tr>
</tbody>
</table>

Answered question: 22
Skipped question: 35

42. Are conditions sometimes imposed on a case-by-case basis?

<table>
<thead>
<tr>
<th>Condition</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>100.0%</td>
<td>26</td>
</tr>
<tr>
<td>No</td>
<td>3.8%</td>
<td>1</td>
</tr>
</tbody>
</table>

Answered question: 26
Skipped question: 31
43. If answer to previous question is yes, please check all that apply.

<table>
<thead>
<tr>
<th></th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>I answered no</td>
<td>0.0%</td>
<td>0</td>
</tr>
<tr>
<td>AODA assessment</td>
<td>87.5%</td>
<td>21</td>
</tr>
<tr>
<td>Restitution</td>
<td>87.5%</td>
<td>21</td>
</tr>
<tr>
<td>Compliance with treatment</td>
<td>91.7%</td>
<td>22</td>
</tr>
<tr>
<td>Obtain high school Diploma</td>
<td>79.2%</td>
<td>19</td>
</tr>
<tr>
<td>Employment</td>
<td>70.8%</td>
<td>17</td>
</tr>
<tr>
<td>Payment of Costs of Participation in Program</td>
<td>37.5%</td>
<td>9</td>
</tr>
<tr>
<td>Payment of Court Costs</td>
<td>29.2%</td>
<td>7</td>
</tr>
<tr>
<td>No new charges brought against participant</td>
<td>62.5%</td>
<td>15</td>
</tr>
<tr>
<td>Supervision check in</td>
<td>20.8%</td>
<td>5</td>
</tr>
<tr>
<td>Accept responsibility for charge(s)</td>
<td>56.3%</td>
<td>14</td>
</tr>
<tr>
<td>Not on supervision in other jurisdiction</td>
<td>12.5%</td>
<td>3</td>
</tr>
<tr>
<td>Domestic violence treatment</td>
<td>87.5%</td>
<td>21</td>
</tr>
<tr>
<td>Parenting classes</td>
<td>75.0%</td>
<td>18</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>29.2%</td>
<td>7</td>
</tr>
</tbody>
</table>

answered question 24

skipped question 33
### 44. How long is Participant in Program?

<table>
<thead>
<tr>
<th>Option</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 6 months</td>
<td>10.7%</td>
<td>3</td>
</tr>
<tr>
<td>6 months to less than 1 year</td>
<td>28.6%</td>
<td>8</td>
</tr>
<tr>
<td>1 year or more</td>
<td>17.9%</td>
<td>5</td>
</tr>
<tr>
<td>Until all conditions satisfied</td>
<td>7.1%</td>
<td>2</td>
</tr>
<tr>
<td>Varied (please specify)</td>
<td>39.3%</td>
<td>11</td>
</tr>
</tbody>
</table>

**answered question** 28  
**skipped question** 29

### 45. Oversight of Participants - How is Compliance Tracked?

<table>
<thead>
<tr>
<th>Option</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Self-report by participant to program administrator</td>
<td>55.6%</td>
<td>15</td>
</tr>
<tr>
<td>Self-report by participant to service provider</td>
<td>11.1%</td>
<td>3</td>
</tr>
<tr>
<td>Monitored by Program Administrator or staff</td>
<td>51.9%</td>
<td>14</td>
</tr>
<tr>
<td>Status appearance before judge-court commissioner</td>
<td>25.9%</td>
<td>7</td>
</tr>
<tr>
<td>Probation or parole agent</td>
<td>18.5%</td>
<td>5</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>14.8%</td>
<td>4</td>
</tr>
</tbody>
</table>

**answered question** 27  
**skipped question** 30
45. How is it determined whether a participant has violated program conditions?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Review of report of violation made by program administrator</td>
<td>60.0%</td>
<td>15</td>
</tr>
<tr>
<td>Interview of participant by program administrator</td>
<td>8.0%</td>
<td>2</td>
</tr>
<tr>
<td>Review and Interview</td>
<td>24.0%</td>
<td>6</td>
</tr>
<tr>
<td>Court hearing</td>
<td>52.0%</td>
<td>13</td>
</tr>
</tbody>
</table>

answered question 25

skipped question 32

47. Is participant represented by counsel if alleged to have violated program conditions?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Always</td>
<td>4.0%</td>
<td>1</td>
</tr>
<tr>
<td>More than 75% of the time</td>
<td>20.0%</td>
<td>5</td>
</tr>
<tr>
<td>Between 50% and 75% of the time</td>
<td>36.0%</td>
<td>9</td>
</tr>
<tr>
<td>Less than 50% of the time</td>
<td>44.0%</td>
<td>11</td>
</tr>
</tbody>
</table>

answered question 25

skipped question 32
48. What are the consequence(s) of violation of program conditions? Check all that apply.

<table>
<thead>
<tr>
<th>Consequence</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Termination and reinstatement of criminal charges</td>
<td>96.3%</td>
<td>26</td>
</tr>
<tr>
<td>Extension of terms of participation</td>
<td>46.1%</td>
<td>13</td>
</tr>
<tr>
<td>Revision of conditions of agreement</td>
<td>37.0%</td>
<td>10</td>
</tr>
<tr>
<td>Other (please specify)</td>
<td>18.5%</td>
<td>5</td>
</tr>
</tbody>
</table>

answered question 27

skipped question 30

49. Are program-related statistics maintained? If yes and available in electronic form please e-mail kempinen@wisc.edu

<table>
<thead>
<tr>
<th>Response</th>
<th>Response Percent</th>
<th>Response Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>12.0%</td>
<td>3</td>
</tr>
<tr>
<td>No</td>
<td>92.0%</td>
<td>23</td>
</tr>
</tbody>
</table>

answered question 25

skipped question 32