

*Treatment Alternatives and Diversion Program / March 2020*  
*A report of the Treatment Alternatives and Diversion program,*  
*including recommendations to improve and maximize program*  
*effectiveness, as outlined in Executive Order #41.*



**TAD**

**State of Wisconsin  
Criminal Justice  
Coordinating  
Council  
Treatment  
Alternatives and  
Diversion Program  
Report 2020**

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## Executive Summary

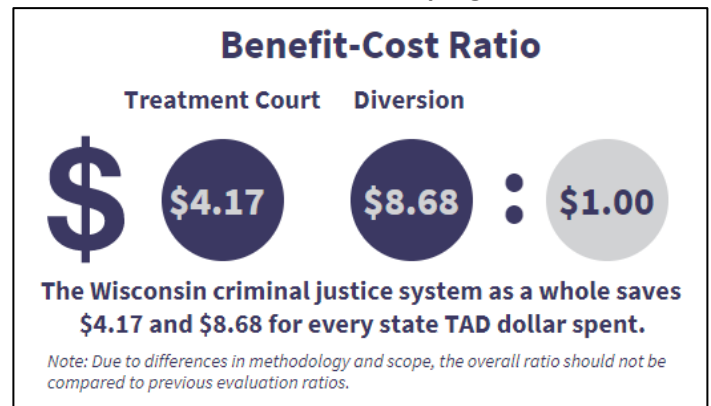
Under [2019 Executive Order #41](#), the Wisconsin State Criminal Justice Coordinating Council (CJCC) is charged with a variety of initiatives designed to improve the functioning of the criminal justice system, including making recommendations regarding “*updating the administration of the Treatment Alternatives and Diversion program to maximize the program’s effectiveness with a goal of ensuring statewide availability of treatment alternatives and diversion resources, whether funded by TAD or other sources.*” (Executive Order #41, 8(g)(ii)). **This report provides a brief overview of the current status of the program, including a timeline of the numerous expansions in recent years, and will also highlight the following:**

- **Efforts to Improve Administration to Date**
- **What the Current Data Shows<sup>1</sup>**
- **Program Strengths**
- **Program Challenges**
- **Recommendations for Program Improvement**

The Treatment Alternatives and Diversion (TAD) program was established by the 2005 Wisconsin Act 25, to support county and tribal efforts to provide treatment and diversion programs for non-violent adult offenders, for whom substance use was a contributing factor in their criminal activity. The Wisconsin Department of Justice is responsible for administering the TAD program, in partnership with the Wisconsin Department of Corrections (DOC), the Wisconsin Department of Health Services (DHS), the Director of State Courts Office, and the Wisconsin State Public Defender’s Office. The State CJCC’s Treatment Alternatives and Diversion Subcommittee now serves as the TAD Advisory Committee.

From 2007 to 2013, the TAD program was funded at between \$700,000 to ~\$1 million annually, and supported treatment courts and diversion programs in seven to nine sites. Following multiple expansions starting in 2014, the TAD program moved into a new five-year competitive cycle starting in 2017. For calendar year 2020, the TAD program has been further increased to almost \$7.2 million annually through new legislation. As a result of this expansion, evidence-based alternatives to incarceration programming for individuals entering the justice system with substance use issues has been expanded to 53 counties and three tribes in Wisconsin. **The TAD program currently funds a total of 57 treatment courts and 29 diversion programs.**

TAD programs provide local jurisdictions with options to offer offenders the opportunity to enter diversion programs or treatment court programs, which typically involve drug and/or alcohol treatment, case management, and other risk reduction services as a safe alternative to jail or prison confinement. **Diverting non-violent offenders into treatment saves jail and/or prison bed space and taxpayer dollars, while treating the underlying substance use disorder that may have influenced the commission of a crime or may contribute to future criminal behavior.** Multi-year evaluations and cost benefit analyses of the program indicate that the state funds spent on TAD programs offer a cost-effective alternative to incarceration that increases public safety while improving the lives of program participants and their families.



While program funding was initially stable since the program began in 2007, the TAD program has undergone rapid growth and many changes in recent years, as will be detailed within this report. This growth has led to a need to continually assess and refine the administration needs of the program, and develop tools and initiatives designed to improve the functioning of

<sup>1</sup> The intent of this report is to focus on program administration at both the state and local levels and will reference but not focus on program data. For additional details regarding what the current data shows, please see the *Treatment Alternatives and Diversion (TAD) Program 2014-2018: Participant Outcome Summary and Cost-Benefit Report*.

Wisconsin's treatment courts and diversion programs. Through the work of the State CJCC and numerous state and local partners, much work has been done in this area as TAD has expanded. However, this work has largely been completed through a combination of grassroots efforts and federal grant funding, as state resources to support the administration and evaluation of the TAD program have not grown as the local program funding has continued to expand.

The TAD program and its administration and evaluation capabilities continue to evolve, but additional assistance is needed. Through the efforts of the State CJCC, participation in the Evidence-Based Decision Making Initiative, and the support for the TAD program in recent years, Wisconsin has emerged as a national leader in its approach to treatment and diversion programs. **As a result of the assessment detailed in this report, the Statewide CJCC provides the following initial recommendations for short and long-term Treatment Alternatives and Diversion program improvements.** Additional recommendations will be developed as the work progresses, with a particular focus on what is needed, in terms of resources and funding, to support and sustain longer-term success as the program continues to progress and grow. The following recommendations are designed to build on that momentum and continue to improve the program:

Through multiple expansions starting in 2014, program funding for Treatment Alternatives and Diversion has expanded by almost 600% for calendar year 2020.

1. **Equity and Inclusion:** Using the data now available through the Comprehensive Outcomes, Research, and Evaluation (CORE) reporting system, participant data should be used to analyze demographics of who is being served through TAD, completion rates, and other key indicators to address key questions regarding equity and inclusion of programming statewide.
2. **State TAD Administrative/Evaluation Resources:** Enhance resources at the state level to better support the local program implementation needs. This would include DOJ administrative and evaluation/research resources, training and technical assistance resources, and state partner agency resources needed to fully support local programs.
3. **TAD Statutory Changes:** Review and revise the TAD statutory language to better reflect current programmatic needs and the current research regarding alternatives to incarceration program. Examples of key discussion points regarding the TAD statute include:
  - a. Local Match Requirement
  - b. Exclusionary Language
  - c. Funding/Evaluation Cycles
4. **Diversion Program Resources:** As the more established program model, treatment court resources have been historically more developed and readily available to assist local jurisdictions in their implementation. A focus should continue to be made on building on recent efforts to develop similar resources and guidance for diversion programs, particularly given the large number of diversion participants supported through the TAD program.
5. **Program Evaluation/Research:** Continue performance measurement development and work with the CJCC Data Sharing/OTIs Subcommittee to review the current TAD program evaluation and research methodologies to determine improvements for the next evaluation cycle.
6. **Improving Communication:** Develop regional networks of programs to communicate and share strategies to address barriers using local, state and federal resources to maximize the assistance provided for program participants.
7. **Funding Decisions/Distribution:** Following the numerous expansions of the TAD program, for the next five-year cycle starting in 2022, the State CJCC should review the methods for distribution of TAD funding to local jurisdictions, using the data available to guide this decision making process.

## Introduction

The purpose of this report is to provide information on the status of the state-funded Treatment Alternatives and Diversion (TAD) program, assess the state of the program and the work done at the state and local levels to date, and discuss recommendations designed to improve the overall administration of the program.

Through [2019 Executive Order #41](#), the State Criminal Justice Coordinating Council (CJCC) is required to periodically submit reports to the Governor, the Chief Justice of the Supreme Court, any relevant state agencies identified by the council, and to the chief clerk of each house of the legislature to provide information on the progress of the council's work. This report, due no later than March 1, 2020, represents the first such report by the State CJCC, and is designed to include recommendations regarding:

- *updating the administration of the Treatment Alternatives and Diversion program to maximize the program's effectiveness with a goal of ensuring statewide availability of treatment alternatives and diversion resources, whether funded by TAD or other sources.*

### *History of the TAD Program*

The Treatment Alternatives and Diversion (TAD) program was established by 2005 Wisconsin Act 25 to support county and tribal efforts to provide treatment and diversion programs for non-violent adult offenders for whom substance use was a contributing factor in their criminal activity. The Wisconsin Department of Justice is responsible for administering the TAD program, in partnership with the Wisconsin Department of Corrections (DOC), the Wisconsin Department of Health Services (DHS), the Director of State Courts Office, and the Wisconsin State Public Defender's Office. The State CJCC's Treatment Alternatives and Diversion Subcommittee now serves as the TAD Advisory Committee.

From 2007 to 2013, the state Treatment Alternatives and Diversion (TAD) program was funded at between \$700,000 to ~\$1 million annually, and supported treatment courts and diversion programs in seven to nine sites during this time period. The TAD program moved into a new five-year competitive cycle starting in 2017. For calendar year 2020 the TAD program has been further increased to almost \$7.2 million annually through new legislation. As a result of this expansion, evidence-based alternatives to incarceration programming for individuals entering the justice system with substance use issues has been expanded to 53 counties and three tribes in Wisconsin. **The TAD program currently funds a total of 57 treatment courts and 29 diversion programs.**

TAD programs provide local jurisdictions with options to offer offenders the opportunity to enter diversion programs or treatment court programs, which typically involve drug and/or alcohol treatment, case management, and other risk reduction services as a safe alternative to jail or prison confinement. Diverting non-violent offenders into substance abuse treatment saves jail and/or prison bed space and taxpayer dollars, while treating the underlying substance use disorder that may have influenced the commission of a crime or may contribute to future criminal behavior.

### *Expansion of the TAD Program*

As noted previously, recent years have marked the rapid expansion of the program, following an initial period of stable funding for a small number of sites. In addition, a new five-year funding cycle began for calendar year 2017, which occurred during yet another expansion in funding. A summary and timeline of the numerous program expansions is as follows:

**2007-2011:** 7 counties funded (Burnett/Washburn, Dane, Milwaukee, Rock, Washington, Wood Counties)

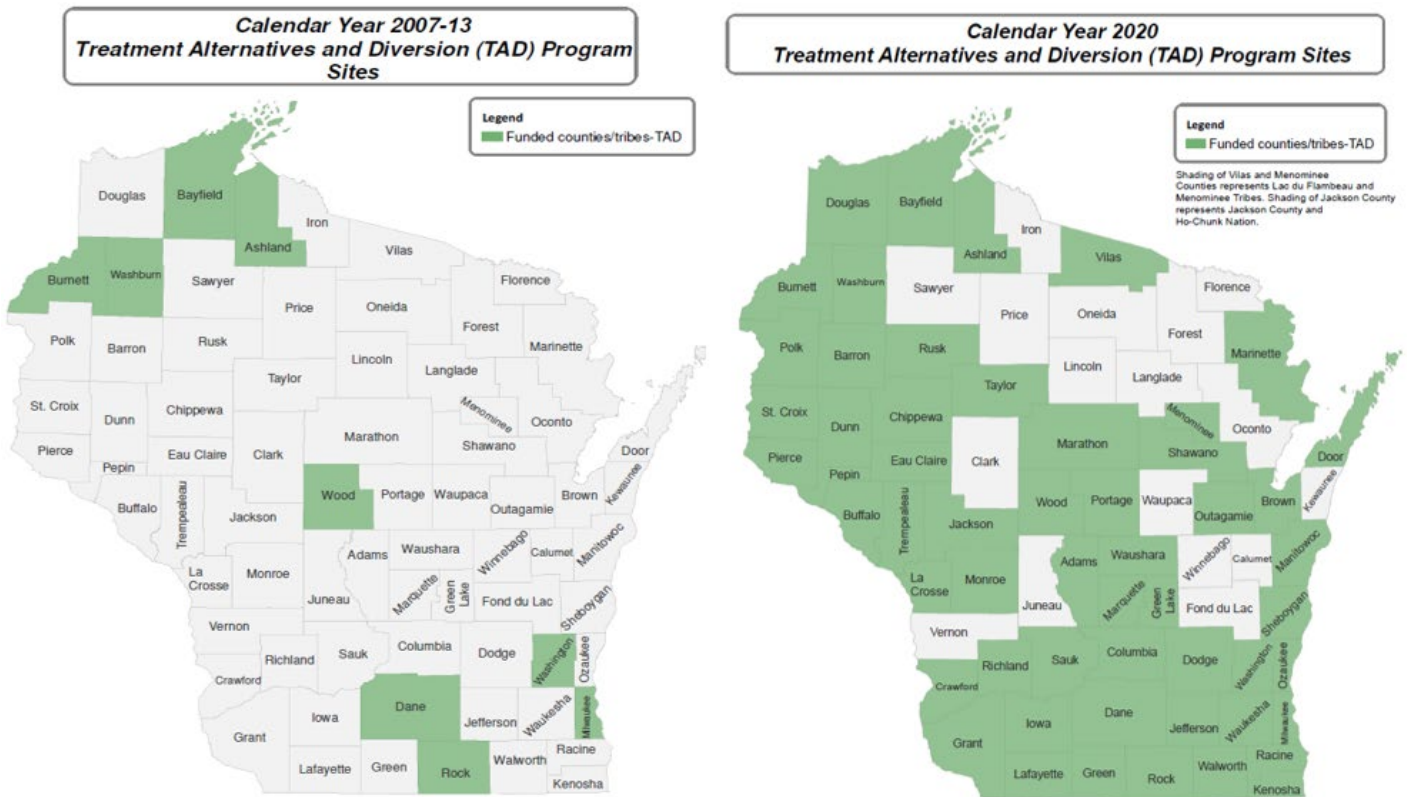
**2012-2013:** 9 counties funded (addition of Ashland/Bayfield Counties to original 7)

**2014:** Two expansions occurred: Through the 2013 state budget, \$1 million was added for TAD, with an additional \$500,000 for Drug Courts. Later, as a result of 2013 WI Act 197, an additional \$1.5 million annually was added. As a result of these expansions the total allocation was \$4,038,900, and TAD programs operated in 35 counties and three tribes.

**2017:** 2017 marked the beginning of a new five-year funding cycle, and an additional \$2 million was added through 2017 WI Act 388. The total funding was now \$6,038,900, with programs operating in 46 counties and two tribes.

**2018:** The 2017 state budget added an additional \$400,000, bringing the total allocation to \$6,438,900. As a result, TAD programs now operate in 50 counties and two tribes.

**2020:** Through the state budget, the TAD program was further expanded by \$750,000 annually for calendar year 2020 and 2021, bringing the total TAD allocation to \$7,188,900 annually. As a result of this expansion, TAD programs now operate in 53 counties and three tribes.



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### TAD Advisory Group

Historically, an Advisory Committee for the Treatment Alternatives and Diversion (TAD) program actively participated in the development, implementation, and evaluation of the TAD programs, providing a system-level perspective and invaluable guidance on a wide variety of program issues. Committee members made recommendations for TAD program improvements, and expanded knowledge of TAD programs within their local communities, to the state legislature, and statewide. However, the original TAD Advisory Committee was not attached to a state body with the ability to recommend changes and have a statewide program impact. The original TAD Advisory Committee disbanded several years ago.

<sup>2</sup> See Appendix C for the full 2020 TAD Program Map.

As a result of the numerous expansions of the TAD program and the number of local sites receiving funding, the State CJCC has continued to prioritize the TAD program through its efforts to engage local criminal justice coordinating councils (CJCCS) and its efforts to expand Evidence-Based Decision Making (EBDM) at the local level. As a result, in 2018, the State CJCC designated that the Behavioral Change Interventions Subcommittee begin to take on the role of the new TAD Advisory Group. **The group operated in this capacity until 2019, when the newly recreated State CJCC created the Treatment Alternatives and Diversion (TAD) Subcommittee.** The first official meeting of this new TAD Subcommittee occurred on Tuesday, December 17, 2019.

The membership of the TAD Subcommittee provides appropriate representation of the state and local partners involved with TAD programs throughout the state and will provide beneficial guidance to DOJ to promote the success of these programs and the success of the participants. **In this role, the members of the TAD Subcommittee will assist DOJ staff by providing input on new issues or questions that arise related to TAD.** Examples of these types of issues would include:

- Developing recommended changes to the TAD statutory requirements to reflect current challenges, as well as current program standards and language;
- Providing guidance and coordinating efforts regarding the overall administration of the TAD program;
- Providing guidance when problems arise within a county/tribe or related to specific program models;
- Providing input into the evaluation and cost-benefit analysis of programs; and
- Assisting with building relationships between or within the program teams and local CJCCs.

## Current Status of the TAD Program

### *Program Status*

As noted in the Introduction, the program has recently been **expanded through the state budget and will now be funded at almost \$7.2 million starting in 2020, which marks the fourth year of the five-year funding cycle.** Currently, a number of key factors are driving the work at the state level to effectively administer the program. These include:

- The five-year participant outcome and cost benefit analysis was recently completed and is being submitted concurrently with this report. This *Treatment Alternatives and Diversion (TAD) Program 2014-2018: Participant Outcome Summary and Cost-Benefit Report* is the first such report that will include the expansion of the program.
- As a result of the numerous expansions of the program in recent years, **many TAD sites are at different stages of implementation**, for different program models.
- In contrast to the original sites, **many TAD sites now use TAD funding to support multiple program types.** While the emphasis on system-wide approaches and coordinating programs at multiple decision points supports the work of the Evidence-Based Decision Making Initiative, this approach also can cause complexities in both administering and evaluating sites.
- With the sites at different stages of implementation, ranging from originally funded programs starting in 2007, to new sites starting in 2020, a **major effort moving forward will be to provide training and technical assistance resources to sites** to prepare them for the next competitive funding round which will be opened in early 2021, for 2022 funding.

*As a result of a recent survey, 98% of sites responding indicated TAD funding has allowed their County/Tribe to improve the services offered to criminal justice involved individuals with substance use*

### *Program Design Structures*

As the program has continued to expand, much work has been done to date to refine the program design structures of TAD. These efforts will be detailed throughout this report, but key areas of improvement have included:

- **Continual refinement of the grant application process** to better reflect the programs at the local level and improve decision making at the state level.
- Development of **definitions** to better categorize program models.
- **Development/revision of Treatment Court and Diversion Standards** and coordinating grant materials and technical assistance processes to reflect assessment of the programs based on these standards.
- Development of a **consistent method for data collection**, through a web-based system instead of the prior single-county databases, which is no longer feasible given the expansion.
- **Revising the TAD Advisory Group** through the State CJCC to assist in providing input and oversight for the program, particularly as it continues to expand and increase in complexity.

One substantial modification that was made to the applications for the large expansion in 2017 which marked the start of the five-year cycle, was the option for sites to apply in one of three different tracks based on their level of readiness to initiate their programs. Many new treatment courts and diversion programs were starting up with increased interest in local treatment alternative options, and based on previous experience, programs needed a solid planning period on which to build a stable and sustainable program. Making those modifications after a program was already operational was incredibly difficult and proved to



be much more time consuming than allowing sites time to plan their program if they were not fully prepared to implement by the start of 2017. Therefore, three tracks were established:

- Track 1: Planning and Implementation – allowing sites a 6-month planning period at the start of the grant
- Track 2: Implementation – for programs that had already spent several years planning their program and were ready to initiate operations or had been operational for less than 1 year
- Track 3: Expansion – for programs that had already been operational for a minimum of 1 year and were asked to describe how they were going to expand/improve their operational program with the funding

The applications were then separated by track during the scoring process and three separate scoring guides were used to determine program readiness and/or stability for funding. Separate tracks proved to be very beneficial to allow programs to build a solid foundation and have continued to be offered as expansion funding has been made available to additional sites. During their planning phase, TAD staff provide additional support through in-person meetings with the teams, providing resources based on their program structure plans, and providing training and assistance with program design to ensure the program is based on evidence-based practices and the standards that guide these programs.

### *Program Type Definitions*

As discussed in the introduction, TAD programs provide local jurisdictions with options to offer offenders the opportunity to enter diversion programs or treatment court programs, which typically involve drug and/or alcohol abuse treatment, case management, and other risk reduction services as a safe alternative to jail or prison confinement. While treatment courts remain the most popular option among TAD sites, a growing number are also developing other types of diversion programs.

While the TAD grant program has allowed local control in determining which program options to implement, prior to the most recent expansion round, there had not been clear definitions for each of the program models, which caused difficulty in both providing technical assistance and in evaluating the different program models. As part of the Evidence-Based Decision Making Initiative, a project was undertaken to develop definitions for the criminal justice system, including for the different diversion models. As a result of this project, and subsequent improvements to the application process, TAD sites and the programs they operate are now better defined, which has led to improvements in both areas of technical assistance (based on the relevant Standards) and evaluation. Key definitions are as follows:

***Diversion:*** A global term used to describe pre-arrest, pre-charge, post-charge, and treatment/specialty court programs (which can be pre- or post-conviction) that are an alternative to the formal prosecution process and that divert participants into voluntary programs of supervision and services, based on established criteria and a screening or assessment process. Participants who successfully complete the program will receive a beneficial outcome (no charges filed, charges reduced or dismissed, averted incarceration, etc.).

***Pre-charge diversion:*** Following a referral for prosecution, the prosecutor has discretion to withhold filing of charges and provide an alternative in the form of a diversion agreement which may include certain program requirements (e.g., do not commit a new crime for a specified period of time, participate in education classes, complete community service, and/or receive an assessment for treatment needs). Satisfactory completion of program requirements results in charges not being issued (no formal criminal complaint is filed).

***Post-charge diversion:*** Following the filing of charges, the prosecutor can exercise discretion to suspend formal prosecution and provide an alternative in the form of a diversion agreement including certain program requirements (e.g., do not commit a new crime for a specified period of time, participate in one or more programs or services). Satisfactory completion of program requirements results in reduced charges or the dismissal of formal charges.

**Adult Drug Court:** A criminal court calendar or docket designed to achieve a reduction in recidivism and substance use among participants and increase the participants' likelihood of successful rehabilitation. Interventions include early, continuous and intensive judicially supervised treatment, mandatory periodic drug testing, community supervision, and the use of appropriate sanctions, incentives, and habilitation services (Bureau of Justice Assistance, 2005).

**Hybrid Treatment Court:** A treatment court that combines multiple models. The treatment court team has had appropriate training for each of the combined models. (e.g., when an Adult treatment court decides to also take OWI offenders, the court is structured to support the needs of OWI offenders, in particular the use of alcohol monitoring and the presence of victim's representatives at staffings, to protect public safety ([http://www.mncourts.gov/mncourtsgov/media/Judicial\\_Council\\_Library/Policies/500/511-1.pdf?ext=.pdf](http://www.mncourts.gov/mncourtsgov/media/Judicial_Council_Library/Policies/500/511-1.pdf?ext=.pdf) p.14).

**Mental Health Court:** A mental health court diverts select defendants with mental illnesses into judicially supervised, community- based treatment. Defendants participate in a voluntary specialized screening and assessment. For those who agree to the terms and conditions of community-based supervision, a team of court and mental health professionals work together to develop treatment plans and supervise participants in the community. Courts are modeled after other treatment courts and utilize regular status hearings and a system of incentives and sanctions.

**OWI Court:** A post-conviction court dedicated to protecting public safety, by addressing the root causes of impaired driving. Participants have been convicted of Driving While Impaired (OWI), either under the influence of drugs or alcohol. OWI courts utilize a team of criminal justice professionals (including judges, prosecutors, defense attorneys, probation and parole agents and law enforcement) along with substance use treatment professionals to systematically change participant behavior. Like drug courts, OWI courts involve extensive interactions between the judge and the participants to hold the participants accountable for their compliance with court, supervision, and treatment conditions (Huddleston, et al., 2004).

**Tribal Healing to Wellness Court:** A component of the tribal justice system that incorporates and adapts the wellness concept to meet the specific substance abuse needs of each tribal community. It provides an opportunity for each Native American community to address the devastation of alcohol or other drug abuse by establishing more structure and a higher level of accountability for these cases through a system of comprehensive supervision, drug testing, treatment services, immediate sanctions and incentives, team-based case management, and community support. The team includes not only tribal judges, advocates, prosecutors, police officers, educators, and substance abuse and mental health professionals, but also tribal elders and traditional healers. The concept borrows from traditional problem-solving methods utilized since time immemorial, and the court process restores the person to his or her rightful place as a contributing member of the tribal community. The programs utilize the unique strengths and history of each tribe and realign existing resources available to the community in an atmosphere of communication, cooperation and collaboration (Native American Alliance Foundation, 2006; Tribal Law and Policy Institute, 2003).

**Veterans Treatment Court:** A hybrid court integrating the principles of drug court and mental health court to serve military veterans and sometimes active-duty personnel. These courts promote sobriety, recovery, and stability through a coordinated response that involves collaboration with the traditional partners found in drug courts and mental health courts, as well as the Department of Veterans Affairs healthcare networks, Veterans Benefits Administration, state veterans' agencies, volunteer veteran mentors, and organizations that support veterans and veterans' families (Office of National Drug Control Policy, 2010).

*“Veterans Treatment Court helped me achieve this change by not giving up on me and realizing that underneath there is a good person. It gave me the tools and direction to do things on my own and have faith in me that I would accomplish it.”*

**-Veterans Court Participant**

## *Resources*

As the TAD program has been expanded multiple times, **DOJ has continued to request administrative funding for positions to support the dramatic increase in the number of local projects needing programmatic and administrative support**, as well as the additional reporting and evaluation requirements. To date, no additional funding has been allocated to DOJ to address these new responsibilities. As a result of the initial expansion of TAD in 2014, an additional 5.0 general purpose revenue (GPR) positions were approved within DOJ, with the caveat that the funding for these positions would need to be pulled from other areas within the department. As a result, current dedicated TAD program positions within DOJ include:

- 1.0 FTE Program Manager
- 1.0 FTE Technical Assistance Provider
- 0.5 FTE Grants Specialist
- 0.5 FTE Program Support
- 2.0 FTE Research Analysts

While these positions were added following the 2014 expansion, the program has continued to expand by more than \$3 million since that time, but no additional positions have been allocated. In addition, while TAD is administered as a partnership with the state agencies, there is no funding attached to the partner agencies to assist in the administration of TAD. As a result, the efforts to improve the administration of the program in recent years detailed in the next section have been the result of a largely grassroots effort of state and local partners.

In addition to a lack of staffing resources, there are limited state funds allocated through the TAD program for additional needs that are critical for administering the program effectively, including the development of reporting and evaluation systems and the provision of training and technical assistance. As the program has continued to expand, these needs have almost solely been addressed with federal grant funding, which is not sustainable in the long term.

## Efforts to Improve Administration to Date

While dedicated resources for the administration of the TAD program at the state level have not increased as program funding has increased, in recent years, a number of initiatives have been completed in an effort to improve the functioning of local TAD programs, as well as to improve state level administration and evaluation of the program. These efforts have largely been undertaken as a result of statewide coordination through the State CJCC, coordination of projects through the Evidence-Based Decision Making Initiative, and leveraging federal grant resources as well as time dedicated by the state partner agencies and local partners. These efforts have laid the foundation for TAD program improvements and are detailed below.

### *Evidence-Based Decision Making*

In 2016, following a competitive application process, Wisconsin was invited to partner with the United States Department of Justice, National Institute of Corrections (NIC) to start Phase VI of the Evidence-Based Decision Making in State and Local Criminal Justice Systems Initiative (EBDM). NIC's EBDM Initiative aims to apply "empirical knowledge and research-supported principles to justice system decisions made at the case, agency and system level and seeks to equip criminal justice local and state policymakers with the information, processes, and tools that will result in measurable reductions of pretrial misconduct, post-conviction reoffending, and other forms of community harm resulting from crime." Phase VI of the Initiative builds off the collaborative planning efforts undertaken in Phase V to enable state and local teams in Wisconsin to partner with NIC in implementing evidence-based strategies to improve the functioning of criminal justice system.

As the Treatment Alternatives and Diversion (TAD) program moved into a new five-year competitive cycle for calendar year 2017, and in order to align with EBDM, DOJ incorporated elements of EBDM into the planning and grant application requirements. This included requiring enhanced collaboration with an emphasis on a systemwide approach at the county level, as well as focusing on the development of system maps and logic models as part of the planning process. In order to prepare counties for these changes, DOJ and its partner agencies provided regional trainings on these elements, further expanding EBDM concepts to all areas of the state and improving county planning efforts and resources.

### *Treatment Court Standards/Trainings*

As the TAD program began expanding in 2014, several key developments regarding Treatment Court Standards coincided with this expansion.

- In 2014, the Wisconsin Association of Treatment Court Professionals (WATCP) and partner agencies published the first version of the Wisconsin Treatment Court Standards.
- In late 2015, staff coordinated the development, planning and implementation of the Wisconsin Treatment Court Standards Trainings, which were held regionally in six sites in September and October. These trainings were the result of a FY14 BJA Adult Drug Court Discretionary grant received by DOJ and was offered to treatment courts at no cost through the grant. The trainings received an overwhelming response from treatment court teams around the state, as over 500 people attended, representing 71 out of 74 fully operational treatment courts in Wisconsin at that time.
- Since the development of the original trainings, program staff have also increased their involvement with the Wisconsin Association of Treatment Court Professionals (WATCP), including being added to numerous boards and planning committees, as well as being involved in the continued development/revision of the Wisconsin Treatment Court Standards, which were finalized in September 2018.
- In addition to participating in the revisions to the Standards, DOJ TAD program staff coordinated a 2.5-day Treatment Court Standards 101 Training, which was held in Wisconsin Rapids in June 2017. In attendance were 140 participants from 29 counties and 11 full treatment court teams that completed the training. This training was developed based on the Wisconsin Treatment Court Standards and was designed to provide guidance to new treatment courts, as well as

new treatment court staff for existing programs. The trainings were coordinated by DOJ, in collaboration with the Wisconsin Association of Treatment Court Professionals and the Wisconsin Director of State Courts Office and was made possible under a discretionary grant from the US Bureau of Justice Assistance awarded to the Wisconsin Department of Justice.

- DOJ also received a new FY18 BJA Adult Drug Court Discretionary Grant award, which will continue to provide funding for additional Treatment Court Standards Trainings in future years. Through this grant, in September 2019, DOJ staff coordinated three regional Treatment Court Standards trainings for new treatment court staff, which resulted in over 200 treatment court professionals from 50 counties and two tribes being trained on the Standards.

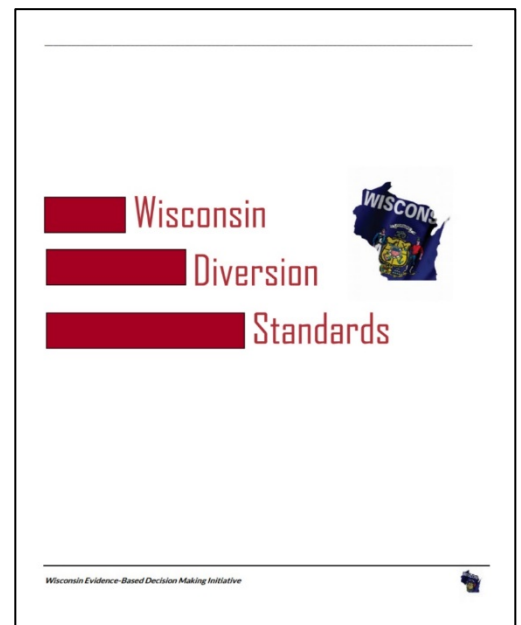
### *Diversions Standards/Trainings*

As noted previously, since the Treatment Court Standards were originally developed in 2014, numerous national and statewide trainings and other resources have been developed to help guide problem-solving court planning and implementation efforts in Wisconsin.

To date, however, these types of resources and standards had been unavailable to different types of prosecutor-led diversion models in Wisconsin. As the TAD program continues to expand, more counties receive funding to implement programs, and more counties work on reviewing their criminal justice system to implement programming through the EBDM Initiative, there is an increased need to provide a similar set of standards and resources in order to encourage effective implementation, based on the current research. A key goal of the EBDM Initiative and TAD program improvement efforts has been the development of new resources for these types of programs.

As a coordinated effort between both the TAD program and the EBDM Initiative, the State CJCC Model Policies and Training Subcommittee worked to develop statewide Diversion Standards for Pre-Charge and Post-Charge Diversion models. The intent of these Diversion Standards was to complement the existing Treatment Court Standards and provide a basis for implementation and training for all types of TAD programs in Wisconsin. When discussing these Standards, it is important to note that, unlike the Treatment Court Standards, there are not recent national standards for diversion, and Wisconsin is one of, if not the only state to develop statewide standards for diversion programs.

These Diversion Standards were developed throughout 2017 and 2018 and were rolled out in September 2018. In addition, like the Treatment Court Standards, DOJ and partner agencies worked to develop and coordinate regional trainings on the Diversion Standards in September and October 2018. Approximately 250 stakeholders from 54 counties and tribes in Wisconsin attended the trainings, including law enforcement, district attorneys, coordinators, public defenders, social workers, judges, human service directors, treatment staff, and others. Moving forward, the Diversion Standards are also seen as a resource for those interested in starting diversion programs in jurisdictions that currently do not have them.



### *Technical Assistance*

Over the years, the technical assistance provided to the sites has evolved and changed to meet the needs of the programs. The largest increase in funding occurred in the 2016 competitive funding round for the five-year cycle that began on January 1, 2017. As expected, the increased funding allowed for the start-up of several new programs around the state, including both treatment courts and diversion programs. The technical assistance during this time was focused on meeting with the teams of each new program to discuss program development, population selection, program structure, policy and procedure manuals being drafted and approved, and stakeholder buy-in concerns and issues. There was also a significant amount of effort to refine the Treatment Court Standards and develop the Diversion Standards and provide statewide trainings on these standards to help improve program operations and outcomes.

As the TAD program began its third year of the five-year cycle in 2019, a major focus of the TAD staff was to provide more individual meetings and on-site technical assistance to ensure program operations were running smoothly and according to the standards. This individual technical assistance was provided to numerous programs and included various communication efforts, such as conducting team conference calls, joining program planning meetings, conducting on-site technical assistance visits, conducting team trainings and team building exercises, as well as continuing to provide statewide trainings for new team members. These efforts have been well-received and appreciated by the programs. **Training and technical assistance is a critical component to ensure that programs are operating evidence-based programs that follow the standards, which improves outcomes, increases public safety and improves the lives of the participants in the programs.**

### *Drug/Hybrid Court Performance Measures, Future Expansion*

As discussed previously, through its management of the TAD program and a prior BJA Adult Drug Court Discretionary grant, DOJ TAD program staff and partner agencies have been very involved at the state level in the development of the Wisconsin Treatment Court Standards (and subsequent revision), and have coordinated multiple statewide trainings on the Standards. Working with the Bureau of Justice Information and Analysis (BJIA), Justice Programs was also involved in a previous grant-funded initiative of the Director of State Courts' Office to develop statewide performance measures for Adult Drug and Hybrid Treatment Courts. Justice Programs' staff also currently sit on the Wisconsin Association of Treatment Court Professionals' (WATCP) Treatment Court Standards Subcommittee.

Moving forward, DOJ has received an FY18 BJA Adult Drug Court Discretionary grant totaling \$500,000 to further develop these initiatives statewide. The project summary is as follows:

The Wisconsin Department of Justice will partner with the Wisconsin Director of State Courts Office, the National Center for State Courts, and the Wisconsin Association of Treatment Court Professionals (WATCP) for a 48-month project designed to build upon recent efforts to improve the functioning and outcomes of Wisconsin's treatment courts through a multi-tiered project to develop performance measures for specific specialty treatment court models (OWI, Veterans, Co-Occurring Disorders), to enhance data collection and reporting capabilities statewide for various types of treatment courts, and enhance statewide training for treatment courts.

This four-year grant project started 1/1/19 and will be key for continuing to drive initiatives and provide resources designed to improve the functioning of Wisconsin's treatment courts.

### *Comprehensive Outcomes, Research, and Evaluation (CORE) Reporting System*

Endorsed by the State CJCC, since 2014, DOJ has worked to develop a project to develop a web-based, integrated reporting system for problem-solving courts and diversion programs throughout Wisconsin. This system, the Comprehensive Outcomes, Research, and Evaluation (CORE) Reporting System was designed by DOJ's Bureau of Justice Information and Analysis (BJIA) with input from multiple state and local partners and with the technical development work being carried out by DOJ's Bureau of Computing Services (BCS). The first two phases of CORE development were completed in 2016, the system is now live in

production. Near the end of 2017, the official rollout of the system occurred with an emphasis on getting the TAD sites up and running on the new system.

DOJ has also made the system available at no charge to sites that do not receive TAD grant funding. The CORE Reporting System incorporates performance measures developed cooperatively with the National Center for State Courts (NCSC) that can be utilized by drug and hybrid courts across the state. **The system will provide an integrated tool to collect more detailed data on treatment court and diversion program participants, which will allow sites to regularly monitor the progress of their programs and will also support longer-term evaluation of TAD and related programs across the state.**

**CORE** Comprehensive Outcome, Research and Evaluation  
Reporting System For Treatment Courts and Diversion Programs

👍 You have logged out successfully.

### Welcome to CORE

The CORE Reporting System is designed to collect participant-level data for treatment court and diversion programs in the State of Wisconsin. The data can be utilized for performance measurement, evaluation, and tracking of participant progress through various programs. This is a secure site intended for authorized users at the state and local level.

Username:  [Forgot Username?](#)

Password:  [Forgot Password?](#)

I agree to the [terms and conditions](#) regarding system usage.

[Log in](#)

**Test County | Pre-Charge/Post-Charge Diversion**

[BJIA](#) [Dashboard](#) [New Referral](#) [Resources](#) [Reports](#) [User Management](#) [Procedural Fairness](#)

Expand all

**Referral & Admission**

**Personal Information**

Demographics & Identifiers  
Alias

**Referral**

Referral Information & Offense  
Criminal Risk & Needs Assessment  
Eligibility Determination

**Admission**

Administrative  
Family & Housing  
Education & Employment  
Criminal Background  
Medical & Mental Health

**Sara R Test | CORE ID: 131713 | Active**

**Demographics**

**First Name:** Sara **Last Name:** Test **Middle:** R **Suffix:** -- Select

**Sex:** Female **DOB:** 01/17/1968 **Age:** 50 **Veteran:** -- Select

**Race:** White **Race (Other):** **Ethnicity:** Not Hispanic/Latino

**Identifiers**

**SID:** 94949 **No SID:**  **SSN:** **DOC No.:**

**HSRS No.:** **Tracking No.:** **External Source ID:**

**Add Incentive Detail**

**Date of Incentive(s):** **Precipitating Event(s) Start Date:** **Precipitating Event(s) End Date:**

**Incentive(s) Administered By:** -- Select -- **Incentive(s) Administered By (Other):**

**Reason(s) for Incentive(s):**

<input type="checkbox"/> Clean drug tests/Sobriety	<input type="checkbox"/> Employment change/improvement	<input type="checkbox"/> Education change/improvement
<input type="checkbox"/> Phase completion/advancement	<input type="checkbox"/> Probation conditions - progress	<input type="checkbox"/> Probation conditions - completed
<input type="checkbox"/> Positive behavior change	<input type="checkbox"/> Pro-social activities	<input type="checkbox"/> Court conditions met
<input type="checkbox"/> Supervision appointments attended	<input type="checkbox"/> Supervision completed	<input type="checkbox"/> Treatment sessions attended
<input type="checkbox"/> Treatment progress	<input type="checkbox"/> Treatment completed	<input type="checkbox"/> Completed all assigned requirements
<input type="checkbox"/> Other		

Reason(s) for Incentive(s) (Other):

Cancel Save & Close



### *Legislative Study Committee on Problem-Solving Courts, Alternatives, and Diversion*

In 2014, nearly 50 state legislators requested a Legislative Study Committee composed of subject matter experts and policy makers to offer nonpartisan legislation with the intent of bolstering and expanding the area of problem-solving courts, alternatives, and diversions. The Special Committee was directed to review the 50+ courts currently in operation in Wisconsin that utilize nontraditional adjudication methods, the effect they have on recidivism, and the net fiscal impact of these courts. The committee examined courts, such as veterans courts, drug and alcohol courts, mental health courts, and drunk driving courts, in Wisconsin and nationally and consider: (a) effectiveness of existing problem-solving courts in Wisconsin in reducing recidivism, the costs to administer these courts, and the savings realized; (b) best practices of existing problem-solving courts, both in Wisconsin and elsewhere, and potential implementation of these practices at the state level; (c) efforts to establish problem-solving courts that serve multiple counties, impediments to these efforts, and potential changes to improve regionalization of such courts; and (d) appropriate role and structure of state-level training and coordination. The Legislative Study Committee's recommendations resulted in three Assembly Bills designed to impact problem-solving courts as well as the TAD program: Assembly Bill 50, Assembly Bill 51, and Assembly Bill 52.

### *TAD Statute*

**As a result of the rapid and large expansions of the Treatment Alternatives and Diversion (TAD) program, there is a need to review and propose revisions to the [TAD statute](#), which was originally drafted in 2005.** Given the large increase in programming statewide, the advances in research and evidence-based programming since the program began, and the progress statewide on developing standards for treatment courts and diversion programs, a necessary goal moving forward is to review the TAD statute and make recommendations for clarifying language and/or statutory changes to improve the functioning of TAD programs statewide. This project is being coordinated by DOJ and began through the State CJCC's Behavioral Change Interventions Subcommittee, which is now recreated as the Treatment Alternatives and Diversion (TAD) Subcommittee. Through this process, recommendations from the TAD Subcommittee will be forwarded to the State CJCC for review and approval.

## What the Current Data Shows

Between 2014 and 2018, 6,125 admissions were reported across approximately 83 Treatment Alternatives and Diversion (TAD) funded treatment courts and diversion programs in 52 counties and three tribes across Wisconsin. A significant number of individuals have been impacted by TAD program funding over the five-year period. Below is a brief data snapshot taken from the recently completed *Treatment Alternatives and Diversion (TAD) Program 2014-2018: Participant Outcome Summary and Cost-Benefit Report*.

### *Participant Summary*

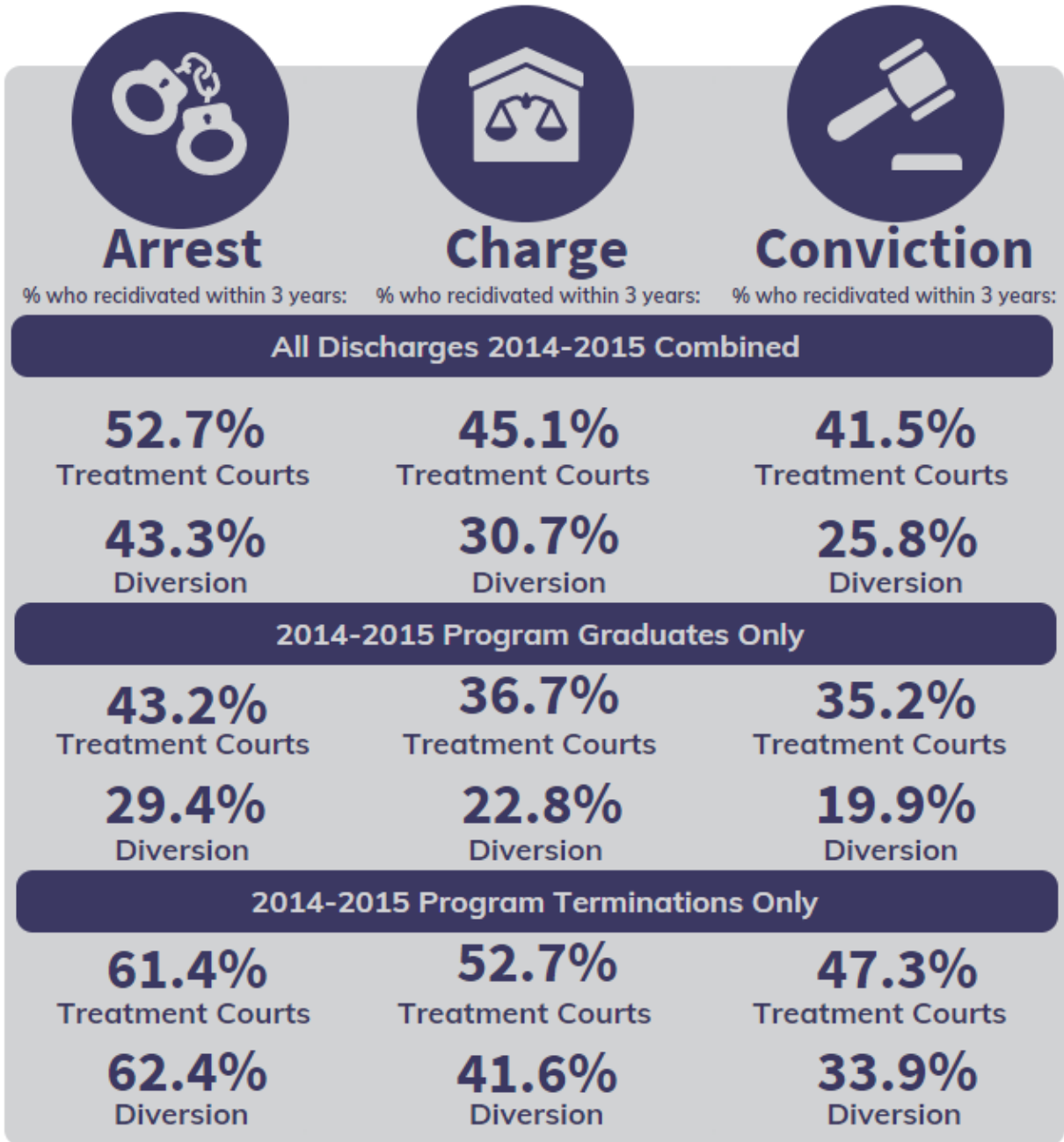
During this five-year evaluation period, TAD programs reported 2,355 total admissions for treatment court programs and 3,770 admissions for diversion programs. During this same time period, 1,828 discharges (successful completion, termination, or administrative discharge) occurred from treatment court programs, and 3,052 were recorded for diversion programs. Overall, 48.6% of participants successfully completed a treatment court program and 63.4% completed a diversion program, which results in a 57.8% completion rate for a TAD funded participant.



**Between 2014-2018, program admissions grew 150%, coinciding with over \$5 million in additional funding awarded.**

### *Recidivism Analysis*

Post-program recidivism was one of the primary outcome measures which was analyzed at the point of arrest, charge, and conviction. The differences between treatment court and diversion program participants continued with recidivism. Overall, the three-year post-program recidivism rates for diversion program participants was lower than for treatment court participants at arrest, charge, and conviction. At the point of arrest, 30.2% of those discharged from treatment courts between 2014 and 2017 had at least one recidivist event within one year compared to 23.4% of those discharged from diversion programs during the same time period. This increased to 52.7% of those discharged from treatment courts within three years compared to 43.3% of those discharged from diversion programs during the same time period. At the point of conviction, treatment court participants demonstrated recidivism rates of 17.9% compared to 12.5% of diversion program participants within the first year, which increased to 41.5% for treatment court participants compared to 25.8% of diversion program participants within three years.

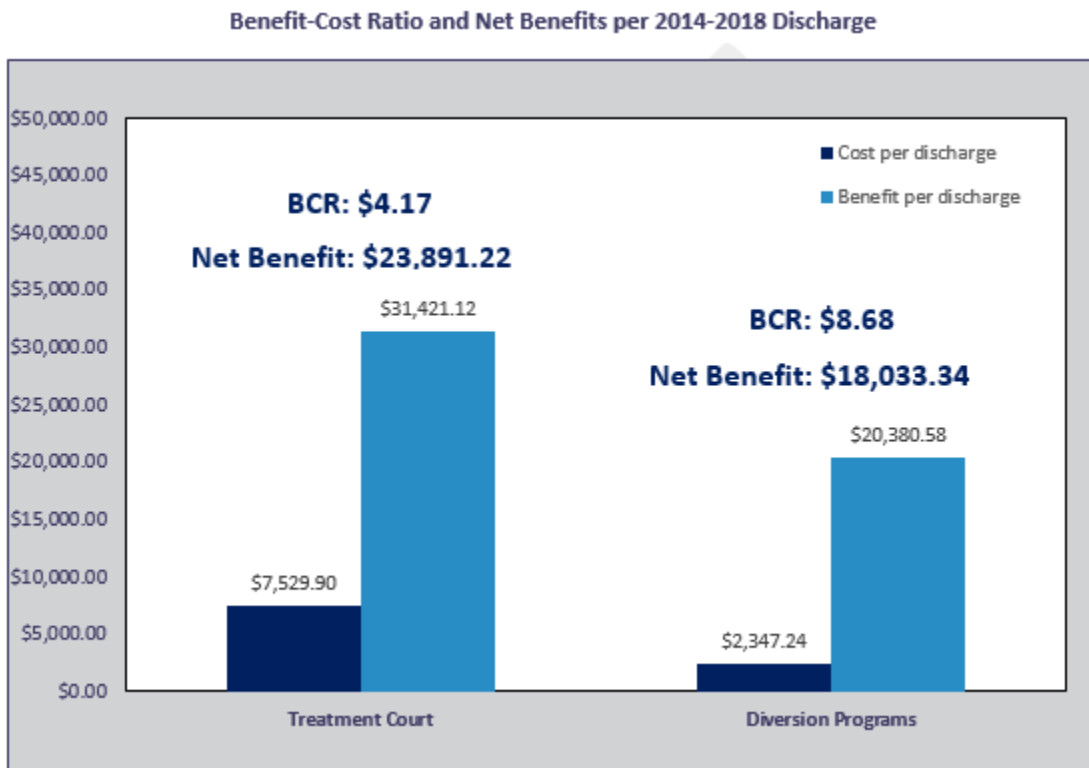


**Cost-Benefit Analysis**

The benefit-cost ratio and net benefits of treatment court programs and diversion programs were calculated separately. The cost-benefit analysis indicates that based on the investment of resources specifically from the state TAD funding, the ratio of benefits to cost for treatment courts is \$4.17 and \$8.68 for diversion programs. That is to say, the **Wisconsin criminal justice system receives a benefit of \$4.17 for every \$1 in state TAD funding spent on treatment courts and a benefit of \$8.68 for diversion programs**<sup>3</sup>. These benefits are incurred through averted incarceration costs and reduced future crime costs per discharge in 2014-2018.

<sup>3</sup> Due to differences in methodology and scope, the overall ratio should not be compared to previous evaluation ratios.

The overall benefit-cost ratio was lower for treatment courts than for diversion programs, which is not unexpected and in part reflects the lower capacity and higher program requirements of treatment courts relative to diversion programs. Treatment courts are also designed to work with participants with higher risk/need levels and provide more intensive oversight, which would impact the cost-benefit ratio per discharge but is also intentional to address the needs of these participants.



## Program Strengths

### FORGING PARTNERSHIPS

#### *State Level Partnerships*

The State Agencies responsible for supporting and monitoring the TAD Programs, the Department of Justice, Department of Corrections, Department of Health Services, Director of State Courts Office and the State Public Defender's Office, have continually increased their collaboration, through meeting and communicating regularly to better serve the needs of the programs around the state. The agencies have continued to work together to make critical funding decisions and providing state-wide trainings. The agency's collaboration efforts have also proven to be crucial in providing expertise in areas of debate, and ensuring appropriate decisions are being made with the perspective of all disciplines in mind.

#### *Establishment of Local CJCCs*

Expansion of the TAD Program has improved local collaboration by requiring the establishment of local CJCCs, to provide oversight and coordination of treatment and diversion options. The number of CJCCs has increased significantly since 2016 when the TAD grant required counties and tribes to have/or be planning to have an established local CJCC to serve as an oversight body for the TAD-funded program. The formation of these councils has allowed counties and tribes to coordinate multiple programs and justice system improvement efforts in the jurisdiction, which has increased efficiency and improved outcomes.

#### *State/Local CJCC Communication*

The State Criminal Justice Coordinating Council (CJCC), Evidence Based Decision Making (EBDM) Subcommittee, and the TAD Subcommittee continually rely on county and tribal CJCC's as a mechanism for communication. Local needs and concerns have helped inform the direction of the State CJCC and its subcommittees, which, in turn, has allowed local programs to create meaningful changes. County and tribal CJCC's are also represented on the State CJCC and its subcommittees to provide a "boots on the ground" perspective.

#### *Communication Between State Agencies/Local Teams/Programs*

State agency staff rely on regular communication with local team members from programs around the state. A representative from the local teams, usually the coordinators, provide feedback (via surveys, emails, etc.), examples of program documents to share with other sites, curriculum development for trainings, and facilitation services at various trainings/events. The willingness of local programs and teams to assist state-wide training efforts during the several years of TAD expansion has been remarkable and without their assistance, all the multiple training events over the last five years would not have been accomplished with the same level of success.

#### *Tribal Partnership*

The engagement of Tribal nations across Wisconsin has been steadily increasing. All the major committees and associations that govern our treatment courts and diversion programs have representatives from the Tribal nations at the table, which furthers our efforts to ensure inclusivity and make decisions with our tribal partners in mind. TAD funding currently helps support Healing to Wellness Courts in the Ho-Chunk Nation and the Lac du Flambeau Band of Lake Superior Chippewa, and supports a Diversion Program in the Menominee Indian Tribe of Wisconsin. There has also been a concerted effort by WATCP for multiple years to increase the training for Healing to Wellness Courts at their annual conferences, as well as providing breakout sessions tailored to the Native American culture. All these efforts have fostered this relationship and strengthened the partnership.

## STANDARDS AND EVIDENCE-BASED PRACTICES

### *Wisconsin Treatment Court Standards*

The first set of Wisconsin Treatment Court Standards was published in 2014, one year after the National Association of Drug Court Professionals (NADCP) issued their first set of standards in 2013. Since 2014, significant new research and evidence-based practices that govern treatment court operations have been established and published. TAD staff worked closely with Wisconsin Association of Treatment Court Professionals (WATCP) and representatives from all partner agencies to review and fully revise the state treatment court standards. The revised addition was published in 2018 and a BJA grant, secured by DOJ, allowed all treatment court teams and professionals to receive a copy of the Wisconsin Treatment Court Standards.

### *Wisconsin Diversion Standards*

While treatment courts have a well-established source for publications and evidence-based practices to guide their programs, the Wisconsin diversion programs have not had an equivalent association that can provide similar guidance for successful program designs. The National Association of Pretrial Services Agencies (NAPSA) has been the only guidance for diversion programs, which published the Performance Standards and Goals for Pretrial Diversion/Intervention document in 2008.

As a result, in 2018, after several years of development by an ad hoc committee, under the direction of the State CJCC, a draft of the Wisconsin Diversion Standards was released to assist additional jurisdictions with setting up diversion programs in additional counties and tribes around the state. Finalization of this document remains a priority moving forward.

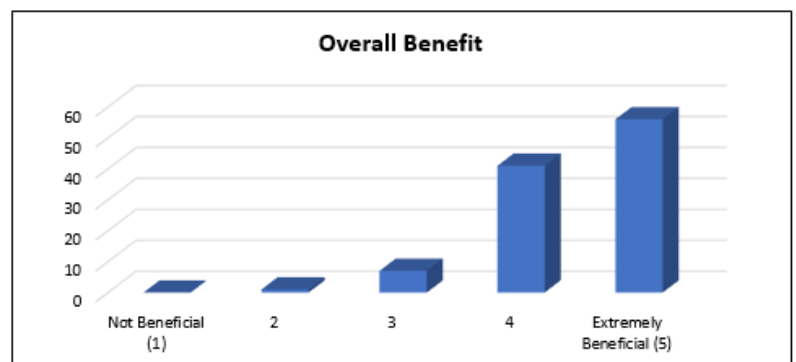
## STATE STANDARDS TRAININGS

### *Statewide Standards Trainings for Treatment Courts*

Funding for applicable and adequate training is limited for many programs, especially if they are not TAD funded. Even with TAD funding, programs struggle to provide annual training for their entire team and the state agencies continually try to fill this training void. Through a three-year Bureau of Justice Assistance grant secured by DOJ in 2015, the following trainings for full teams were provided free of charge to ALL WI treatment courts and diversion programs, regardless of being a TAD recipient:

- In 2015, the state partner agencies (listed previously), along with local judges and coordinators of established treatment courts, were able to work together to develop curriculum and facilitate a 2 ½ day training that was repeated in six locations around the state. The trainings provided instruction on the Wisconsin Treatment Court Standards and numerous team breakout sessions to 71 of the 74 established treatment court teams at that time, which included nearly 500 treatment court professionals.
- In 2017, this training was revised and repeated after additional TAD funding created new treatment courts in previously unfunded areas. The training was held in one location and trained approximately 150 treatment court team members, representing 29 counties and tribes around the state.
- In 2019, in response to local programs' needs and high turnover among the programs, a one-day training was conducted for new treatment court team members who needed foundational training on the Wisconsin Treatment Court Standards. This training was held in three locations around the state and trained approximately 200 treatment court team members from programs in counties and tribes around the state.

**Overall Benefit of the Training**



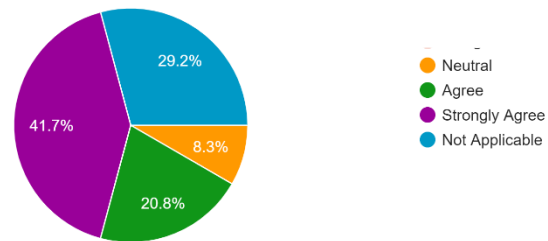
### *Statewide Standards Trainings for Diversion Programs*

In 2018, in partnership with several diversion experts from well-established WI diversion programs, a two-day training was conducted in three locations around the state. This training provided instruction and discipline-specific breakout time to discuss various diversion options that allow for reduced criminal justice involvement and resource expenditures for lower level participants. Nearly 250 diversion team professionals attended the training, with 54 counties and tribes being represented.

### *Individual Team Trainings*

Numerous TAD sites have requested and/or been offered team training that provided individual instruction on specific program areas to improve team functioning, program operations and program outcomes. TAD staff (2) and Director of State Courts staff (1) have conducted several team trainings around the state and plan to continue this assistance in the future. In 2019, 3 sites received on-site training, with two additional sites scheduled in January 2020.

Individual, on-site Team training provided by Department of Justice and Office of State Courts staff have been beneficial to my County/Tribe.  
48 responses



**In a recent survey, 93% of the sites reported the site visit process and feedback had been beneficial for their County or Tribe.**

### *Site Visits and Reports with Recommendations for Improvement*

DOJ TAD staff conduct regular site visits with TAD-funded programs and evaluate the program operations based on the WI Treatment Court Standards or the WI Diversion Standards, depending on the program. Teams can ask grant- and program-related questions during the visits and express concerns or frustrations that may need to be brought to the State partners and/or subcommittees for review. After a site visit is conducted, a report with observations and recommendations for improvement, along with additional resources and example documents, is provided to the team. In 2018 and 2019, 20 programs and 39 programs, respectively, received a site visit.

## TECHNICAL ASSISTANCE

### *TAD Staff and WATCP Conferences*

Wisconsin is fortunate to have the Wisconsin Association of Treatment Court Professionals (WATCP) to help provide additional quality and meaningful training to WI Treatment Court professionals. A substantial number of TAD-funded programs use their grant funds to assist with expenses associated with attending WATCP Conferences, which cover all topics related to evidence-based practices in treatment courts.

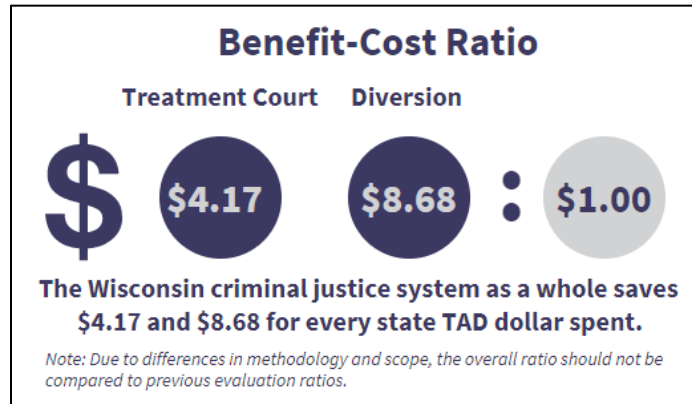
TAD staff serves on the WATCP Board and assists with the State Conference Planning Committee, the Equity and Inclusion Committee, and co-chairs the Coordinator’s Conference Planning Committee. This allows for the needs of the TAD programs to be conveyed to WATCP in planning the state conferences for further partnership and collaboration in supporting the TAD programs.

The National Association of Drug Court Participants (NADCP) is also a significant source of technical assistance for Wisconsin’s treatment court programs. NADCP provides on-site training with teams, speakers at the WATCP State Conference, hosts the annual NADCP National Conference, and provides the most up-to-date evidence-based research and resources.

## COST SAVINGS OF TAD PROGRAMS

### *Reduced Convictions and Criminal Justice Involvement*

Diverting non-violent offenders from the criminal justice system into needed treatment programming and community services, while providing oversight and accountability measures, provides the structure and support for rehabilitation and sustained sobriety. TAD programs are structured to serve individuals whose criminal involvement is directly related to their struggles with a diagnosed substance use disorder. TAD programs offer the opportunity for individuals to participate in evidence-based treatment and diversion programming, which allows for less exposure to the criminal justice system, incarceration, (which has been found to increase recidivism risk for low-risk offenders) and allows for the reduction or dismissal of charges upon successful completion of the diversion program.



### *Reduced Incarceration*

The TAD programs allow for incredible cost savings to the State of Wisconsin and counties, by averting jail and prison sentences. This is due to most participants in treatment courts around the state facing lengthy jail or prison sentences in connection with their crimes, before being admitted to the TAD programming.

The Department of Corrections continues to work very closely with Wisconsin Treatment Courts to utilize their programs as an Alternative to Revocation (ATR) for individuals who are facing revocation and prison time, due to their violations and/or additional criminal/drug & alcohol involvement while on supervision.

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*According to the BJA TAD 2014-2018 Data Report, each treatment court graduate saves nearly \$32K in averted incarceration costs.*

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### *Reduced Recidivism and Increased Treatment*

As the evidence continues to grow that Treatment Courts and Diversion Programs, when structured in accordance to their respective Standards, effectively reduce recidivism and allow for participants to realize a life of sustained sobriety. Participants receive needed treatment services, including AODA, mental health, and medical services, along with judicial and/or program accountability. Receiving the needed treatment services to maintain sobriety and learning how to engage in pro-social activities in the recovery community, provides the foundation for sustained recovery and a reduction of recidivism for participants who have successfully completed the program.

### *Increased Public Safety*

These programs allow for the most expensive resources, jail and prison, to be reserved for violent offenders who pose a danger to the community. TAD programs are based on evidence and as such, use risk and needs assessment tools to determine appropriate participants for the programs. By admitting the appropriate individuals into the programs, providing needed treatment services, and closely monitoring each participant for program compliance through drug and alcohol testing, TAD programs provide the best opportunity for sustained sobriety and improving public safety.

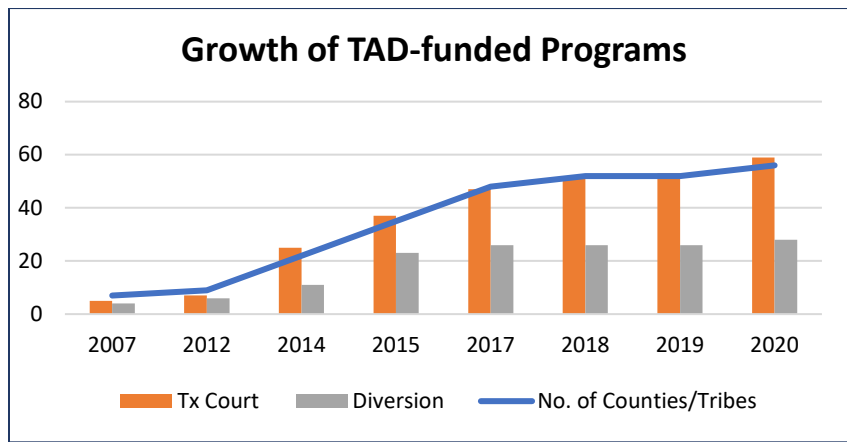


## Program Challenges

### TAD STAFFING NEEDS

#### *DOJ Staff Resources*

Additional staff to support all the programs throughout WI is one of the biggest challenges and needs to improve the overall functioning of program operations. The legislative support for these programs has been unwavering and has been the main contributor for the steady growth of treatment courts and diversion programs around the state. As noted previously, the rapid expansion of the program has increased the number of funded sites to 53 counties and three tribes for 2020. Even more significant, with local jurisdictions being able to use TAD for multiple programs, this translates to 57 treatment courts and 29 diversion programs currently receiving TAD funding. What has not grown as quickly however, is the staff resources to support these programs and teams.



Developing a solid and sustainable treatment court or diversion program takes a significant amount of planning and preparation. Assisting new programs in their start-up efforts is critical to ensuring they develop a solid foundation on which to build their programs. Conducting regular site visits, providing needed resources and information, conducting annual and statewide trainings for teams and supporting all the financial and data questions and issues is increasingly less sustainable with the limited DOJ TAD staff who dedicate their time to these programs. Supporting the staffing needed to adequately support these programs is an essential part of ensuring the success of the TAD Program.

#### *State Agency Partner Resources*

In addition, while TAD is administered as a partnership with the state agencies, there is no funding attached to the partner agencies to assist in the administration of TAD. As a result, the efforts to improve the administration of the program in recent years detailed in the next section have been the result of a largely grassroots effort of state and local partners.

### LACK OF TRAINING RESOURCES

#### *Statewide Trainings/Federal Grant Funded*

DOJ's TAD program staff have been responsible for coordinating and conducting numerous trainings over the last five years to support the TAD programs, which would not have been possible without the Justice Programs section securing federal grant funding to pay for the trainings and the teams' expenses to attend. These trainings have been critical for the continued education of treatment court and diversion teams as they work to improve their programs and ensure they are evidence-based and following the standards the govern each program type. Without these federal funds, the TAD program would have no way of offering these additional trainings to the programs and the success of the program would suffer.

### *Programs Lack Resources for Continued Training*

Most TAD funded programs use a portion of their funding to pay for travel and training expenses associated with attending training that is conducted in WI and national training that is conducted by national organizations (NADCP for Treatment Courts and NAPSA for Diversion Programs). The funding they have available to use toward sending their entire team to the state or national conferences is limited and often they cannot afford to send all their team members to training every year. Since these programs are different from the operations of traditional criminal justice system functions, the need for continued training to ensure fidelity to the program model cannot be understated.

*“The most helpful was the accountability of a case manager and having someone to help alleviate the stress of challenges.”*

**-Diversion Program Participant**

### *High Staff Turnover in Programs, Additional Training Needed*

Working in the criminal justice and mental health fields is a fast-paced, high-stress and political environment. Staff burnout and turnover is a constant struggle for treatment court and diversion program teams. There is a constant need to train new team members to ensure continued success of the programs.

## TAD STATUTORY LANGUAGE & REQUIREMENTS

### *Local Match (25%) Requirement*

The TAD Statute requires that grant recipients “provide matching funds that are equal to 25 percent of the amount of the grant,” [Wis. Stat. § 165.25\(2r\)](#). The original intent of this match requirement was to ensure local jurisdictions (counties or tribes) provided financial support for the programs the state had agreed to fund. However, this local match requirement has been difficult for some programs to meet, especially rural counties and tribes. The reason for the difficulty in meeting the match requirement is different for counties versus tribes. Rural counties just do not operate with the same tax levy as more urban and wealthier counties do, so their ability to support these programs is limited and at the same time these counties are in desperate need of the services. The tribes on the other hand, struggle to meet the match because many of their programs and staff are funded through other grants, which is not an eligible source for match funding.

The impact this has had on several of our rural counties and tribes is twofold – some have not been able to spend their entire grant award because they cannot meet the match requirement or, more recently, several of the rural and less resource wealthy counties could not apply for additional TAD funding in the 2020 expansion round because they were not able to meet the match requirement that would have been associated with additional funding.

### *Exclusionary Language*

Language in the TAD Statute, [Wis. Stat. § 165.25\(1\)\(bg\)](#), has created significant barriers for admitting appropriately assessed participants into their programs, for both treatment courts and diversion programs, for several reasons.

- **Creates Inequity:** The broad definitions can create inequity among potential participants of minority populations.
- **Does Not Allow for Local Discretion:** Admission decisions for these programs are made with approval from multiple criminal justice stakeholders and their professional discretion is removed with pre-determined exclusionary language.
- **Veterans Treatment Courts:** TAD-funded Veterans Treatment Courts are struggling to comply with current exclusionary language and still serve their population in need of the program.

## BARRIERS TO PROGRAM PARTICIPATION & SUCCESS

Participants in Treatment Courts and Diversion Programs face significant barriers that impede their ability to access services and meet the expectations of the program. Despite these barriers (i.e. homelessness, parental responsibilities, transportation limitations, childcare issues, unemployment, etc.) participants strive to overcome these obstacles and successfully complete the program. The programs also try to stretch their limited resources to support the participants where they need it and help them succeed. Additional resources are always needed in the areas listed below and would be used widely across WI.

### *Program Equity and Inclusion*

Treatment courts and diversion programs across the state need guidance to ensure that individuals who have historically experienced sustained discrimination or reduced social opportunities because of their race, ethnicity, gender, sexual orientation, sexual identity, physical or mental disability, religion, or socioeconomic status receive the same opportunities as other citizens to participate and succeed in their programs. By ensuring that participants have equitable access and that staff working in diversion programs are properly trained, we can limit this bias in our programs and offer participants opportunities for growth rather than merely punishment. Ensuring these programs serve all eligible populations, takes continuous effort and training at both the local and state levels.

### *Safe Sober Living Options*

As participants transition from a life of crime and substance use to a crime-free, substance-free lifestyle, they are often left with few housing options. Participants are also often excluded from rental housing as they have felony convictions, have lived a transient lifestyle so have no rental history, and/or previous evictions. Those who are eligible for rental housing may struggle to have enough money saved for a security deposit. Due to these and other reasons, participants will often continue to live with substance-using family and friends who may or may not be supportive of their new lifestyle. According to a recent survey of all TAD programs, 76% of those responding indicated sober living was either “extremely inadequate” or “somewhat inadequate” in their area. In this same survey, many coordinators indicated an inability for their participants to find affordable housing due to a criminal record is also a substantial barrier.

### *Dependable Transportation*

In rural areas, participants may have to travel many miles to attend treatment, court, or meet the other requirements of the program. Although programs do their best to eliminate these barriers, transportation is a constant struggle. More urban areas sometimes struggle with a lack of reliable public transportation. Often participants will also have a suspended license, especially OWI offenders, which creates an additional transportation barrier. According to a coordinator of an OWI treatment court program, “The new laws that take driving privileges away for life deters individuals from wanting to do the program.”

If a participant is insured through Medicaid, they can utilize Non-Emergency Medical Transportation (NEMT) services to attend their medical and treatment appointments. This service, however, cannot be used to attend their additional court-ordered requirements, such as drug testing, probation and case management appointments, and court hearings. In a recent survey, 49% of responses indicated transportation was “extremely inadequate” in their area. This is especially true for rural populations.

### *Evidence-Based Treatment Options*

Participants in diversion and treatment court programs need access to an array of treatment services, including AODA, mental health, and criminal thinking programming. Participants also need access to various levels of care, ranging from simple educational and brief outpatient services up to, and including, inpatient and hospitalization. Programs often don't have access to all services a participant may need, or the participant needs to travel a great distance to have access to the recommended treatment.

In many rural areas, programs only have access to one or two treatment providers. Often, participants have had previous treatment experiences, and may or may not be able to utilize the local treatment providers, as they often have outstanding payments owed to the provider due to previous missed appointments and failed treatment attempts. Due to low reimbursement rates, many of the providers also require a minimum number of participants to facilitate a group or program to

make it financially feasible for the provider. Rural programs often don't have enough participants in need of the same services at the same time to meet the minimum number required. Expanding telehealth services throughout Wisconsin may help alleviate some of these concerns.

### *Medication-Assisted Treatment (MAT) Resources*

Medication-assisted treatment, in combination with therapy, continues to be the gold-standard of opioid use disorder treatment. Although the number of providers in Wisconsin continues to expand, there is a shortage of providers in rural areas who are able and/or willing to provide this life-saving treatment.

An additional concern facing participants utilizing MAT is they are not allowed to continue their daily MAT medication in most county jails, usually due to safety and medication diversion concerns. Depending on the length of the disruption and dosage of the medication, participants may experience severe withdrawal symptoms in jail. This increases the likelihood of overdose when they are released from jail.

An additional barrier to MAT is the stigma associated with various types of MAT. Participants should have access to all forms of MAT as prescribed by a medical professional. Participants should also not be required to taper off a medication as a condition to successfully complete a TAD program.

### *Employment Opportunities*

Participants in TAD-funded programs, especially in treatment court programs, often have lengthy criminal records, sometimes with several felony convictions. Many don't pass employment background checks. Participants often have limited employment history and few, if any, positive employment references. This results in participants resorting to working "under the table" jobs, which often don't pay a living wage, to try to make ends meet.

### *Insurance Coverage*

Participants entering TAD-funded programs often do not have insurance coverage, especially treatment court participants. Local program staff work with the participant to get them enrolled in insurance as quickly as possible. If the participant isn't working, this often means they are enrolled in Medicaid, or, if insurance is not available, grant funds are used to pay for the participant's treatment. Sometimes insurance costs are too high for the participant. As one coordinator noted, "Participants will drop their insurance so they don't have to pay a co-pay. Some leave our treatment court with a large treatment bill."

As participants become employed, they often lose their Medicaid insurance coverage due to the income limitations. Often, they are not eligible for insurance through their employers for 90 days. Once they are eligible for insurance through their employer, sometimes their treatment provider won't accept the new insurance, which means they need to pay cash to continue to receive services, or switch providers. Both situations often result in TAD funds being used to cover treatment costs.

### *Cultural Awareness and/or Culturally Competent Providers*

The participant population of treatment courts and diversion programs are more diverse than the groups of professionals who serve them. Teams must have the interest in becoming more culturally aware and regularly seek training to improve cultural sensitivity. Treatment providers must also continue to seek training on providing culturally competent services to the diverse populations they serve, or the participants' treatment progress could suffer, leading to poor program outcomes.

### *Adequate Medicaid Reimbursement Rate*

The Medicaid (MA) reimbursement rate in WI is low and does not provide an incentive to service those on Medicaid coverage because the reimbursement rates do not cover even the basic costs for providing services. Without proper reimbursement rates for necessary treatment services provided to the participants, Wisconsin continues to lose treatment providers to other states with higher MA reimbursement rates and continues to face a severe shortage of providers across the state. In a recent survey, 27% of respondents indicated Medicaid reimbursement rates were inadequate to support the needs of their program.

### *Prescribing Psychiatrists*

There is a shortage of medical professionals in the field who are fully trained and prepared to serve the complex needs of the criminal justice population. Participants in treatment courts and diversion programs often have co-occurring disorders, which means they struggle with having a mental health diagnosis as well as a substance use disorder. Psychiatrists are not always trained on the science of addiction and how to best treat this population. Treatment courts and diversion programs need skilled prescribing psychiatrists who are training in the science of addiction, and able to prescribe medication assisted treatment to participants struggling with addiction.

## Recommendations for Program Improvement

As a result of this assessment, the **Statewide CJCC provides the following initial recommendations for short and long-term Treatment Alternatives and Diversion program improvements.** Additional recommendations will be developed as the work progresses, with a particular focus on what is needed, in terms of resources and funding, to support and sustain longer-term success as the program continues to progress and grow. As noted throughout this report, the program and its administration and evaluation capabilities continue to evolve, but additional assistance is needed. Through the efforts of the State CJCC, participation in the Evidence-Based Decision Making Initiative, and the support for the TAD program in recent years, Wisconsin has emerged as a national leader in its approach to treatment and diversion programs. The following recommendations are designed to build on that momentum and continue to improve the program:

1. **Equity and Inclusion:** Using the data now available through the CORE reporting system, a participant data should be used to analyze demographics of who is being served through TAD, completion rates, and other key indicators to address key questions regarding equity and inclusion of programming statewide.
2. **State TAD Administrative/Evaluation Resources:** Enhance resources at the state level to better support the local program implementation needs. This would include DOJ administrative and evaluation/research resources, training and technical assistance resources, and state partner agency resources needed to fully support local programs.
3. **TAD Statutory Changes:** Review and revise the TAD statutory language to better reflect current programmatic needs and the current research regarding alternatives to incarceration program. Examples of key discussion points regarding the TAD statute include:
  - a. Local Match Requirement
  - b. Exclusionary Language
  - c. Funding/Evaluation Cycles
4. **Diversion Program Resources:** As the more established program model, treatment court resources have been historically more developed and readily available to assist local jurisdictions in their implementation. A focus should continue to be made on building on recent efforts to develop similar resources and guidance for diversion programs, particularly given the large number of diversion participants supported through the TAD program.
5. **Program Evaluation/Research:** Continue performance measurement development and work with the CJCC Data Sharing/OTIs Subcommittee to review the current TAD program data analysis methodologies to determine improvements for the next evaluation cycle.
6. **Improving Communication:** Develop regional networks of programs to communicate and share strategies to address barriers using local, state and federal resources to maximize the assistance provided for program participants.
7. **Funding Decisions/Distribution:** Following the numerous expansions of the TAD program, for the next five-year cycle starting in 2022, the State CJCC should review the methods for distribution of TAD funding to local jurisdictions, using the data available to guide this decision making process.

### *Equity and Inclusion*

Individuals who have historically experienced sustained discrimination or reduced social opportunities because of their race, ethnicity, gender, sexual orientation, sexual identity, physical or mental disability, religion, or socioeconomic status receive the same opportunities as other citizens to participate and succeed in treatment courts and diversion programs. To address this, the following recommendations are made:

- All participants should have equitable access, retention criteria, treatment, incentives and sanctions, and dispositions.
- Staff should be trained to improve cultural awareness and recognize implicit cultural bias in order to correct disparate impacts for Individuals who have historically experienced sustained discrimination or reduced social opportunities.
- Consideration should be given to disparate impacts that come from institutional bias in program policies and procedures.

A goal of our criminal justice system is to provide a fair process. Some of the ways to advance this goal are to have equal access to programs, to identify and eliminate bias, and to educate staff about the history of groups that have experienced discrimination within the system. It has been shown that implicit bias exists in the criminal justice system and that greater bias results in a greater reliance on punishment (Levinson and Smith, 2017). By ensuring that participants have equitable access and that staff working in treatment courts and diversion programs are properly trained, we can limit this bias in our programs and offer participants opportunities for growth rather than merely punishment. In keeping with organizational and systems theories, confidence in an organization or societal institutions may be undermined when principles of justice operate ineffectively or are completely absent. Trust must be restored for systems to operate effectively and having a transparent process can facilitate that relationship (Gillespie and Dietz, 2009). This is true for both stakeholders and participants. Because a criminal record results in a host of other consequences regarding housing, employment, education, and other social opportunities, we must not limit access to treatment courts and diversion programs and their benefits.

### *State TAD Administrative/Evaluation Resources*

As noted previously, while some additional resources were added by DOJ following the 2014 expansion, the program has been expanded by more than \$3 million since that time, but no additional positions or administrative funds have been allocated. In addition, while TAD is administered as a partnership with the state agencies, there is no funding attached to the partner agencies to assist in the administration of TAD. As a result, the efforts to improve the administration of the program in recent years have been the result of a largely grassroots effort of state and local partners.

In addition to a lack of staffing resources, there are limited state funds allocated through the TAD program for additional needs that are critical for administering the program effectively, including the development of reporting and evaluation systems and the provision of training and technical assistance. As the program has continued to expand, these needs have almost solely been addressed with federal grant funding, which is not sustainable in the long term.

### *TAD Statutory Changes*

As noted in this report, much work has been done through the State CJCC and its subcommittees to assess and recommend changes to the TAD Statute, which dates back to the original 2005 Wisconsin Act 25. There is already considerable analysis and prior recommendations developed through these efforts, as well as through the prior 2014 Legislative Study Committee on Problem-Solving Courts and Diversions. While there are many changes that can and should be considered as part of a review of the TAD Statute, some key discussion points include the following:

- Local Match Requirement – The local match requirement is difficult for rural counties and tribes to meet and is a critical change to the TAD statute that needs to be considered. It should be noted that the local match was not included in the original 2005 Wisconsin Act 25 and was not added until 2012. The original purpose for the local match requirement was to ensure that local jurisdictions (counties/tribes) were supporting the programs and contributing their own funds toward the sustainability of the program(s). This concept makes sense in theory, but it plays out much differently in practice. This requirement puts a significant burden on the rural counties that are already lacking in necessary resources to serve this population and on tribes that rely heavily on grants to support program operations, which cannot be used as match for the TAD funding. This has resulted in programs not spending their entire grant amount because they could not meet the match requirement. It has also resulted in several programs not asking for additional funding, which they could have used to improve their programs, because they could not meet the increased match requirement that would accompany any additional funding. Reducing or eliminating this cost would reduce a significant burden from rural counties, and all of the three funded tribes. It would not in any way reduce their commitment to these programs and their dedication to ensuring their success.
- Exclusionary Language – Language in the TAD Statute, [Wis. Stat. § 165.25\(1\)\(bg\)](#), has created significant barriers for admitting appropriately assessed participants into their programs, for both treatment courts and diversion programs, for several reasons.

- Creates Inequity – The broad definitions can create inequity among potential participants of minority populations.
- Does Not Allow for Local Discretion – Admission decisions for these programs are made with approval from multiple criminal justice stakeholders and their professional discretion is removed with pre-determined exclusionary language.
- Veterans Treatment Courts -TAD-funded Veterans Treatment Courts are struggling to comply with current exclusionary language and still serve their population in need of the program.
- Funding/Evaluation Cycle – The current funding and full evaluation cycle is five years. Based on the biennial budget process, this creates challenges and uncertainty in planning for both local jurisdictions and the state. Changing the funding cycle to coincide with the state biennial budget process local budget processes to align the funding cycles and allow more predictability for the local sites.

### *Improving Communication*

Regional networks of programs/sites should be developed to communicate and share strategies to address barriers using local, state and federal resources to maximize the assistance provided for program participants. The State CJCC’s Outreach and Education Subcommittee should assist in developing this enhanced communication between local sites, as well as to connect these efforts to the work of the State CJCC.

### *Diversion Program Resources*

A focus should continue to be made on building on recent efforts to develop similar resources and guidance for diversion programs, particularly given the large number of diversion participants supported through the TAD program.

- Standards – Diversion Programs have less national guidance and resources on which to base their programs than treatment courts have enjoyed over the years. It has been over a decade since the Pretrial Diversion/Intervention Standards were published by the National Association of Pretrial Services Agencies in 2008. Wisconsin was the first state to develop its own set of standards in 2018 based on the national standards and provide training to the diversion programs. More guidance is needed in this area, however, and activities need to continue to further enhance the establishment and functioning of diversion programs throughout Wisconsin.
- Association – Wisconsin Diversion Programs would benefit from the establishment of an association in the state dedicated to providing annual training and guidance on the latest national diversion research and findings. Wisconsin treatment courts have the benefit of support from the Wisconsin Association of Treatment Court Professionals (WATCP) to provide an annual conference for the full teams, and an annual coordinator’s conference for coordinators and case managers. Adding similar resources for diversion programs would benefit this emerging program model.
- Trainings/Conferences – With limited guidance and support over the years, diversion programs have been developed independently by counties and tribes around the state. This has created significant variety in structure and program operations between diversion programs. While the TAD program allows counties and tribes to maintain autonomy in establishing their own diversion program, this lack of guidance increases the chance for programs to develop policies that are at best, ineffective, or at worst, harmful.

### *Program Evaluation/Research*

A focus should be to continue performance measurement development and work with the CJCC Data Sharing/OTIs Subcommittee to review the current TAD program evaluation and research methodologies to determine improvements for the next evaluation cycle.

In terms of future evaluation work, there are a number of initial recommendations for areas of improvement and enhanced analysis:

- Additional detail collected in CORE at admission and discharge; detailed progress updates



- Additional analysis of those who enter TAD-funded programs more than once
- Matched comparison group

### *Funding Decisions/Distribution*

Following the numerous expansions of the TAD program, for the next five-year cycle starting in 2022, the State CJCC should review the methods for distribution of TAD funding to local jurisdictions, using the data available to guide this decision-making process.

**165.95 Alternatives to incarceration; grant program.**

(1) In this section:

(ag) "Tribe" has the meaning given in s. [165.91 \(1\)](#).

(bg) "Violent offender" means a person to whom one of the following applies:

1. The person has been charged with or convicted of an offense in a pending case and, during the course of the offense, the person carried, possessed, or used a dangerous weapon, the person used force against another person, or a person died or suffered serious bodily harm.

2. The person has one or more prior convictions for a felony involving the use or attempted use of force against another person with the intent to cause death or serious bodily harm.

(2) The department of justice shall make grants to counties and to tribes to enable them to establish and operate programs, including suspended and deferred prosecution programs and programs based on principles of restorative justice, that provide alternatives to prosecution and incarceration for criminal offenders who abuse alcohol or other drugs. The department of justice shall make the grants from the appropriations under s. [20.455 \(2\) \(ek\)](#), [\(em\)](#), [\(jd\)](#), [\(kn\)](#), and [\(kv\)](#). The department of justice shall collaborate with the departments of corrections and health and family services in establishing this grant program.

(2r) Any county or tribe that receives a grant under this section on or after January 1, 2012, shall provide matching funds that are equal to 25 percent of the amount of the grant.

(3) A county or tribe shall be eligible for a grant under sub. (2) if all of the following apply:

(a) The county's or tribe's program is designed to meet the needs of a person who abuses alcohol or other drugs and who may be or has been charged with or who has been convicted of a crime in that county related to the person's use or abuse of alcohol or other drugs.

(b) The program is designed to promote public safety, reduce prison and jail populations, reduce prosecution and incarceration costs, reduce recidivism, and improve the welfare of participants' families by meeting the comprehensive needs of participants.

(c) The program establishes eligibility criteria for a person's participation. The criteria shall specify that a violent offender is not eligible to participate in the program.

(cd) Subject to par. [\(cg\)](#), the program does not prohibit a person from beginning or continuing participation in the program because he or she uses a medication that is approved by the federal food and drug administration for the treatment of his or her substance use disorder.

(cg) The program allows a participant to use a medication that is approved by the federal food and drug administration if all of the following are true:

1. A licensed health care provider, acting in the scope of his or her practice, has examined the person and determined that the person's use of the medication is an appropriate treatment for the person's substance use disorder.

2. The medication was appropriately prescribed by a person authorized to prescribe medication in the state.

3. The person is using the medication as prescribed as part of treatment for a diagnosed substance use disorder.

(d) Services provided under the program are consistent with evidence-based practices in substance abuse and mental health treatment, as determined by the department of health services, and the program provides intensive case management.

(e) The program uses graduated sanctions and incentives to promote successful substance abuse treatment.

(f) The program provides holistic treatment to its participants and provides them services that may be needed, as determined under the program, to eliminate or reduce their use of alcohol or other drugs, improve their mental health, facilitate their gainful employment or enhanced education or training, provide them stable housing, facilitate family reunification, ensure payment of child support, and increase the payment of other court-ordered obligations.

- (g) The program is designed to integrate all mental health services provided to program participants by state and local government agencies and other organizations. The program shall require regular communication among a participant's substance abuse treatment providers, other service providers, the case manager, and any person designated under the program to monitor the person's compliance with his or her obligations under the program and any probation, extended supervision, and parole agent assigned to the participant.
- (h) The program provides substance abuse and mental health treatment services through providers that are certified by the department of health services.
- (i) The program requires participants to pay a reasonable amount for their treatment, based on their income and available assets, and pursues and uses all possible resources available through insurance and federal, state, and local aid programs, including cash, vouchers, and direct services.
- (j) The program is developed with input from, and implemented in collaboration with, one or more circuit court judges, the district attorney, the state public defender, local and, if applicable, tribal law enforcement officials, county agencies and, if applicable, tribal agencies responsible for providing social services, including services relating to alcohol and other drug addiction, child welfare, mental health, and the Wisconsin Works program, the departments of corrections, children and families, and health services, private social services agencies, and substance abuse treatment providers.
- (k) The county or tribe complies with other eligibility requirements established by the department of justice to promote the objectives listed in pars. (a) and (b).
- (4) In implementing a program that meets the requirements of sub. (3), a tribe or a county department may contract with or award grants to a religious organization under s. 59.54 (27).
- (5)
  - (a) A county or tribe that receives a grant under this section shall create an oversight committee to advise the county or tribe in administering and evaluating its program. Each committee shall consist of a circuit court judge, the district attorney or his or her designee, the state public defender or his or her designee, a local law enforcement official, a representative of the county, a representative of the tribe, if applicable, a representative of each other county agency and, if applicable, tribal agency responsible for providing social services, including services relating to child welfare, mental health, and the Wisconsin Works program, representatives of the departments of corrections and health and family services, a representative from private social services agencies, a representative of substance abuse treatment providers, and other members to be determined by the county or tribe.
  - (b) A county or tribe that receives a grant under this section shall comply with state audits and shall submit an annual report to the department of justice and to the oversight committee created under par. (a) regarding the impact of the program on jail and prison populations and its progress in attaining the goals specified in sub. (3) (b) and (f).
  - (bg) A county or tribe that receives a grant under this section shall submit data requested by the department of justice to the department of justice each month. The department of justice may request any data regarding the project funded by the grant that is necessary to evaluate the project and prepare the reports under sub. (5p).
- (5m) In a program funded by a grant under this section, if urine collection for the purposes of a drug test results in the exposure of a program participant's genitals, pubic area, buttock or anus, all of the following must apply:
  - (a) The person conducting the urine collection for purposes of a drug test is of the same sex as the program participant.
  - (b) During the urine collection, the program participant is not exposed to the view of any person not conducting the urine collection.
  - (c) The urine collection is not reproduced through a visual or sound recording.

- (d) The program participant's genitals, pubic area, buttock, and anus are not subject to any physical inspection beyond observation of the urine collection.
- (e) All staff of the program must strive to preserve the dignity of all program participants subject to urine collection for the purpose of drug testing.

**(5p)**

- (a) The department of justice shall, annually, analyze the data submitted under sub. [\(5\)\(bg\)](#) and prepare a progress report that evaluates the effectiveness of the grant program. The department of justice shall make the report available to the public.
- (b) The department of justice shall, every 5 years, prepare a comprehensive report that analyzes the data it receives under sub. [\(5\)\(bg\)](#) and the annual reports it produces under par. [\(a\)](#). The department of justice shall include in this comprehensive report a cost benefit analysis of the grant program and shall submit the report to the chief clerk of each house of the legislature for distribution to the legislature under s. [13.172\(2\)](#).
- (6) A county or tribe may, with one or more other counties or tribes, jointly apply for and receive a grant under this section. Upon submitting a joint application, each county or tribe shall include with the application a written agreement specifying each tribe's and each county department's role in developing, administering, and evaluating the program. The oversight committee established under sub. [\(5\)\(a\)](#) shall consist of representatives from each county or tribe.
- (7) Grants provided under this section shall be provided on a calendar year basis beginning on January 1, 2007. If the department of justice decides to make a grant to a county or tribe under this section, the department of justice shall notify the county or tribe of its decision and the amount of the grant no later than September 1 of the year preceding the year for which the grant will be made.
- (7m) Beginning in fiscal year 2012-13, the department of justice shall, every 5 years, make grants under this section available to any county or tribe on a competitive basis. A county or tribe may apply for a grant under this subsection regardless of whether the county or tribe has received a grant previously under this section.
- (8) The department of justice shall assist a county or tribe receiving a grant under this section in obtaining funding from other sources for its program.
- (9) The department of justice shall inform any county or tribe that is applying for a grant under this section whether the county or tribe meets the requirements established under sub. [\(3\)](#), regardless of whether the county or tribe receives a grant.
- (10) The department of justice shall evaluate every 2 years, the grant program established under this section.

**165.955 Drug court; grant program.**

- (1) In this section, "drug court" means a court that diverts a substance-abusing person from prison or jail into treatment by increasing direct supervision of the person, coordinating public resources, providing intensive community-based treatment, and expediting case processing.
- (2) From the appropriation under s. [20.455\(2\)\(eg\)](#), the department of justice shall provide, to counties that have not established a drug court, grants to establish and operate drug courts.

### Treatment Alternatives and Diversion Key Definitions

Term	Definition	Notes on Measurement
<b>Evidence-based decision making (EBDM)</b>	The practice of using research findings to inform and guide decisions across the justice system ( <a href="http://nicic.gov/ebdm/">http://nicic.gov/ebdm/</a> ).	
<b>Evidence-based practice (EBP)</b>	Approaches and interventions that research has demonstrated to have effective, measurable outcomes such as reducing recidivism or improving community safety.	
<b>Pre-arrest diversion</b>	Discretion exercised by a law enforcement officer when probable cause exists that a person committed an offense, but gives the individual an alternate disposition, such as directly referring the individual to a diversion program, in lieu of a formal arrest. Should be based on an assessment of risk of reoffending and a component of education/programming vs arrest. If the individual satisfactorily completes the diversion program, the matter is not referred to the DA for prosecution and is closed. If the individual does not satisfactorily complete the program, the individual is referred for prosecution.	Usually part of some type of program intended to divert offenders from the traditional criminal justice system.
<b>Diversion/Deferred prosecution agreement (DPA)</b>	A written agreement outlining the diversion or deferred prosecution requirements.	
<b>Felony</b>	A crime punishable by imprisonment in the Wisconsin state prisons (Wis. Stat. 939.60).	

<b>Misdemeanor</b>	Any crime that is not a felony is a misdemeanor; typically, punishable by a fine or time in jail (Wis. Stat. 939.60).	
<b>Post-charge diversion/Deferred prosecution</b>	When the District Attorney files charges and then reaches an agreement with an individual to complete a diversion program. If the individual satisfactorily completes the diversion program, the formal charges are either dismissed or reduced. If the individual does not satisfactorily complete the diversion program, the District Attorney continues with formal prosecution.	
<b>Pre-charge diversion</b>	When 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 either does not file charges or files reduced 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.	
<b>Pretrial diversion</b>	A global term which encompasses law enforcement, pre-charge, post-charge and treatment/specialty court diversion programs. These diversion programs are an alternative to the formal prosecution process and divert certain offenders into voluntary programs of supervision and services. Participants who successfully complete the program will not be charged or, if charged, will have the charges against them either dismissed or reduced. Unsuccessful participants are returned to the formal prosecution process.	
<b>Recidivism</b>	Refers broadly to re-offending, with the most common measurements including re-arrest, re-conviction, and/or re-incarceration. Recidivism rates measure the frequency	

	with which individuals re-engage with the criminal justice system within a defined time period.	
<b>Risk assessment tool</b>	A validated tool that predicts the likelihood of certain behaviors, such as re-offending or appearing in court, that is developed through statistical analysis using data on the criminal justice population.	Risk assessment tools should also be validated on the local population.
<b>Treatment Court: Post-conviction</b>	As part of a criminal conviction, the sentence is withheld or stayed and the defendant is referred to the treatment court. Treatment courts are intended to provide a higher level of monitoring and treatment interventions for participants to meet identified criminogenic risk and need factors.	Can include a range of courts such as Adult Drug Court, OWI Court, Hybrid Court, Mental Health Court, Veterans Court, Tribal Healing to Wellness Court, Specialty Court Diversion Programs: Post-conviction, etc.
<b>Treatment Court: Pre-Conviction</b>	The individual is charged by the District Attorney and then with the individual, his/her attorney and the District Attorney prepare and sign a formal, written diversion agreement. The agreement is presented to the court and, if approved by the court, the individual pleads guilty to some/all of the charges and the court withholds entering judgement of conviction. The individual is then referred to the specialty court. Treatment courts are intended to provide a higher level of monitoring and treatment interventions for participants to meet identified criminogenic risk and need factors.	Can include a range of courts such as Adult Drug Court, OWI Court, Hybrid Court, Mental Health Court, Veterans Court, Tribal Healing to Wellness Court, Specialty Court Diversion Programs: Pre-conviction, etc.
<b>Cognitive behavioral interventions</b>	An evidence-based intervention to address criminogenic behavior. Cognitive Behavioral Therapy (CBT) is a type of behavioral intervention which teaches specific strategies to help offenders (1) identify specific thoughts that support their criminal behavior; (2) recognize and appreciate the pattern and consequences of their thinking; (3) utilize reasoning and problem solving strategies to control and	

	change their thinking; (4) recognize they have choices and choose to change or not to change. Includes Cognitive Skills and Cognitive Restructuring.	
<b>Relapse</b>	The return to active substance use in a person with a diagnosed substance use disorder or the return of disabling psychiatric symptoms after a period of remission related to a non-addictive mental disorder. Relapse is both an anticipated event in the course of recovery and a process in which warning signs appear prior to an individual's actual recurrence of impairment.	
<b>Criminogenic needs</b>	Individual characteristics and traits that directly relate to the likelihood to re-offend and commit another crime. These break down into two categories: static and dynamic factors.	



## Calendar Year 2020 Wisconsin Counties and Tribes Treatment Alternatives and Diversion (TAD) Funded Programs

The courts in Vilas and Menominee counties represent programs operated by the Lac du Flambeau and Menominee Tribes. The Healing to Wellness court in Jackson County is operated by the Ho-Chunk Nation.

