

# **Milwaukee County, Wisconsin, Early Intervention Strategy: A Case Study in Evidence-Based Diversionary Practices**

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## Introduction: The Justice Reinvestment Initiative (JRI)

Over the past five years (2011–2016), the Center for Effective Public Policy (the Center) and its partner Applied Research Services (ARS) provided technical assistance to nine local jurisdictions that applied for and were selected by the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance (BJA) to participate in their Justice Reinvestment at the Local Level (JRLL) initiative. During this period, the participating jurisdictions progressed through a two-phased process (“Phase I” and “Phase II”) to examine the drivers of justice system costs and populations, develop and implement strategies to address those drivers, and realize cost savings and reinvestment goals.

Central to the JRI approach at the local level is the use of data and information to:

1. understand the current operations of the justice system, including the drivers of cost and population;
2. analyze various policy change options and their potential impact on cost, population, and community safety;
3. strengthen implementation efforts designed to improve the justice system and its outcomes; and
4. measure the performance of implementation strategy efforts, enabling readjustment and improvement over time.

Despite the similarities in the JRI process, the local sites involved in the work each designed strategies to address local goals and needs. This case study documents the work of one of the local JRI sites: Milwaukee County, Wisconsin.

### *Milwaukee County Criminal Justice System Vision Statement*

By applying what the evidence tells us about what actually works in protecting the community and holding offenders accountable, Milwaukee County's criminal justice system will make the smartest possible use of its limited resources, continuously improving its performance against quantifiable goals and reinvesting the savings in programs that reduce crime in the first place.<sup>1</sup>

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<sup>1</sup> Milwaukee County Early Intervention Committee. (2015). *Milwaukee County early intervention programs*. Retrieved from <http://milwaukee.gov/ImageLibrary/Groups/2014.10.31MilwaukeeCountyEarly.pdf>

## Background: Milwaukee County

Milwaukee County, Wisconsin, is the largest of Wisconsin's counties. Its county seat is the city of Milwaukee. The county has a population of 957,735; 75.6% are age 18 years and over. The median household income is \$43,385, and 22.0% of the population lives at or below the poverty line.<sup>2</sup> In calendar year 2015, 5,630 felony and 4,485 misdemeanor complaints were filed, in addition to 2,566 criminal traffic cases.<sup>3</sup> The county criminal court is composed of 47 nonpartisan circuit court judges elected by voters, 14 of whom handle felony cases and 7 of whom handle misdemeanors. The elected district attorney has approximately 125 assistants, while approximately 60 public defense attorneys handle adult criminal matters and 25 public defense attorneys handle juvenile, Children in Need of Protection or Services (CHIPS), Termination of Parental Rights (TPR), and related cases under the auspices of the Wisconsin State Public Defender's Office. The racial makeup of the county is 53% White, 27% Black or African American, 14% Hispanic or Latino of any race, and 6% Other races.<sup>4</sup> Jail bookings in calendar years 2008, 2011, and 2014, were 42,179, 40,043, and 33,515, respectively.<sup>5</sup>

## Milwaukee's JRI Activities

Milwaukee County was selected to participate in JRI in May 2011. The county had been participating in the National Institute of Corrections-sponsored Evidence-Based Decision Making (EBDM) in Local Criminal Justice Systems Initiative since August 2010 and, as such, was well-positioned to fully engage in JRI activities.<sup>6</sup>

Before and during Phase I of JRI, the county actively participated in a comprehensive process to understand their cost drivers, including:

- identifying and bringing together key stakeholders and, collaboratively, developing a joint vision and mission statement;
- developing a system map and conducting a policy and practice analysis;
- convening a series of evidence-based practice seminars for policymakers and staff;
- providing access to local data and examining raw data and simulation modeling results;
- analyzing local costs, particularly those associated with the operation of local correctional facilities; and
- convening leadership meetings to consider the feasibility of strategies and reach consensus on proposed change targets.

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<sup>2</sup> United States Census Bureau. (n.d.). *QuickFacts: Milwaukee County, Wisconsin*. Retrieved from <http://www.census.gov/quickfacts/table/EDU635214/55079>

<sup>3</sup> Wisconsin Court System. (2016). *Caseload summary by responsible court official: District wide report*. Retrieved from <https://www.wicourts.gov/publications/statistics/circuit/docs/caseloadcounty15.pdf>

<sup>4</sup> United States Census Bureau, n.d.

<sup>5</sup> Meredith, T. (2016). *Justice reinvestment at the local level: Milwaukee County jail population update*. Unpublished manuscript.

<sup>6</sup> For more information about the EBDM in Local Criminal Justice Systems Initiative, see [ebdmoneless.org](http://ebdmoneless.org).

These activities led county leaders to develop the “Milwaukee County Early Intervention (EI) Strategy,” a set of diversionary options designed to follow key research principles—primarily the risk and need principles—and reduce the time, cost, and collateral consequences associated with traditional case processing in appropriate cases.

### *Milwaukee County Early Intervention Strategy*

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

## Development of a New Approach to Diversion and Deferred Prosecution

Dating back to March 2007, the District Attorney’s Office had worked in collaboration with the Public Defender’s Office to identify suitable defendants for diversion and deferred prosecution; approximately 117 defendants per year were provided the opportunity to avoid traditional case processing, criminal charges, and prosecution (J. Chisholm, letter of application from Milwaukee County Community Justice Council [CJC] to BJA for participation in JRI, October 11, 2012). However, as stated in the words of one Milwaukee official, “It was a very non-uniform process...A lot of these decisions were just gut-based.” Identification of diversion and deferred prosecution agreement (DPA) cases was dependent upon the assigned assistant district attorney and/or defense attorney, and formal eligibility criteria and conditions associated with participation in each option had not been formulated. The system was not informed by risk in terms of selection criteria or by social science research in terms of program expectations. As a result, “there was a collective decision to create a ‘central clearinghouse’ to [divert] as many clients as possible...We needed a central place for referrals—to make sure we applied eligibility criteria objectively and across the board.”

### *Definitions*

**Diversion:** The district attorney withholds filing charges and the individual agrees to complete certain terms of a diversion agreement. If the individual satisfactorily completes the terms of the agreement, the district attorney does not file charges. If the individual does not satisfactorily complete the terms of the agreement, the district attorney issues the criminal charges and proceeds with formal prosecution.

**Deferred Prosecution:** The district attorney files charges and then reaches an agreement with an individual to complete a deferred prosecution program. If the individual satisfactorily completes the program, the formal charges are either dismissed or reduced. If the individual does not satisfactorily complete the deferred prosecution program, the Judgment of Commitment is entered and the individual is sentenced.

Milwaukee officials developed the conceptual framework for their new approach to diversion and deferred prosecution as part of their Phase II JRI grant application, and secured agreement from the county to support the Early Intervention Strategy if their application proved successful. Between May 2011 and March 2014, after the award of BJA grant funding, the Early Intervention (EI) Committee,<sup>7</sup> with the assistance of their JRI technical assistance provider, developed the policies, procedures, and protocols to ensure an evidence-based approach to the Early Intervention Strategy. They:

- integrated a risk/needs assessment process for early intervention options into a pre-existing “universal screening” approach applied to pretrial defendants;
- redefined the eligibility requirements for both the diversion and deferred prosecution tracks;
- tailored the programmatic requirements of each track to the risk level of the target population, with a “minimum intervention” approach for the low-risk diversion participants and a risk reduction approach for the moderate-risk deferred prosecution participants; and
- created a “Central Liaison Unit (CLU)” to provide case management and, for the moderate-risk population, risk reduction interventions.<sup>8</sup>

A request for proposal for services was developed and a contractor selected to operate the CLU. Once selected, the county used JRI technical assistance to provide intensive training and coaching to staff attorneys in both the District Attorney’s Office and Public Defender’s Office who were assigned to the EI program, as well as to CLU case managers—all of whom would make up the case management team. Stakeholders participated in the training as well. In addition, a collaborative work model was developed that allowed the attorneys to honor their professional obligations while being invested in the overall success of the EI program. This shift in working culture and new model for attorneys’ roles was critical to achieving improved system outcomes.

To further support the evidence-based approach of the EI strategy, a stakeholder group developed responses to prosocial and noncompliance behaviors (see Appendix 1). In addition, case management staff were provided with risk reduction tools (Carey Guides and Brief Intervention Tools, or BITS),<sup>9</sup> and in-house Thinking for a Change (T4C) classes were established.<sup>10</sup> Finally, the capacity to collect data (e.g., number of participants, percent of participants by risk level, average length of program participation, total jail/prison days saved) was developed.

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<sup>7</sup> The Early Intervention (EI) Committee is a subcommittee of the CJC Programs Services Committee. It is comprised of pretrial staff, private providers, courts, district attorneys, public defenders, Department of Corrections staff, and private attorneys.

<sup>8</sup> BJA funding supported start-up costs for the Central Liaison Unit. From the outset, funding from other sources supported other aspects of the strategy, including risk screenings and assessments.

<sup>9</sup> The Carey Guides and BITS are published by Carey Group Publishing. For more information, see [www.careygroupublishing.com](http://www.careygroupublishing.com).

<sup>10</sup> Thinking for a Change (T4C) was developed by the National Institute of Corrections. For more information, see [www.nicic.gov/t4c](http://www.nicic.gov/t4c).

## Eligibility Requirements<sup>11</sup>

Under the Early Intervention Strategy, defendants who score low on the LSI-R:SV (or LSI-R),<sup>12</sup> who have pending charges for non-exclusionary crimes, are eligible for **pretrial diversion**. Defendants who score low/moderate,<sup>13</sup> who are charged with non-exclusionary crimes, are eligible for **deferred prosecution**.<sup>14</sup> Defendants who are on Department of Corrections supervision who would otherwise meet the DPA eligibility criteria shall be considered, on a case-by-case basis, for a DPA in conjunction with a formal Alternative to Revocation. (See Appendix 2 for policies and procedures regarding early intervention eligibility that were prepared for attorneys.)

## Diversion Program Process

If a defendant meets the eligibility criteria for pretrial diversion, pretrial diversion is considered at the charging conference. A set of reasonable requirements are developed—with victim consultation in cases involving victims—and presented to the defendant. (See Appendix 3 for the Milwaukee County District Attorney’s Office diversion program agreement.) A standard program expectation is that defendants remain crime-free during the diversion process, and defendants are encouraged to continue/pursue prosocial activities. In addition, the diversion program offers two tracks: restorative justice (e.g., victim–offender mediation, letters of apology) and accountability (e.g., paying restitution, community service, short-term targeted educational programs or classes such as “shoplifters’ groups,” referrals for school/job training). Conditions do not focus on problem solving or risk reduction, given that the diversionary population is assessed as low risk.<sup>15</sup> If problem solving issues are discovered, they are addressed through recommendation and referrals; they do not result in mandated services. Overprogramming is avoided.<sup>16</sup> If an offer is accepted by a defendant, no criminal complaint is filed.

Diversion agreements are generally six months in length. During this time, there is minimal contact with the individual. Diversion participants are considered to have successfully completed their diversion if program requirements are met, they have remained crime-free during the diversionary period, and they have paid all restitution. If an individual has remained crime-free but has not completed the terms of the pretrial diversion by the end of the agreement in spite of their best efforts, the diversion may be extended. If a diversion participant is arrested while on a pretrial diversion agreement, the District Attorney’s Office will consider the nature of the new charge and may offer a new agreement that combines the original diversion agreement with a new deferred prosecution agreement offer. If an individual has completed a diversion agreement successfully in the past and is arrested again, the case will be reviewed by the District Attorney’s Office to determine appropriateness for pretrial diversion (assuming the individual meets the eligibility criteria). An offer of DPA may also be considered. Factors

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<sup>11</sup> Milwaukee County Early Intervention Committee, 2015.

<sup>12</sup> Low scores on the LSI-R:SV range from 0 to 2; low scores on the LSI-R range from 1 to 13.

<sup>13</sup> Low/moderate scores on the LSI-R range from 14 to 33.

<sup>14</sup> The Office encourages the use of the Community Conferencing Program (CCP) for appropriate victim cases. This program provides a service to victims and impacted communities, while holding offenders accountable for their actions in a more meaningful way.

<sup>15</sup> Andrews, D. A., & Bonta, J. (2010). *The psychology of criminal conduct* (5th ed.). New Providence, NJ: LexisNexis Matthew Bender. <http://dx.doi.org/10.4324/9781315721279>

<sup>16</sup> Ibid.

that are considered include the current LSI-R score or the results of another long-term recidivism risk/needs assessment, length of time from the completion of the previous diversion, and particular type of new charge.

### Deferred Prosecution Agreement Process

Defendants appropriate for a deferred prosecution agreement are those assessed as moderate risk to reoffend on the basis of a long-term risk/needs assessment (i.e., the LSI-R) who are not charged with an exclusionary crime. The conditions of a DPA must address risk reduction, although they can also include accountability strategies. The following are some examples of conditions:

- **Risk Reduction Strategies**
  - cognitive behavioral therapy (CBT)
  - substance abuse/mental health treatment
  - anger management with CBT component
  - parenting with CBT component
- **Accountability Requirements**
  - remain crime-free for the duration of the DPA
  - participate in drug testing, if indicated and performed by the substance abuse provider
  - pay restitution, as applicable
  - perform community service hours, if appropriate
  - meet restorative justice requirements, if appropriate
  - agree to electronic monitoring/GPS, as needed
  - complete short-term targeted educational programs (e.g., “shoplifters’ groups”) as appropriate

The requirements must be tailored to the individual based on a thorough and individualized risk/needs assessment and crafted in such a way that the individual is able to reasonably meet expectations. The emphasis is on addressing the most significant criminogenic needs rather than on addressing every need; over-conditioning is avoided.<sup>17</sup> (See Appendix 4 for the deferred prosecution agreement.)

Because of their greater risks and needs, DPA participants are assessed and routinely monitored by professional case managers. Progress/compliance reports are required at three- and six-month intervals. Prosocial behaviors are intentionally encouraged and recognized. If there is noncompliance with program conditions, a written plan is put in place to address the noncompliance. (See Appendix 1 for policies and procedures regarding reporting and responding to noncompliant and prosocial behavior.)

DPA duration is based on risk and need, but is generally between 6 and 18 months. DPA participants are considered successful if they complete the requirements as agreed and remain crime-free during the period of monitoring under the DPA. If a defendant has not completed all the requirements of the agreement at the end of its term but a good faith effort has been made, an extension may be granted by stipulation of all the parties. If the DPA participant fails to complete the requirements of the agreement, he or she will be sentenced on the charge(s) as pled. If a participant is arrested while on a DPA, the District Attorney’s Office will consider the nature of the new charge and may consider referring the individual to drug court or the day reporting center for further intervention. The case under which the individual was offered a DPA may be bundled with the new charge. In rare situations, a new DPA with

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<sup>17</sup> Ibid.



more intensive conditions could be offered with an extension of the original DPA. If an individual has completed a DPA successfully in the past and is arrested again, the case is reviewed by the District Attorney's Office to determine if the individual is eligible for another deferred prosecution agreement. Factors that are considered include the LSI-R (or another long-term recidivism risk/needs assessment) score, length of time from the completion of the deferred prosecution agreement, and particular type of new charge.

## Administration of Programs and Services

The aforementioned programs and services are administered by the Office of the Chief Judge of Milwaukee County with the assistance of the Milwaukee Community Justice Council Programs & Interventions Committee, whose responsibilities include oversight of risk/needs assessments and other eligibility screening for diversion/deferred prosecution cases, system coordination, liaison with community work service and treatment service providers, and performance measurement and outcome reporting.

## Staffing and Management Structure

The CLU was initially staffed through a one-time BJA award of \$300,000. These funds supported hiring a CLU program coordinator, two case managers, and one combination case manager/Thinking for a Change facilitator, for a total of four full-time employees (FTEs); the funding also supported operational costs for the CLU start-up period.<sup>18</sup>

The EI Committee serves as the collaborative policy team that provides guidance to the CLU. As such, they meet on a routine basis to discuss operational issues and address problems as needed. The CLU case management process also follows a collaborative model. The case management team meets on a weekly basis to conduct case conferences with clients who are struggling and to affirm and reward those who are excelling.

A unique aspect of Milwaukee County's Early Intervention Strategy is the inclusion of a Milwaukee Police Department (MPD) uniformed officer on the case management team. The MPD court liaison:

- assists in gathering information concerning defendants' criminal history, local contacts, and gang and/or gun involvement to determine appropriateness for early intervention through communication with district officers and law enforcement intelligence databases;
- coordinates MPD efforts to monitor Early Intervention participants (including home visits and other conditions of release pursuant to individual agreements) as well as to locate absconders;
- participates in Early Intervention staffings; and
- coordinates any MPD officers who have previous military service who agree to volunteer as mentors as part of the Veteran's Treatment Initiative.

## Program Size and Capacity

Based upon ARS simulation modeling, the projected numbers for early intervention were 600 diversions annually and 67 deferred prosecution participants at any given time; however, determining these estimates involved some degree of speculation. Ultimately, it was determined that the diversion numbers were overestimated, while the DPA numbers were significantly underestimated.

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<sup>18</sup> Subsequently, county funds have supported the continuation of the CLU.

## Benefits and Outcomes

Milwaukee re-engineered its approach to diversion and deferred prosecution in an effort to more closely align its services with evidence-based practices—decreasing the level of intervention with the low-risk population while delivering, as early as possible, risk reduction services to the moderate risk. In addition, their efforts were designed to increase the number of defendants who could be served through these programs and decrease strain on expensive jail and prison resources. Further, policymakers placed a high value on ensuring equal access to these programs by all defendants.

As evidenced by the data in the chart below, these goals have been realized. Over a 26-month period, more than 1,100 individuals have been served through these early intervention programs—with the vast majority completing their agreements successfully—all while services have been delivered following the risk and need principles and while reliance on jail and prison beds for this population has been significantly reduced.

### CLU Demographics and Operations Data; System and Client Impacts <sup>19</sup>

Central Liaison Unit Program, Participant and Outcome Data March 2014–June 2016	Diversion	Deferred Prosecution Agreements
<b>Total participants since inception (March 1, 2014)</b>	808	331
<b>Participants by gender (males/females)</b>	526 / 282	221 / 110
<b>Percent of participants by race (Black/Hispanic/White/Other)</b>	45% / 13% / 37% / 5%	53% / 11% / 32% / 4%
<b>Percent of participants by risk level</b>	98% low / 2% moderate	99% moderate / 1% high
<b>Average length of program participation</b>	197 days	189 days
<b>Program length extremes: shortest duration/longest</b>	27 / 485	17 / 379
<b>Percent of participants satisfying their agreement with no charges filed (diversion cases only) or charges dismissed or reduced (deferred prosecution cases only)</b>	81%	77%
<b>Total jail days saved<sup>20</sup></b>	24,891	16,835
<b>Total prison days saved<sup>21</sup></b>	N/A	1,140
<b>Percent of participants with new arrests during agreement period</b>	2.7%	7.6%

<sup>19</sup> N. Sayner, personal communication, June 20, 2016.

<sup>20</sup> Based upon the recommended sentence by the State at the time the agreement is entered.

<sup>21</sup> Based upon the recommended sentence by the State at the time the agreement is entered.

# Appendix 1: Central Liaison Unit Office Contact Policies and Procedures<sup>22</sup>

## Reporting

Client office contacts must be determined by their LSI-R score.

- Standard: Once monthly face-to-face contact required for DPA. (Only used as reward)
  - Face-to-face at 3-month period and subsequent monthly face-to-face for diversion clients who have not completed conditions of diversion agreement.
- Enhanced: Twice monthly face-to-face contact required.
  - LSI-R 14-23 (Initial)
- Intensive: Weekly face-to-face contact required.
  - LSI-R 24-33 (Initial)

A reduction or increase in reporting schedule is determined by the Early Intervention Behavior Matrices (see below) in correlation with program milestones and achievement, or lack thereof.

## Responding to Violations or Compliance with Conditions

If a defendant who has been ordered to cooperate with one of the Milwaukee County Early Intervention programs is in violation or compliance with his/her DPA conditions or conditions set forth by the monitoring agency, those behaviors will be applied to the behavior matrices below.

- Two matrices have been developed for the Central Liaison Unit: one to address both positive and negative behavior for DPA clients and one to address both positive and negative behavior for diversion clients.
- The matrices provide both accountability responses and behavior-changing responses.
- The matrices will determine what type of reporting process will be followed.
- For responses to negative behavior that do not require a formal report, a notation will be required in the database with a scheduled “Response to Violation” case note.
- For responses to behavior that do require a formal report, the current violation report in the database will be used along with a notation in the database with a scheduled “Response to Violation” case note and any action taken prior to and after staffing (if applicable).
- Positive behaviors addressed will be noted using the “General Note” case note.


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<sup>22</sup> Adapted from: JusticePoint. (2015, February 27). *Milwaukee County early intervention deferred prosecution/diversion agreements policies & procedures manual*. Milwaukee, WI: Author.

## Early Intervention Behavior Matrix: Diversion

Diversion Violations Guide for Low-Risk Individuals				
Suggested Response	NEGATIVE	BEHAVIOR	POSITIVE	Suggested Response
<b>ACCOUNTABILITY RESPONSES</b> • Verbal Warning • Increased Reporting Schedule <b>BEHAVIORAL CHANGING RESPONSES</b> • Revisit Diversion Agreement and Develop a Plan to Meet Requirements	• Missed community service appointment/other appointment • Disruptive behavior in the CLU	L o w	• Association with pro-social peers • Maintain housing • Maintain Driver's License • Obtain H.S Diploma/GED • Keeping appointment • Making Restitution/Fine payment; • Positive report from 3rd party • Medication Compliance • Obtain and Maintain Employment	• Permission to travel • Verbal praise from diversion casemanager • Positive note home to family member
<b>ACCOUNTABILITY RESPONSES</b> • Imposition of Curfew • Extension of Agreement • No Contact Order • Time in Jury Box • Geographical Restrictions • Minimum Payment Plan Established • Case Staffing <b>BEHAVIORAL CHANGE RESPONSES</b> • Sign or Modify Behavioral Contract • Revisit Diversion Agreement • Maintain More Frequent Contact with CLU	• Theft or misuse of resources • Failure to assist in obtaining verification • Failure to perform assigned tasks (at community service work/by CLU) • Report from community service provider of aggressive/abusive behavior • Missed diversion education class • Missed pre-conference RJP • Failure to report new criminal charge • 2nd or subsequent missed community service appointment • Not completed restitution by the end of the agreement	M o d e r a t e	• Case plan goal/objective completion • Completing a program • Obtain Driver's License • Demonstrating positive coping skills • Obtain housing; Program Attendance/Participation • Positively engaging with family • Securing transportation	• Low Response + • Certificate of Accomplishment • Letter of Support for School • Reduction in Curfew/Community Service • Positive Feedback to District Attorney
<b>ACCOUNTABILITY RESPONSES</b> • Case Staffing • Send Officer to Home • Sit in Jury Box • Increased Community Service • Modify Terms of the Diversion Agreement <b>BEHAVIORAL CHANGE RESPONSES</b> • Sign Behavioral Contract • Set up Payment Plan/Budget	• First missed office appointment with CLU without immediately rescheduling • Subsequent missed appointment with the CLU • Failure to notify parties of changes in contact information • Failure to attend a staffing without adequate explanation • Missed community conference RJP • Violation of a no contact order (property crimes) • Failure to make a good faith effort to make restitution based on ability to pay	H i g h	• Enrolling in unmandated program/school or prosocial activity • Restitution Paid in Full • Completion of all diversion requirements	• Moderate responses+ • Early Discharge
<b>ACCOUNTABILITY RESPONSES</b> • Case Staffing • Send officer to home • Revocation/Termination of Agreement • Add GPS Monitoring <b>BEHAVIORAL CHANGE RESPONSES</b> • Previous Matrix Responses Will Apply As Appropriate	• New criminal charge: Any • Violation of a no contact order (person crimes) • Failure to complete terms of the diversion after multiple low/moderate responses fail	V e r y  H i g h	• Enrolling in Unmandated Program/School or Prosocial Activity • Restitution Paid in Full	• Early Discharge

## Early Intervention Behavior Matrix: DPA

DPA Violations Guide for Moderate-Risk Individuals				
Suggested Response	NEGATIVE	BEHAVIOR	POSITIVE	Suggested Response
				
<b>ACCOUNTABILITY RESPONSES</b> <ul style="list-style-type: none"> <li>Review Program Conditions</li> <li>Verbal Admonishment</li> <li>Increased Communication &amp; Reminders</li> <li>Adjust Reporting Schedule</li> <li>Case Staffing</li> </ul> <b>BEHAVIORAL CHANGING RESPONSES</b> <ul style="list-style-type: none"> <li>Joint Problem Solving Sessions</li> <li>Reflective Writing Assignment</li> <li>Referral to Counseling/Treatment</li> <li>Cognitive Behavioral Assignment</li> <li>Case Management Intervention</li> </ul>	<ul style="list-style-type: none"> <li>Disruptive Behavior</li> <li>Late to Appointment w/o Adequate Explanation</li> <li>Insufficient/Diluted UA sample</li> <li>Refusal to Follow UA protocol</li> <li>1st Positive Drug or PBT Test (Following Baseline)</li> <li>Missed Office Contact</li> <li>Failure to Submit a UA/PBT Sample</li> </ul>	L o w	<ul style="list-style-type: none"> <li>Attendance at court hearing</li> <li>Enrolling in mandated program/school</li> <li>Improved physical health/hygiene</li> <li>Honesty</li> <li>Actively Seeking Employment</li> <li>Improved Communication Skills</li> <li>Improved Social Skills</li> </ul>	<ul style="list-style-type: none"> <li>Verbal Affirmation</li> <li>Note card with message</li> <li>Awesome Jar/Fish Bowl</li> <li>3rd Party Sharing of Behavior</li> </ul>
<b>ACCOUNTABILITY RESPONSES</b> <ul style="list-style-type: none"> <li>Community Service</li> <li>Written Admonishment (Briefed to Staffing Team)</li> <li>Increased Reporting Schedule</li> <li>Report Incident to Treatment Provider</li> <li>Extend Agreement</li> <li>Case Staffing</li> </ul> <b>BEHAVIORAL CHANGING RESPONSES</b> <ul style="list-style-type: none"> <li>Cognitive Behavioral Assignment</li> <li>Revision of Treatment Plan</li> <li>Bring Before the Court</li> <li>Execute a Behavioral Contract</li> <li>Mandate Attendance at Self Help Groups</li> <li>Cognitive Intervention</li> </ul>	<ul style="list-style-type: none"> <li>Missed/positive drug/alcohol tests (2 or more)</li> <li>Unexcused failure to show for a staffing</li> <li>Failure to assist in obtaining verification</li> <li>Failure to perform assigned tasks after staffing</li> <li>Report from community service provider of unacceptable behavior</li> <li>Missing treatment appointment after 4th session</li> <li>Missed pre-conference RJP</li> <li>Negative report from 3rd Party</li> <li>Failure to present physician disclosure form</li> <li>New Arrest (not resulting in charges)</li> <li>Repeated low violations (same repeated violation 2+)</li> </ul>	M o d e r a t e	<ul style="list-style-type: none"> <li>Association with pro-social peers</li> <li>Clean UA/PBT</li> <li>Maintain housing</li> <li>Maintain Driver's License</li> <li>Obtain H.S Diploma/GED</li> <li>Keeping appointment</li> <li>Making Restitution/Fine payment</li> <li>Positive report from 3rd party</li> <li>Medication Compliance</li> <li>Obtain and Maintain Employment</li> </ul>	<ul style="list-style-type: none"> <li>Low Response +</li> <li>Permission to travel</li> <li>Gift Cards/Selection from Donated Gifts</li> <li>Positive note home to family member</li> </ul>
<b>ACCOUNTABILITY RESPONSES</b> <ul style="list-style-type: none"> <li>Imposition of Curfew</li> <li>Increase Reporting Schedule</li> <li>Extension of Agreement</li> <li>No Contact Order</li> <li>Time in Jury Box</li> <li>Geographical Restrictions</li> <li>Jail Sanction</li> <li>Earlier Court Date/Bench Warrant Issued</li> <li>Maintain More Frequent Court Appearances</li> <li>Case staffing</li> </ul> <b>BEHAVIORAL CHANGING RESPONSES</b> <ul style="list-style-type: none"> <li>Sign Behavioral Contract or Modify Behavioral Contract</li> <li>Revisit Treatment Plan</li> <li>Cognitive Intervention</li> </ul>	<ul style="list-style-type: none"> <li>No good faith effort to make restitution-based on ability to pay</li> <li>Initial (Program Entry) missed office appointment w/ monitoring agency</li> <li>Discharge from/leaving treatment or housing</li> <li>Verbal refusal to comply with drug testing requirement</li> <li>Failure to notify parties of changes in contact information</li> <li>Missed treatment assessment</li> <li>Missed treatment appointment (1st-4th)</li> <li>Missed community conference RJP</li> <li>Failure to actively participate in treatment after repeated positive drug/alcohol tests</li> <li>Failure to report new criminal charge</li> <li>Missed court appearances</li> <li>Violation of no contact order (property crimes)</li> <li>Repeated moderate violations (Any repeated Moderate Violation 2+)</li> </ul>	H i g h	<ul style="list-style-type: none"> <li>Case plan goal/objective completion</li> <li>Completing a program</li> <li>Obtain Driver's License</li> <li>Demonstrating positive coping skills</li> <li>Obtain housing</li> <li>Program Attendance/Participation</li> <li>Positively engaging with family</li> <li>Repeated (3 or more) negative drug/alcohol tests</li> <li>Securing transportation</li> </ul>	<ul style="list-style-type: none"> <li>Low or Moderate Response +</li> <li>Decreased Testing</li> <li>Decreased Frequency/Level of Reporting</li> <li>Certificate of Accomplishment</li> <li>Letter of Support for School</li> <li>Reduction in Curfew/Community Service</li> <li>Positive Feedback to Court</li> <li>Recognition Ceremony in Court</li> </ul>
<b>ACCOUNTABILITY RESPONSES</b> <ul style="list-style-type: none"> <li>Case Staffing</li> <li>Jail sanction</li> <li>Earlier Court Date/Bench Warrant Issued</li> <li>Revocation/Termination of Agreement</li> <li>Add GPS Monitoring</li> <li>Amend DPA to include additional charges</li> </ul> <b>BEHAVIORAL CHANGING RESPONSES</b> <ul style="list-style-type: none"> <li>Previous Matrix Responses Will Apply As Appropriate</li> </ul>	<ul style="list-style-type: none"> <li>Violation of no contact order (person crimes)</li> <li>New criminal charge</li> <li>Repeated high violations (Any Repeated High Violation 2+)</li> </ul>	V e r y  H i g h	<ul style="list-style-type: none"> <li>Enrolling in unmandated program/school or prosocial activity</li> <li>Restitution Paid in Full</li> </ul>	<ul style="list-style-type: none"> <li>Early Discharge</li> </ul>

# Appendix 2: Early Intervention Policies and Procedures for Attorneys

## STEP 1: Determine Diversion Eligibility

- A. Defendant will complete an interview and LSI:SV from the Universal Screening team.
- B. To be Diversion eligible:
  - a. No current weapons offense
  - b. LSI:SV score of 2 or less
- C. If defendant meets the listed criteria, there will be a comment on the Universal Screening report indicating that the defendant appears eligible for diversion.
- D. If the defendant meets these criteria, request a Diversion from the District Attorney's Office.
- E. JusticePoint will not provide further assessment (full LSI-R) for defendants eligible for Diversion.

**If the defendant does not fit these criteria, please proceed to Step 2.**

## STEP 2: Determine Eligibility for DPA Assessment

- A. Defendant will complete an interview and LSI:SV from the Universal Screening team.
- B. To be eligible for further assessment (full LSI-R):
  - a. No current weapons offense
  - b. LSI:SV score of 3 or higher
- C. If defendant meets the listed criteria, there will be a comment on the Universal Screening report indicating that the defendant needs further early intervention assessment.
- D. If defendant is eligible for further assessment, request a full LSI-R from JusticePoint.
- E. To schedule a full LSI-R assessment, please contact the JusticePoint Office.

**Professional discretion should be used if the involved parties feel a DPA is appropriate for defendants who do not meet the above listed criteria.**

## STEP 3: Determine JusticePoint eligibility

- A. LSI-R completed
- B. To be eligible for JusticePoint DPA monitoring (through CLU):
  - a. LSI-R score of 14-33 (Moderate risk)
  - b. No violent criminal history
- C. To be eligible for JusticePoint DPA monitoring (through TAD):
  - a. LSI-R score of 14-33
  - b. Milwaukee County resident
  - c. Age 18 or older
  - d. Score elevated risk on the LSI-R in the AODA section
  - e. No violent criminal history
- D. JusticePoint will prepare an Early Interventions Screening Report and email to Attorney informing them of eligibility for JusticePoint programming.

**If the defendant is eligible for JusticePoint monitoring through TAD or the CLU, please proceed to Step 4.**

## STEP 4: STAFFING CLIENT FOR ADMISSION TO JUSTICEPOINT DPA PROGRAMMING

- A. Weekly staffings for admission into the JusticePoint TAD or CLU monitoring programs will occur every Wednesday.
- B. (For DPAs) Only those cases in which an Early Intervention Report has been completed and indicates that a client is eligible for services through TAD or the CLU will be staffed on Wednesday by JusticePoint.
- C. Fill out Early Intervention Staffing Referral Form and submit form to: EI@justicepoint.org.
- D. Referral forms should be submitted no later than 3:30pm on Tuesday for staffing on Wednesday.
- E. Once a case is staffed, notice of admission or denial to the program will be made to the referring party along with the Early Intervention DA team within 24 hours.
- F. Upon notice of acceptance into the JusticePoint TAD or CLU, the DPA must be entered into by the parties within two weeks.
- G. If an agreement is not entered within the two-week timeline **or** JusticePoint is not provided notice of a plea date that is scheduled for 4 weeks from JusticePoint acceptance, then the accepted admission into the JusticePoint program will be voided and the client will need to be referred again for staffing.

**If the defendant does not meet the outlined criteria for JusticePoint monitoring, other programming is available. Please refer to the Early Intervention Handbook for other programming options.**

# Appendix 3: Milwaukee County District Attorney's Office Diversion Program Agreement

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 that 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 understand if at any time during the diversion agreement there is probable cause to believe that I have committed any criminal offense which is not the subject of this diversion agreement, whether that criminal offense occurs before or after the date of this agreement, the District Attorney's Office may at its discretion revoke this agreement and issue criminal charges.**

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 9<sup>th</sup> 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. Monthly reports will be sent to the Assistant District Attorney and my attorney certifying compliance with the terms of this agreement.

I understand that this diversion agreement may be extended by stipulation of all the parties.

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 if at any time during the diversion agreement it is discovered that I have a criminal record *anywhere* beyond that included in the discovery materials or previously disclosed by me to the State, or that I have other pending matters that I knew or should have known about that ultimately result in criminal charges, the State reserves the right to revoke this agreement.

I understand that there may be periodic meetings between the monitoring agency, myself, my attorney, and an Assistant District Attorney to address my compliance with the conditions of this agreement, which I will be required to attend, unless attendance is waived by the parties to this Agreement. Upon advance notice from the monitoring organization or another party to this Agreement, my attorney agrees to make a good faith effort to attend these meetings.

**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 Attorney's 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 and my attorney advised of my current address and contact information at all times. Any changes must be reported immediately.
- Sign any releases necessary for monitoring my progress in this program.
- 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. The participant acknowledges that he or she may be drug tested at any time. In the event that the participant is given a location and time to report for a drug test, it is their responsibility to report to the assigned location at the time given for the test. A missed test or a specimen that comes back "diluted" will be considered a positive test. Repeated positive, diluted, or missed drug screens are grounds for termination of this agreement.
- ☐ Notify any medical practitioner seen for medical treatment that they are subject to the terms of this Agreement, disclose that they have an open criminal case in Milwaukee County and that this information should be considered by the practitioner in making any medical determinations on the participant's behalf in connection with prescribed substances. The defendant should also request that the practitioner write on the participant's medical file that the patient is a participant in a drug



treatment program and sign and date a written acknowledgement of this disclosure, which the participant is required to provide to the Court and the parties to the Agreement. Failure to comply with this Policy may result in termination of the Agreement.

☐ 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. (FORWARD COPY OF AGREEMENT TO CCP)

☐ Obtain/maintain \_\_\_\_\_ -time employment.

☐ Perform \_\_\_\_\_ hours community service at a non-profit agency.

☐ 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

Attorney Address \_\_\_\_\_  
\_\_\_\_\_

Attorney Fax# \_\_\_\_\_

Attorney Phone# \_\_\_\_\_

Attorney Email \_\_\_\_\_

Assistant District Attorney Name \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

☐ Route to CCP

# Appendix 4: Deferred Prosecution Agreement

STATE OF WISCONSIN                      CIRCUIT COURT  
CRIMINAL DIVISION                      MILWAUKEE COUNTY

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STATE OF WISCONSIN,  
Plaintiff,

vs.

Case No. \_\_\_\_\_

\_\_\_\_\_  
Defendant.

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## DEFERRED PROSECUTION AGREEMENT

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The State of Wisconsin, by Assistant District Attorney \_\_\_\_\_, and the defendant, personally and with counsel \_\_\_\_\_, hereby move the court to accept the following Deferred Prosecution Agreement pursuant to Wisconsin Stats. Sections 971.37(5):

1. **Guilty Plea** - The defendant will plead \_\_\_\_\_ to the charge of \_\_\_\_\_ in Milwaukee County Circuit Court Case Number \_\_\_\_\_, contrary to Wisconsin Stats. Section \_\_\_\_\_, as charged in the criminal complaint;
2. **Deferral** - The parties ask that the court find that the defendant's plea was knowing, intelligent, and voluntary, find a factual basis for the plea, accept the defendant's plea, and suspend the proceeding pursuant to Wisconsin Stats. Section 971.37(1m)(b) and 971.37(5), and defer entry of the judgment of conviction for \_\_\_\_\_ months (deferral period);
3. **No Weapons for Felonies** - If the defendant enters a plea to any felony offense pursuant to this agreement, the defendant is prohibited from possessing a firearm while this agreement is in effect and a violation of this term may result in termination of the agreement and issuance of bail jumping charges;
4. **Waiver** - The defendant waives the right to a jury trial, the right to a speedy trial, the right to confront the State's witnesses, the right to remain silent, and the right to have the charge proven beyond a reasonable doubt at trial.
5. **Statute of Limitations Tolling** - The defendant further agrees that this agreement tolls any applicable civil and/or criminal statute of limitations.

6. **Conditions** - During the pendency of this agreement, the defendant agrees to:

- a) Commit no further acts that rise to the level of probable cause of a violation of the laws of the State of Wisconsin, or of any other state, or of the United States of America;
- b) Cooperate with \_\_\_\_\_ monitoring (monitoring agency) and initially attend weekly meetings with a designated caseworker, the frequency of said meetings to be adjusted with the consent of the parties and based on the defendant's compliance.
- c) Continue to reside at \_\_\_\_\_ or another residence subject to the approval of the monitoring agency.
- d) 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.
- e) Participate in any additional programming as determined by the monitoring organization or individual.
- f) ☐ Participate in GED/HSED Program
- g) ☐ Participate in anger management counseling as arranged by \_\_\_\_\_.
- h) ☐ Participate in AODA/mental health assessment through \_\_\_\_\_.
- i) ☐ Participate in required substance abuse and/or mental health treatment.
- j) ☐ Undergo random screens for drugs and alcohol to ensure absolute sobriety. The defendant acknowledges that he or she may be drug tested at any time. In the event that the defendant is given a location and time to report for a drug test, it is their responsibility to report to the assigned location at the time given for the test. A missed test or a specimen that comes back "diluted" will be considered "dirty" for which the defendant may be sanctioned. Repeated positive, diluted, or missed drug screens may be grounds for termination of this Agreement by the State.
- k) ☐ Notify any medical practitioner seen for medical treatment that they are subject to the terms of this Agreement and disclose that they have an open criminal case in Milwaukee County and that this information should be considered by the practitioner in making any medical determinations on the participant's behalf in connection with prescribed substances. The defendant should also request that the practitioner write on the participant's medical file that the patient is a participant in a drug treatment program and sign and date a written acknowledgement of this disclosure, which the participant is required to provide to the Court and the parties to the Agreement. Failure to comply with this Policy may result in termination of the Agreement.
- l) ☐ Complete any releases necessary for monitoring.
- m) ☐ Have no contact with \_\_\_\_\_ or \_\_\_\_\_.
- n) ☐ Pay restitution in the amount of \_\_\_\_\_ to \_\_\_\_\_. If the defendant has made a good faith effort to pay restitution but has been unable to pay the full amount, any unpaid balance

shall be converted to a civil judgment and shall be referred to the Wisconsin Department of Revenue Tax Intercept Program and shall be subject to administrative fees.

- o) ☐ Participate in the Milwaukee County District Attorney's Community Conferencing or Restorative Justice Program and comply with conditions agreed to during programming. If not accepted into the CCP, perform \_\_\_\_\_ hours community service at a non-profit agency of defendant's choice. **(FORWARD COPY OF AGREEMENT TO CCP).**
  - p) ☐ Obtain/maintain part-time employment.
  - q) ☐ Perform \_\_\_\_\_ hours community service
  - r) ☐ Attend school.
7. **Reports** - During the pendency of this agreement, the monitoring agency will provide monthly reports to the Assistant District Attorney and counsel for the Defendant certifying compliance with the terms of this agreement. It is the responsibility of Defense counsel to provide three (3) copies of the monitoring agency's report for any review date before the Court.
8. **Proof of Completion** - At the end of the deferral period, the defendant shall submit written proof of compliance which will be certified by the monitoring agency and provided to the Court;
9. **Successful Completion** - If, at the end of the deferral period, the defendant has complied with the conditions of this agreement, the State will:
- a) ☐ move to dismiss this case.
  - b) ☐ move to amend the charge to \_\_\_\_\_ and recommend the following disposition \_\_\_\_\_.
  - c) ☐ Other \_\_\_\_\_.
10. **Extension of Agreement** - The State reserves the right to move the Court for a stipulated extension of the deferral period, as conditions require, and the defendant agrees that if any date is set beyond the agreement's expiration date by the Court, the Defendant is agreeing to an extension of the agreement until that date. Further, if at any time during the pendency of the case a bench warrant is issued for the defendant's arrest, the defendant agrees that the agreement shall be automatically extended up until at least the date of the Defendant's next appearance in court on this case.
11. **Non-Compliance** - If, at any time during the deferral period, the defendant has not complied with the conditions of this agreement, the State may at its discretion revoke this agreement, and, upon notice to the defendant, move the court to enter the judgment of conviction and the parties shall proceed to sentencing. Under these circumstances, the State only will recommend that the defendant be sentenced to \_\_\_\_\_.
12. **Felony Probable Cause** - If, at any time during the deferral period, there is probable cause to believe that the defendant has committed any felony offense that is not referenced in the criminal complaint in this case, whether that felony offense occurred before or after the date of this agreement, the State may at its discretion revoke this agreement, and, upon notice to the defendant, move the court to enter the judgment of conviction. The parties shall then proceed

to sentencing, and under these circumstances, the State shall be free to argue for any disposition it deems appropriate, up to and including the maximum provided by law.

13. **Unknown Criminal History** - If, at any time during the deferral period, it is discovered that the defendant has a criminal record *anywhere* beyond that included in the discovery materials or previously disclosed by the defendant to the State, or that the defendant has other pending matters that the defendant knew or should have known about that ultimately result in criminal charges, the State reserves the right to renegotiate its sentencing recommendation, up to and including the maximum provided by law.
14. **Revocation by the Defendant** - At any point during the deferral period, the Defendant may, through written motion, notify the State and the Court of its intention to revoke this agreement and move the court to enter judgment of conviction and schedule the matter for sentencing.
15. **Conditions of Bond** - The parties agree, and the defendant understands, that the conditions of any bond in effect on the plea date shall continue for the entire length of this agreement and that any violation of the defendant's bond may result in bail jumping charges pursuant to Wisconsin Statutes Section 946.49.
16. **Staffing** - The parties to this Agreement understand that there may be periodic meetings between the monitoring agency, the defendant, the defendant's attorney, and an Assistant District Attorney to address the defendant's compliance with the conditions of this agreement, which the defendant will be required to attend, unless attendance is waived by the parties to this Agreement. Upon advance notice from the monitoring organization or another party to this Agreement, the attorney for the defendant agrees to make a good faith effort to attend these meetings.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Assistant District Attorney

State Bar Number \_\_\_\_\_

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Attorney for Defendant

State Bar Number \_\_\_\_\_

Attorney Address \_\_\_\_\_

Attorney Fax # \_\_\_\_\_

Attorney Phone # \_\_\_\_\_

Attorney Email \_\_\_\_\_

☐ Route to CCP